

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on March 1, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the Committee:

Others attending: See attached list.

Chair opened for the confirmation hearing:

Tom Wright to State Corporation Commission

Tom Wright, Chairman, KCC, commented on the economic climate and the direction the cost of transmission is headed. Committee members questioned him on the Holcomb Plant, participation in open hearings, and other KCC operations.

Moved by Senator Emler, seconded by Senator Lee, the confirmation of Tom Wright, commissioner, Kansas Corporation Commission, be passed through favorably. Motion carried.

Chair continued discussion and action on

House Substitute for Substitute S.B. 48- Emergency telephone service, fees, charges, collection and distribution.

Written testimony on **House Substitute for Substitute S.B. 48** was turned in by Ken Daniel, Topeka Independent Business Association. (Attachment 1)

Proposed amendments were provided by committee members who had been assigned various components of the bill and suggestions were offered. Documents were titled as follows:

Masterson group, Version A (Attachment 2)
Prepaid wireless, state and federal grants, Version A (Attachment 3)
Statewide coordinator, Version A (Attachment 4)
Apple Group, coordinating council Version B (Attachment 5)
Emler/Bruce group, Version A (Attachment 6)
Brownlee Group, Version A (Attachment 7)
Petersen Group, Version A (Attachment 8)
Petersen Group, Sec. 14(a); Version A (Attachment 9)

Staff from Revisor of Statutes and Research Department will coordinate the proposed amendments and language changes. A balloon will be provided for study at scheduled meetings this week.

The next meeting is scheduled for March 2, 2010.

The meeting was adjourned at 2:30 p.m.

Respectfully submitted,
Ann McMorris
Committee Assistant

Attachments - 9

**SENATE UTILITIES
COMMITTEE GUEST LIST
MARCH 1, 2010**

NAME	REPRESENTING
Enca Heras	Gov Office
Julienne Maslu	Gov. office
Wigh Keck	Hill Law firm
John Taux	Century Link
Dina Fisk	Verizon Wireless
Tom Day	KCC
ERIK SARTORIUS	City of Overland Park
Sean Miller	Capital Strategies
Ed Kump	KACP/KPAD/KSA
Alexand Krueger	Sare West
Las Johnson	FAN CONSULTING
Tommy Grogan	AT&T
Coleman Johnson	Coxy
Whitney Gann	ES has Service
Mick Urban	ES has Service
Rebecca Russell	
Don Cochran	Sprint
Shirley Heen	KRETC

**SENATE UTILITIES
COMMITTEE GUEST LIST
MARCH 1, 2010**

NAME	REPRESENTING
KEN DANIEL	TIBA
Bruce New	AT&T
Dane Gage	Sedgwick County



Board Members

Tara Dimick, Chair
E² Communications

Tom Anderson, MD
St. Francis Hospital

Kevin Doel
TK Magazine

Ping Enriquez
Ad Veritas Construction

Rick Farrant
GreatLife Golf & Fitness

Webb Garlinghouse
National Electronic Type

Jim Hamilton, MD
Tallgrass Surgery

Scott Hamilton, DDS
Drs. Hamilton & Wilson

Scott Hughes
Silver Lake Bank

Marc Johnson
Kennedy & Coe CPAs

Rick Kendall
Kendall Construction

David Lippe
MACI Publishing

Larry Magill
KALA

Risë Quinn
Lower's

Tim Royer
Fidelity State Bank

Marvin Spees
Capital City Oil

Matt Strathman
Strathman Sales

**Director of Governmental
Affairs**

Ken Daniel
Midway Wholesale

DATE: MARCH 1, 2010
FROM: KEN DANIEL, TOPEKA INDEPENDENT BUSINESS ASSN.
TO: MEMBERS OF THE SENATE UTILITIES COMMITTEE

SUBJECT: HOUSE SUBSTITUTE FOR SUBSTITUTE FOR SENATE BILL
NO. 48

If this passes into law, thousands of Kansas small businesses are going to get surprised with heavy red tape and its costs for the benefit of the largest of communications businesses -- AT&T, Verizon, Sprint, Walmart, and other big retailers.

This bill resembles the Streamlined Sales Tax, where the nation's largest retailers teamed up with the Kansas Department of Revenue and other state taxing entities to burden millions of small retailers with taxes and red tape to benefit the National Retail Federation members and sales tax collectors in about twenty-three states (at latest count).

If a small retailer sells a \$15 wireless phone card, they stand to make \$2.55 to \$3.00 on the sale. If this bill is enacted, that retailer must:

- Have each of their cash registers reprogrammed to enable them to give each customer a receipt which shows how much 911 tax was collected on each sale.
- Collect, account for, and monthly pay 16.5 cents of Kansas 911 tax on that \$15 sale.
- They must access an on-line computer and learn how to **electronically** pay the taxes to the State of Kansas Department of Revenue monthly.

The fingerprints of the Kansas Department of Revenue are all over this bill. Earlier in this session, they were trying to force individuals to pay to pay their income taxes on paper forms.

Again, this resembles the Streamlined Sales Tax Act. Attached is a letter I sent to Rep. Arlen Siegfried in 2007 which shows how much it costs various sizes of businesses to track and pay SSTP sales taxes. As you can see, Walmart and other big retailers can report SSTP collections for .97% to 2.17% of the collections. It costs the smallest of businesses 6.47% to 13.47%. **In other words, this provides the large retailers a huge cost advantage even when their low costs due to volume are not factored in**

Attached is a receipt I got today for prepaid wireless service from a locally-owned convenience store. You will notice this was done

**Senate Utilities Committee
March 1, 2010
Attachments 1-1**



Midway Sales & Distributing, Inc. d/b/a

MIDWAY WHOLESale

Topeka • Salina • Lawrence • Manhattan • Elwood • Kansas City • Wichita

December 3, 2007

Rep. Arlen Siegfried
1403 W. Prairie Terrace
Olathe KS 66061-6807

Dear Arlen:

I'm sorry to be so long getting this to you. Actually, I was unable to find all the stuff I had previously gathered on the costs of collecting sales taxes, but the enclosed is better because it is much more recent.

As you can see, the study done in conjunction with the SSTP was finally published in 2006. Here are its findings:

Sales under \$1 million	Costs the retailer 13.47% of the amount collected.
\$1 million to \$10 million	Costs the retailer 5.2% of the amount collected.
Over \$10 million in sales	Costs the retailer 2.17% of the amount collected.

A 1998 study by Washington State showed the following:

Sales of \$150,000 to \$400,000	Costs the retailer 6.47% of the amount collected.
\$400,000 to \$1.5 million	Costs the retailer 3.35% of the amount collected.
Over \$1.5 million in sales	Costs the retailer .97% of the amount collected.

Small Kansas retailers have been punished more than any others in the U.S. by the adoption of the SSTP. Now it appears that the SSTP Board is going to allow other states to have the very things we asked for when this was being debated here – the availability of a single rate and eliminating the smallest retailers from destination sourcing.

It is very clear why the big retailers have promoted the SSTP and are unlikely to help us fix much of anything with it. The SSTP gives a huge competitive advantage to the big retailers and the out-of-state retailers.

And, it is reprehensible that Kansas pays out-of-state retailers, especially the big ones, 3% to collect the taxes, but pays our own in-state retailers nothing.

It is time for Kansas to start paying its retailers for being its tax collectors.

Sincerely yours,

Ken Daniel, CEO
Midway Wholesale

Cc: Secretary of Revenue Joan Wagnon
Topeka Independent Business Association Political Positions Committee

CONCERNED CITIZENS WANT TO KNOW



IF I DRIVE OVER THE
STATE LINE AND USE
MY F.D.A. TO MAKE
AN ON-LINE PURCHASE
IN A THIRD STATE,
DO I OWE SALES TAX
IN MY HOME STATE?

KELLY EXPRESS
1001 SW WANAMAKER RD
TOPEKA, KS 66604
(785) 272-3234

03/01/10 11:36
Terminal ID:601095
Clerk #: NN
Ref # 283486355

AT&T
AT&T \$15

To load PIN NUMBER to your account:

1. Enter *888* followed by PIN
NUMBER, then press the # key on
prepaid phone

Example: *888*PIN NUMBER#

2. Press the SEND key on prepaid
phone

3. Confirmation message will be
sent to your prepaid phone

You may also add this PIN by dialing 1-
800-901-9878 or 611 from your prepaid
phone and follow instructions to add
money.

This PIN is valid for use with GoPhone
Pay As You Go accounts. Refill before
your current balance expires and your
existing balance carries over to the
new expiration date.

The expiration period begins after you
refill balance with PIN. GoPhone Pay
As You Go PINs are non-refundable.

PIN #

6859490472275

Expiration Period: under \$25 is 30
days, \$25-\$75 is 90 days, \$100 is one
year.

For Customer Service call:

*611 or

1-800-331-0500

THANK YOU FOR SHOPPING AT KELLY EXPRESS
PLEASE COME AGAIN

Customer Copy

1-3

online. My point is that if this is already on-line, someone upstream (the phone company or their middlemen) can collect this tax and leave the little guys out of this. Furthermore, computers somewhere have to track the phone usage charges and where they were called from, and can do the tracking and pay the taxes upstream from the little guys.

**HOUSE Substitute for Substitute
for SENATE BILL No. 48**

By Committee on Energy and Utilities

1-26

11 AN ACT concerning emergency telephone service; relating to fees,
12 charges, collection and distribution; amending K.S.A. 2009 Supp. 12-
13 5338, ~~12-5361 and 75-5133~~ and repealing the existing sections; also
14 repealing K.S.A. 12-5301, 12-5303, 12-5304, 12-5305, 12-5306, 12-
15 5307, 12-5308, 12-5309 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-
16 5321, 12-5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328,
17 12-5329, 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-
18 5336, 12-5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356,
19 12-5357, 12-5358, 12-5359 and 12-5360.

and

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

22 New Section 1. (a) Sections 1 through 15 and 19, and amendments
23 thereto, shall be known and may be cited as the Kansas 911 act.

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

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

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

28 ~~(2) "Department" means the Kansas department of revenue.~~

29 (3) "Exchange telecommunications service" means the service that
30 provides local telecommunications exchange access to a service user.

31 (4) "Local Collection Point Administrator (LCPA)" means the state-
32 wide association of cities established by K.S.A. 12-1610e, and amend-
33 ments thereto, and the statewide association of counties established by
34 K.S.A. 19-2690, and amendments thereto.

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

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

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Senate Utilities Committee
March 1, 2010
Attachments 2-1

2-2

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

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

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

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

13 ~~(11) "Retail transaction" means the purchase of prepaid wireless serv-~~
14 ~~ice from a seller for any purposes other than resale, not including the use,~~
15 ~~storage or consumption of such services.~~

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16 ~~(12) "Seller" means a person who sells prepaid wireless service to~~
17 ~~another person.~~

18 (13) "Service user" means any person who is provided exchange tel-
19 ecommunications service, wireless telecommunications service, VoIP
20 service, prepaid wireless service, or any other service capable of contact-
21 ing a PSAP.

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

25 (15) "Subscriber radio equipment" means mobile and portable radio
26 equipment installed in vehicles or carried by persons for voice commu-
27 nication with a radio system.

28 (16) "VoIP service" means voice over internet protocol.

29 ~~(17) "Wireless telecommunications service" means commercial mo-~~
30 ~~bile radio service as defined by 47 C.F.R. 20.3 as in effect on the effective~~
31 ~~date of this act.~~

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

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

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

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

2 New Sec. 4. (a) Every billed service user shall be liable for the 911
3 fee until such fees have been paid to the exchange telecommunications
4 service provider, wireless telecommunications service provider, VoIP
5 service provider, or other service provider.

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

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

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

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

31 (f) The provider ~~may~~ retain an administrative fee of not more than
32 2% of moneys collected from such fee. The LCPA may retain an admin-
33 istrative fee of not more than 2% of moneys collected from such fee.

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

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

37 New Sec. 5. (a) ~~There is hereby imposed a prepaid wireless 911 fee~~
38 ~~of 1.1% per retail transaction or, on and after the effective date of an~~
39 ~~adjusted amount per retail transaction that is established under subsec-~~
40 ~~tion (f), such adjusted amount.~~

41 (b) ~~The prepaid wireless 911 fee shall be collected by the seller from~~
42 ~~the consumer with respect to each retail transaction occurring in this~~
43 ~~state. The amount of the prepaid wireless 911 fee shall be either sepa-~~

(b) There is hereby imposed a 911 fee in the amount of 1% of the retail price of any prepaid wireless service sold in the state. It shall be the duty of each wholesaler of prepaid wireless service to remit such fee to the LCPA as provided in section 4, and amendments thereto. On January 1, 2013, the provisions of this subsection shall expire.

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1 rately stated on an invoice, receipt or other similar document that is pro-
2 vided to the consumer by the seller, or otherwise disclosed to the
3 consumer.

4 (e) For purposes of subsection (b), a retail transaction that is effected
5 in person by a consumer in a business location of the seller shall be treated
6 as occurring in this state if that business location is in this state, and any
7 other retail transaction shall be treated as occurring in this state if the
8 retail transaction is treated as occurring in this state for the purposes of
9 subsection (c)(3) of K.S.A. 79-3673, and amendments thereto.

10 (d) The prepaid wireless 911 fee is the liability of the consumer and
11 not of the seller or of any provider, except that the seller shall be liable
12 to remit all prepaid wireless 911 fees that the seller collects from con-
13 sumers as provided in section 6, and amendments thereto, including all
14 such fees that the seller is deemed to collect where the amount of the
15 charge has not been separately stated in an invoice, receipt or other sim-
16 ilar document provided to the consumer by the seller.

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

23 (f) The prepaid wireless 911 fee shall be proportionately increased or
24 reduced, as applicable, upon any change to the fee imposed by subsection
25 (a) of section 3, and amendments thereto. The adjusted amount shall be
26 determined by dividing the amount of the fee imposed by subsection (a)
27 of section 3, and amendments thereto by \$50. Such increase or reduction
28 shall be effective on the effective date of the change to the fee imposed
29 by subsection (a) of section 3, and amendments thereto, or, if later, the
30 first day of the calendar quarter to occur at least 60 days after the enact-
31 ment to the change to the fee imposed by subsection (a) of section 3, and
32 amendments thereto. The department shall provide not less than 60 days'
33 notice of such increase or decrease on the department's website.

34 (g) When prepaid wireless service is sold with one or more other
35 products or services for a single, non-itemized price, then the percentage
36 specified in subsection (a) shall apply to the entire non-itemized price
37 unless the seller elects to apply such percentage to (1) if the amount of
38 the prepaid wireless service is disclosed to the consumer as a dollar
39 amount, such dollar amount, or (2) if the seller can identify the portion
40 of the price that is attributable to the prepaid wireless service by reason-
41 able and verifiable standards from its books and records that are kept in
42 the regular course of business for other purposes, including, but not lim-
43 ited to, non-tax purposes, such portion.

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1 (h) This section shall take effect on January 1, 2011.
2 New Sec. 6. (a) Prepaid wireless 911 fees collected by sellers shall
3 be remitted to the department by electronic filing that is consistent with
4 the provisions of chapter 79, article 36 of the Kansas Statutes Annotated.
5 The department shall establish registration and payment procedures for
6 the collection of the prepaid wireless 911 fee.

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

10 (c) To minimize additional costs to the department, the department
11 may conduct audits of sellers in conjunction with sales and use tax audits.
12 The department is authorized to provide the LCPA with information ob-
13 tained in such audits if such information indicates that a seller may not
14 be complying with the provisions of this section and section 5, and amend-
15 ments thereto. The LCPA may request the department to initiate collec-
16 tion or audit procedures on individual sellers if collection efforts by the
17 LCPA are unsuccessful.

18 (d) The department shall establish procedures by which a seller may
19 document that a sale is not a retail sale, which procedures shall substan-
20 tially coincide with procedures for documenting sale for resale transac-
21 tions for chapter 79, article 36 of the Kansas Statutes Annotated.

22 (e) The department shall transfer all remitted prepaid wireless 911
23 fees to the LCPA within 30 days of receipt for distribution as provided
24 in section 8, and amendments thereto. Prior to such transfer, the de-
25 partment may retain up to 1% of remitted charges for use in administer-
26 ing the provisions of this section.

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

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

32 New Sec. 7. (a) The prepaid wireless 911 fee imposed in this act shall
33 be the only 911 funding obligation imposed with respect to prepaid wire-
34 less service in this state. No tax, fee, surcharge or other charge shall be
35 imposed by this state, any political subdivision of this state or any inter-
36 governmental agency for 911 funding purposes upon any prepaid wireless
37 service provider, seller or consumer with respect to the sale, purchase,
38 use or provision of prepaid wireless service.

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

40 New Sec. 8. (a) Not later than 30 days after the receipt of moneys
41 from providers pursuant to sections 3 and 4, and amendments thereto,
42 the LCPA shall distribute such moneys to PSAPs based upon the follow-
43 ing ratio: 82% shall be distributed to PSAPs based upon place of primary

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1 use information provided by the providers and 18% shall be redistributed
2 to PSAPs located in counties with less than 75,000 in population pursuant
3 to rules and regulations established by the 911 coordinating council. Mon-
4 eys which cannot be attributed to a specific PSAP shall be transferred to
5 the LCPA grant fund.

6 ~~(b) Moneys collected from the fee on prepaid wireless service pur-~~
7 ~~suant to section 5, and amendments thereto, shall be transferred to the~~
8 ~~LCPA grant fund.~~

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

11 ~~(d)~~ Information provided by providers ~~to~~ the LCPA or to the 911
12 coordinating council pursuant to this act will be treated as proprietary
13 records which will be withheld from the public upon request of the party
14 submitting such records.

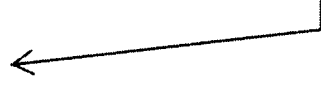
15 ~~(e)~~ This section shall take effect on and after January 1, 2011.

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

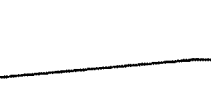
31 (b) This section shall take effect on and after January 1, 2011.

32 New Sec. 10. (a) There is hereby created a 911 coordinating council
33 which shall monitor the delivery of 911 services, develop strategies for
34 future enhancements to the 911 system, and distribute available grant
35 funds to PSAPs. In as much as possible, the 911 coordinating council shall
36 include individuals with technical expertise regarding 911 systems, inter-
37 net technology, and GIS technology. The coordinating council shall con-
38 sist of 12 members to be appointed by the governor: Two members rep-
39 resenting wireless telecommunications providers; one member
40 representing a local exchange provider to be recommended by the Kansas
41 telecommunications industry association; one member representing a ru-
42 ral telecommunications company recommended by the Kansas rural in-
43 dependent telephone companies; one member representing VoIP pro-

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1 viders; two members recommended by the league of Kansas
2 municipalities; two members recommended by the Kansas association of
3 counties; one member recommended by the Kansas commission for the
4 deaf and hard of hearing; one member recommended by the Kansas
5 emergency medical services board; and, one member recommended by
6 the adjutant general. The council shall also include two members of the
7 Kansas house of representatives as appointed by the speaker of the house;
8 one member of the Kansas house of representatives as appointed by the
9 minority leader of the house; two members of the Kansas senate as ap-
10 pointed by the senate president and one member of the Kansas senate
11 as appointed by the senate minority leader. The governor shall designate
12 one member as chair of the council.

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

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

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

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

26 (f) So long as the provider ~~is~~ working in good faith to comply with
27 the provisions of this act, no civil penalty shall be imposed prior to January
28 1, 2012.

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

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

35 New Sec. 11. (a) PSAPs, the LCPA, providers and ~~sellers~~ shall not
36 be liable for any form of damages resulting directly or indirectly from the
37 performance of installing, maintaining or providing 911 service.

38 (b) This section shall be in force and effective on and after January
39 1, 2011.

40 New Sec. 12. (a) The receipts and disbursements of the LCPA shall
41 be audited yearly by a licensed municipal accountant or certified public
42 accountant.

43 (b) The LCPA may require an audit of ~~any provider's~~ books and re-

or wholesaler of
prepaid wireless
service

wholesalers of
prepaid wireless
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the

of any provider or
wholesaler of
prepaid wireless
service

2-8

1 cords ~~concerning the collection and remittance of fees pursuant to this~~
2 act. The cost of any such audit shall be paid from the LCPA grant fund.

3 (c) On or before December 31, 2011, and at least once every three
4 years thereafter, the division of post audit shall conduct an audit of the
5 911 system to determine: (1) Whether the moneys received by PSAPs
6 pursuant to this act are being used appropriately; (2) whether the amount
7 of moneys collected pursuant to this act is adequate; and (3) the status of
8 911 service implementation. The auditor to conduct such audit shall be
9 specified in accordance with K.S.A. 46-1122; and amendments thereto.
10 The post auditor shall compute the reasonably anticipated cost of provid-
11 ing audits pursuant to this subsection, subject to review and approval by
12 the contract audit committee established by K.S.A. 46-1120, and amend-
13 ments thereto. Upon such approval, the LCPA grant fund shall reimburse
14 the division of post audit for the amount approved by the contract audit
15 committee. The audit report shall be submitted to the 911 coordinating
16 council, the LCPA, the house energy and utilities committee and the
17 senate utilities committee.

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

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

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

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

28 New Sec. 14. (a) The LCPA shall establish and maintain a grant fund
29 for PSAPs, which shall not be part of the state treasury. Such money and
30 any interest earned on such money may only be expended for the follow-
31 ing purposes: projects involving the development of next generation 911
32 services; costs associated with PSAP consolidation or cost-sharing pro-
33 jects; expenses related to the 911 coordinating council; the costs of audits
34 conducted pursuant to section 12 on its effective date, and amendments
35 thereto; and other purposes as defined in section 9 on its effective date,
36 and amendments thereto.

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

40 New Sec. 15. On the effective date of this act, all funds remaining
41 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
42 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
43 funds received on or after the effective date of this act and prior to January

1 1, 2011, shall be transferred to the LCPA at least monthly. The LCPA
2 shall deposit such amount in the LCPA grant fund to be distributed as
3 provided in section 14, and amendments thereto.

4 Sec. 16. K.S.A. 2009 Supp. 12-5338 is hereby amended to read as
5 follows: 12-5338. ~~(a) On July 1, 2010: (1) January 1, 2011, the wireless~~
6 ~~enhanced 911 grant fee and the wireless enhanced 911 local fee shall be~~
7 ~~discontinued, the advisory board shall be abolished, any unobligated bal-~~
8 ~~ance of the wireless enhanced 911 grant fund shall be paid to the local~~
9 ~~collection point administrator for distribution to PSAP's based on the~~
10 ~~population of the municipality or municipalities served by the respective~~
11 ~~PSAP and the deposit in the LCPA grant fund and the wireless enhanced~~
12 ~~911 grant fund shall be abolished.~~

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

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

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

26 ~~(b) On and after July 1, 2010, the proceeds of the wireless enhanced~~
27 ~~911 local fee shall be used only to pay for costs of emergency telephone~~
28 ~~service described in K.S.A. 12-5304, and amendments thereto, and ex-~~
29 ~~penditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments~~
30 ~~thereto.~~

31 Sec. 17. K.S.A. 2009 Supp. 12-5361 is hereby amended to read as
32 follows: 12-5361. ~~(a) On July 1, 2010: (1) January 1, 2011, the VoIP en-~~
33 ~~hanced 911 grant fee and the VoIP enhanced 911 local fee shall be~~
34 ~~discontinued.~~

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

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

42 ~~(b) On and after July 1, 2010, the proceeds of the VoIP local fee shall~~
43 ~~be used only to pay for costs of emergency telephone service described~~

1 in K.S.A. 12-5304, and amendments thereto, and expenditures authorized
2 by K.S.A. 2000 Supp. 12-5330, and amendments thereto.

3 Sec. 18. K.S.A. 2000 Supp. 75-5133 is hereby amended to read as
4 follows: 75-5133. (a) Except as otherwise more specifically provided by
5 law, all information received by the secretary of revenue, the director of
6 taxation or the director of alcoholic beverage control from returns, re-
7 ports, license applications or registration documents made or filed under
8 the provisions of any law imposing any sales, use or other excise tax ad-
9 ministered by the secretary of revenue, the director of taxation, or the
10 director of alcoholic beverage control, or from any investigation con-
11 ducted under such provisions, shall be confidential, and it shall be unlaw-
12 ful for any officer or employee of the department of revenue to divulge
13 any such information except in accordance with other provisions of law
14 respecting the enforcement and collection of such tax, in accordance with
15 proper judicial order or as provided in K.S.A. 74-2424, and amendments
16 thereto.

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

18 (1) Publish statistics, so classified as to prevent identification of par-
19 ticular reports or returns and the items thereof;

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

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

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

29 (5) provide information from returns and reports filed under article
30 42 of chapter 79 of the Kansas Statutes Annotated to county appraisers
31 as is necessary to insure proper valuations of property. Information from
32 such returns and reports may also be exchanged with any other state
33 agency administering and collecting conservation or other taxes and fees
34 imposed on or measured by mineral production;

35 (6) provide, upon request by a city or county clerk or treasurer or
36 finance officer of any city or county receiving distributions from a local
37 excise tax, monthly reports identifying each retailer doing business in such
38 city or county or making taxable sales sourced to such city or county,
39 setting forth the tax liability and the amount of such tax remitted by each
40 retailer during the preceding month, and identifying each business loca-
41 tion maintained by the retailer and such retailer's sales or use tax regis-
42 tration or account number;

43 (7) provide information from returns and applications for registration

2-11

1 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 70-
2 3601, and amendments thereto, to a city or county treasurer or clerk or
3 finance officer to explain the basis of statistics contained in reports pro-
4 vided by subsection (b)(6);

5 (8) disclose the following oil and gas production statistics received by
6 the department of revenue in accordance with K.S.A. 70-4216 et seq. and
7 amendments thereto: Volumes of production by well name, well number,
8 operator's name and identification number assigned by the state corpo-
9 ration commission, lease name, leasehold property description, county of
10 production or zone of production, name of purchaser and purchaser's tax
11 identification number assigned by the department of revenue, name of
12 transporter, field code number or lease code, tax period, exempt produc-
13 tion volumes by well name or lease, or any combination of this
14 information;

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

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

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

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

38 (13) provide water protection fee information from returns and ap-
39 plications for registration filed pursuant to K.S.A. 82a-054, and amend-
40 ments thereto, to the secretary of the state board of agriculture or the
41 secretary's designee and the secretary of the Kansas water office or the
42 secretary's designee for the sole purpose of verifying revenues deposited
43 to the state water plan fund;

2-12

1 ~~(14) provide to the secretary of commerce copies of applications for~~
 2 ~~project exemption certificates sought by any taxpayer under the enter-~~
 3 ~~prise zone sales tax exemption pursuant to subsection (ee) of K.S.A. 79-~~
 4 ~~3606, and amendments thereto;~~

5 ~~(15) disclose information received pursuant to the Kansas cigarette~~
 6 ~~and tobacco act and subject to the confidentiality provisions of this act to~~
 7 ~~any criminal justice agency, as defined in subsection (c) of K.S.A. 22-~~
 8 ~~4701, and amendments thereto, or to any law enforcement officer, as~~
 9 ~~defined in subsection (c)(10) of K.S.A. 21-3110, and amendments thereto,~~
 10 ~~on behalf of a criminal justice agency, when requested in writing in con-~~
 11 ~~junction with a pending investigation; and~~

12 ~~(16) provide to retailers tax exemption information for the sole pur-~~
 13 ~~pose of verifying the authenticity of tax exemption numbers issued by the~~
 14 ~~department; and~~

15 ~~(17) provide information concerning remittance by sellers of prepaid~~
 16 ~~wireless 911 fees from returns to the LCPA, as defined in section 2, and~~
 17 ~~amendments thereto, for purposes of verifying seller compliance with col-~~
 18 ~~lection and remittance of such fees.~~

19 ~~(e) Any person receiving any information under the provisions of sub-~~
 20 ~~section (b) shall be subject to the confidentiality provisions of subsection~~
 21 ~~(a) and to the penalty provisions of subsection (d).~~

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

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

33 Sec. 20. K.S.A. 12-5305, 12-5306, 12-5307 and 12-5309 and K.S.A.
 34 2009 Supp. 12-5338, ~~12-5361 and 75-5133~~ are hereby repealed.

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

41 Sec. 22. This act shall take effect and be in force from and after its
 42 publication in the Kansas register.

and

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

2 New Sec. 4. (a) Every billed service user shall be liable for the 911
3 fee until such fees have been paid to the exchange telecommunications
4 service provider, wireless telecommunications service provider, VoIP
5 service provider, or other service provider.

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

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

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

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

31 (f) The provider may retain an administrative fee of not more than
32 2% of moneys collected from such fee. The LCPA may retain an admin-
33 istrative fee of not more than 2% of moneys collected from such fee.

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

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

37 New Sec. 5. (a) There is hereby imposed a prepaid wireless 911 fee
38 of 1.1% per retail transaction or, on and after the effective date of an
39 adjusted amount per retail transaction that is established under subsec-
40 tion (f), such adjusted amount.

41 (b) The prepaid wireless 911 fee shall be collected by the seller from
42 the consumer with respect to each retail transaction occurring in this
43 state. The amount of the prepaid wireless 911 fee shall be either sepa-

Prepaid wireless, state and federal grants, Versi
KKellems/Revisor's Office

Senate Utilities Committee
March 1, 2010
Attachments 3-1

(g)(1) There is hereby created in the state treasury the prepaid wireless 911 fees remittance fund which shall be administered by the department.
(2) All moneys received by the department for prepaid wireless 911 fees collected by sellers shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury. That portion of each such remittance that is authorized to be retained by the department, as provided in section 6, and amendments thereto, shall be certified to the state treasurer by the department and the amount certified shall be credited to the electronic database fee fund of the department. The state treasurer shall credit the balance of each such remittance to the prepaid wireless 911 fees remittance fund.
(3) All moneys credited to the prepaid wireless 911 fees remittance fund shall paid to the LCPA as provided in section 8. and amendments thereto, in accordance with this section and the provisions of appropriation acts.
and by relettering the remaining subsections

1 cords concerning the collection and remittance of fees pursuant to this
2 act. The cost of any such audit shall be paid from the LCPA grant fund.

3 (c) On or before December 31, 2011, and at least once every three
4 years thereafter, the division of post audit shall conduct an audit of the
5 911 system to determine: (1) Whether the moneys received by PSAPs
6 pursuant to this act are being used appropriately; (2) whether the amount
7 of moneys collected pursuant to this act is adequate; and (3) the status of
8 911 service implementation. The auditor to conduct such audit shall be
9 specified in accordance with K.S.A. 46-1122, and amendments thereto.
10 The post auditor shall compute the reasonably anticipated cost of provid-
11 ing audits pursuant to this subsection, subject to review and approval by
12 the contract audit committee established by K.S.A. 46-1120, and amend-
13 ments thereto. Upon such approval, the LCPA grant fund shall reimburse
14 the division of post audit for the amount approved by the contract audit
15 committee. The audit report shall be submitted to the 911 coordinating
16 council, the LCPA, the house energy and utilities committee and the
17 senate utilities committee.

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

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

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

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

28 New Sec. 14. (a) ~~The LCPA shall establish and maintain a grant fund
29 for PSAPs, which shall not be part of the state treasury. Such money and
30 any interest earned on such money may only be expended for the follow-
31 ing purposes: projects involving the development of next generation 911
32 services; costs associated with PSAP consolidation or cost sharing pro-
33 jects; expenses related to the 911 coordinating council; the costs of audits
34 conducted pursuant to section 12 on its effective date, and amendments
35 thereto; and other purposes as defined in section 9 on its effective date,
36 and amendments thereto.~~

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

40 New Sec. 15. On the effective date of this act, all funds remaining
41 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
42 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
43 funds received on or after the effective date of this act and prior to January

(1) On or before January 1, 2011, the LCPA shall establish the LCPA state grant fund. The LCPA state grant fund shall not be part of the state treasury. The LCPA shall utilize a competitive bidding process to select a neutral, competent and bonded third party to administer the LCPA state grant fund.

(2) The administrator shall be responsible for ensuring that the LCPA state grant fund and any interest earned on money credited to the fund is only expended for the following purposes: (A) Projects involving the development of next generation 911 services; (B) costs associated with PSAP consolidation or cost-sharing projects; (C) expenses related to the 911 coordinating council; (D) the costs of audits conducted pursuant to section 12 on its effective date, and amendments thereto; and (E) other purposes as defined in section 9, on its effective date and amendments thereto.

New Sec. 15. (a) Administration of the next generation 911 federal grant is hereby transferred from the Kansas governor's grants program of the governor's department to the 911 coordinating council.

(b) There is hereby established the next generation 911 federal grant fund in the state treasury. Moneys received under the next generation 911 federal grant shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the next generation 911 federal grant fund which shall be administered by the 911 coordinating council.

(c) All expenditures from the next generation 911 federal grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the 911 coordinating council or such chairperson's designee.

(d) The 911 coordinating council is hereby authorized to adopt rules and regulations necessary to enable it to administer the provisions of the next generation 911 federal grant including hiring a consultant, in accordance with 49 C.F.R. 18, to enable Kansas to establish regional interfaced ESInets and an internet protocol enabled emergency network. The consultant shall work with the 911 coordinating council to coordinate the implementation of the next generation 911 system with adjacent states, federal authorities, emergency service functions.

and by relettering the remaining subsections

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

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

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

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

13 (11) "Retail transaction" means the purchase of prepaid wireless serv-
14 ice from a seller for any purposes other than resale, not including the use,
15 storage or consumption of such services.

16 (12) "Seller" means a person who sells prepaid wireless service to
17 another person.

18 (13) "Service user" means any person who is provided exchange tel-
19 ecommunications service, wireless telecommunications service, VoIP
20 service, prepaid wireless service, or any other service capable of contact-
21 ing a PSAP.

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

25 (15) "Subscriber radio equipment" means mobile and portable radio
26 equipment installed in vehicles or carried by persons for voice commu-
27 nication with a radio system.

28 (16) "VoIP service" means voice over internet protocol.

29 (17) "Wireless telecommunications service" means commercial mo-
30 bile radio service as defined by 47 C.F.R. 20.3 as in effect on the effective
31 date of this act.

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

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

(14) "Statewide 911 coordinator" means the person appointed to be the liaison between all of the various entities dealing with 911 service including, but not limited to: the LCPA, the 911 coordinating council, the adjutant general and the Kansas board of emergency services.

renumbering remaining subsections

1 use information provided by the providers and 18% shall be redistributed
2 to PSAPs located in counties with less than 75,000 in population pursuant
3 to rules and regulations established by the 911 coordinating council. Mon-
4 eys which cannot be attributed to a specific PSAP shall be transferred to
5 the LCPA grant fund.

, with input from the statewide
911 coordinator.

6 (b) Moneys collected from the fee on prepaid wireless service pur-
7 suant to section 5, and amendments thereto, shall be transferred to the
8 LCPA grant fund.

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

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

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

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

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

32 New Sec. 10. (a) There is hereby created a 911 coordinating council
33 which shall monitor the delivery of 911 services, develop strategies for
34 future enhancements to the 911 system, and distribute available grant
35 funds to PSAPs. In as much as possible, the 911 coordinating council shall
36 include individuals with technical expertise regarding 911 systems, inter-
37 net technology, and GIS technology. The coordinating council shall con-
38 sist of 12 members to be appointed by the governor: Two members rep-
39 resenting wireless telecommunications providers; one member
40 representing a local exchange provider to be recommended by the Kansas
41 telecommunications industry association; one member representing a ru-
42 ral telecommunications company recommended by the Kansas rural in-
43 dependent telephone companies; one member representing VoIP pro-

New Sec. 10. (a) There is hereby created a statewide 911
coordinator. The statewide 911 coordinator shall be appointed by
the governor. Compensation for the statewide 911 coordinator
shall be in an amount fixed by the governor and shall be paid
from the 2% allocated for administrative fees from the LCPA
grant fund.
(b) The statewide 911 coordinator shall advise and cooperate
with the 911 coordinating council, the LCPA and various state
agencies and boards charged with emergency management, and
carry out necessary functions, in order to facilitate communication
between such entities and enable the operation of emergency
services in Kansas to function efficiently and effectively.

Remaining sections renumbered accordingly

4-2

4-3

1 viders; two members recommended by the league of Kansas
2 municipalities; two members recommended by the Kansas association of
3 counties; one member recommended by the Kansas commission for the
4 deaf and hard of hearing; one member recommended by the Kansas
5 emergency medical services board; and, one member recommended by
6 the adjutant general. The council shall also include two members of the
7 Kansas house of representatives as appointed by the speaker of the house;
8 one member of the Kansas house of representatives as appointed by the
9 minority leader of the house; two members of the Kansas senate as ap-
10 pointed by the senate president and one member of the Kansas senate
11 as appointed by the senate minority leader. The governor shall designate
12 one member as chair of the council.

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

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

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

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

26 (f) So long as the provider is working in good faith to comply with
27 the provisions of this act, no civil penalty shall be imposed prior to January
28 1, 2012.

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

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

35 New Sec. 11. (a) PSAPs, the LCPA, providers and sellers shall not
36 be liable for any form of damages resulting directly or indirectly from the
37 performance of installing, maintaining or providing 911 service.

38 (b) This section shall be in force and effective on and after January
39 1, 2011.

40 New Sec. 12. (a) The receipts and disbursements of the LCPA shall
41 be audited yearly by a licensed municipal accountant or certified public
42 accountant.

43 (b) The LCPA may require an audit of any provider's books and re-

(c) The statewide coordinator shall implement implementing statewide 911 planning and ensure that policies adopted by the coordinating council are carried out.

Remaining subsections relettered accordingly

including, but not limited to, civil penalties and shall work with the statewide 911 coordinator to carry out the provisions of this act.

The statewide 911 coordinator shall attend meetings and assist the 911 coordinating council.

4-4

1 cords concerning the collection and remittance of fees pursuant to this
2 act. The cost of any such audit shall be paid from the LCPA grant fund.

3 (c) On or before December 31, 2011, and at least once every three
4 years thereafter, the division of post audit shall conduct an audit of the
5 911 system to determine: (1) Whether the moneys received by PSAPs
6 pursuant to this act are being used appropriately; (2) whether the amount
7 of moneys collected pursuant to this act is adequate; and (3) the status of
8 911 service implementation. The auditor to conduct such audit shall be
9 specified in accordance with K.S.A. 46-1122, and amendments thereto.
10 The post auditor shall compute the reasonably anticipated cost of provid-
11 ing audits pursuant to this subsection, subject to review and approval by
12 the contract audit committee established by K.S.A. 46-1120, and amend-
13 ments thereto. Upon such approval, the LCPA grant fund shall reimburse
14 the division of post audit for the amount approved by the contract audit
15 committee. The audit report shall be submitted to the 911 coordinating
16 council, the LCPA, the house energy and utilities committee and the
17 senate utilities committee.

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

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

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

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

28 New Sec. 14. (a) The LCPA shall establish and maintain a grant fund
29 for PSAPs, which shall not be part of the state treasury. Such money and
30 any interest earned on such money may only be expended for the follow-
31 ing purposes: projects involving the development of next generation 911
32 services; costs associated with PSAP consolidation or cost-sharing pro-
33 jects; expenses related to the 911 coordinating council; the costs of audits
34 conducted pursuant to section 12 on its effective date, and amendments
35 thereto; and other purposes as defined in section 9 on its effective date,
36 and amendments thereto.

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

40 New Sec. 15. On the effective date of this act, all funds remaining
41 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
42 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
43 funds received on or after the effective date of this act and prior to January

, with input from the statewide
911 coordinator.

1 use information provided by the providers and 18% shall be redistributed
2 to PSAPs located in counties with less than 75,000 in population pursuant
3 to rules and regulations established by the 911 coordinating council. Mon-
4 eys which cannot be attributed to a specific PSAP shall be transferred to
5 the LCPA grant fund.

6 (b) Moneys collected from the fee on prepaid wireless service pur-
7 suant to section 5, and amendments thereto, shall be transferred to the
8 LCPA grant fund.

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

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

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

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

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

32 New Sec. 10. (a) There is hereby created a 911 coordinating council
33 which shall monitor the delivery of 911 services, develop strategies for
34 future enhancements to the 911 system, and distribute available grant
35 funds to PSAPs. In as much as possible, the 911 coordinating council shall
36 include individuals with technical expertise regarding 911 systems, inter-
37 net technology, and GIS technology. ~~The coordinating council shall con-~~
38 ~~sist of 12 members to be appointed by the governor. Two members rep-~~
39 ~~resenting wireless telecommunications providers; one member~~
40 ~~representing a local exchange provider to be recommended by the Kansas~~
41 ~~telecommunications industry association; one member representing a ru-~~
42 ~~ral telecommunications company recommended by the Kansas rural in-~~
43 ~~dependent telephone companies; one member representing VoIP pro-~~

(1)

(2) The coordinating council shall consist of 11 voting members to be appointed by the governor: Two members representing information technology personnel from government units; one member representing a law enforcement officer; one member representing a county fire chief; one member recommended by the adjutant general; one member recommended by the Kansas emergency medical services board; two members representing PSAPs located in counties with less than 75,000 in population; two members representing PSAPs located in counties with greater than 75,000 in population; and one member representing a PSAP without regard for size.

(3) The coordinating council shall also include non-voting members to be appointed by the governor: One member representing wireless communications providers; one member representing a local exchange provider as recommended by the Kansas telecommunications industry association; one member representing rural telecommunications company recommended by the Kansas rural independent telephone companies; one member representing VoIP providers; one member recommended by the league of Kansas municipalities; one member recommended by the Kansas association of counties; one member recommended by the Kansas geographic information systems policy board; one member recommended by KAN-ED; and one member recommended by the Mid-America regional council.

(4) The governor shall designate, from among the voting members, one such member as chair of the council.

5-2

1 ~~viders; two members recommended by the league of Kansas~~
2 ~~municipalities; two members recommended by the Kansas association of~~
3 ~~counties; one member recommended by the Kansas commission for the~~
4 ~~deaf and hard of hearing; one member recommended by the Kansas~~
5 ~~emergency medical services board; and, one member recommended by~~
6 ~~the adjutant general. The council shall also include two members of the~~
7 ~~Kansas house of representatives as appointed by the speaker of the house;~~
8 ~~one member of the Kansas house of representatives as appointed by the~~
9 ~~minority leader of the house; two members of the Kansas senate as ap-~~
10 ~~pointed by the senate president and one member of the Kansas senate~~
11 ~~as appointed by the senate minority leader. The governor shall designate~~
12 ~~one member as chair of the council.~~

voting

each voting member

13 (b) The terms of office for ~~members~~ of the 911 coordinating council
14 shall commence January 1, 2011 and ~~shall~~ be subject to reappointment
15 every three years. ✓

No voting member shall serve longer than two three-year terms. A voting member appointed as a replacement for another voting member may finish the terms of the predecessor and may serve two additional three-year terms.

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

Any rules and regulations necessary to effectuate this act shall be promulgated by June 30, 2010.

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

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

26 (f) So long as the provider is working in good faith to comply with
27 the provisions of this act, no civil penalty shall be imposed prior to January
28 1, 2012.

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

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

35 New Sec. 11. (a) PSAPs, the LCPA, providers and sellers shall not
36 be liable for any form of damages resulting directly or indirectly from the
37 performance of installing, maintaining or providing 911 service.

38 (b) This section shall be in force and effective on and after January
39 1, 2011.

40 New Sec. 12. (a) The receipts and disbursements of the LCPA shall
41 be audited yearly by a licensed municipal accountant or certified public
42 accountant.

43 (b) The LCPA may require an audit of any provider's books and re-

1 viders; two members recommended by the league of Kansas
2 municipalities; two members recommended by the Kansas association of
3 counties; one member recommended by the Kansas commission for the
4 deaf and hard of hearing; one member recommended by the Kansas
5 emergency medical services board; and, one member recommended by
6 the adjutant general. The council shall also include two members of the
7 Kansas house of representatives as appointed by the speaker of the house;
8 one member of the Kansas house of representatives as appointed by the
9 minority leader of the house; two members of the Kansas senate as ap-
10 pointed by the senate president and one member of the Kansas senate
11 as appointed by the senate minority leader. The governor shall designate
12 one member as chair of the council.

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

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

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

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

26 (f) So long as the provider is working in good faith to comply with
27 the provisions of this act, no civil penalty shall be imposed prior to January
28 1, 2012.

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

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

35 New Sec. 11. (a) ~~PSAPs, the LCPA, providers and sellers shall not~~
36 ~~be liable for any form of damages resulting directly or indirectly from the~~
37 ~~performance of installing, maintaining or providing 911 service.~~

38 (b) This section shall be in force and effective on and after January
39 1, 2011.

40 New Sec. 12. (a) The receipts and disbursements of the LCPA shall
41 be audited yearly by a licensed municipal accountant or certified public
42 accountant.

43 (b) The LCPA may require an audit of any provider's books and re-

Except as provided by the Kansas tort claims act, and except for failure to use ordinary care, or for intentional acts, the LCPA and each provider, and their employees and agents, shall not be liable for the payment of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency telephone service or for damages resulting from the performance of installing, maintaining or providing 911 service.

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

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

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

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

13 (11) "Retail transaction" means the purchase of prepaid wireless serv-
 14 ice from a seller for any purposes other than resale, not including the use,
 15 storage or consumption of such services.

16 (12) "Seller" means a person who sells prepaid wireless service to
 17 another person.

18 (13) "Service user" means any person who is provided exchange tel-
 19 communications service, wireless telecommunications service, VoIP
 20 service, prepaid wireless service, or any other service capable of contact-
 21 ing a PSAP.

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

25 (15) "Subscriber radio equipment" means mobile and portable radio
 26 equipment installed in vehicles or carried by persons for voice commu-
 27 nication with a radio system.

28 (16) "VoIP service" means voice over internet protocol.

29 (17) "Wireless telecommunications service" means commercial mo-
 30 bile radio service as defined by 47 C.F.R. 20.3 as in effect on the effective
 31 date of this act.

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

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

\$.50

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 KKellems/Revisor's Office

Senate Utilities Committee
 March 1, 2010
 Attachments 7-1

1 (b) This section shall take effect on and after January 1, 2011.
 2 New Sec. 4. (a) Every billed service user shall be liable for the 911
 3 fee until such fees have been paid to the exchange telecommunications
 4 service provider, wireless telecommunications service provider, VoIP
 5 service provider, or other service provider.
 6 (b) The duty to collect the fees imposed pursuant to this act shall
 7 commence January 1, 2011. Such fees shall be added to and may be stated
 8 separately in billings for the subscriber account. If stated separately in
 9 billings, the fees shall be labeled "KS 911 fees."
 10 (c) The provider shall have no obligation to take any legal action to
 11 enforce the collection of the fees imposed by this act. The provider, other
 12 than a wholesaler of prepaid wireless service, shall provide annually to
 13 the LCPA a list of amount of uncollected 911 fees along with the names
 14 and addresses of those service users which carry a balance that can be
 15 determined by the provider to be nonpayment of such fees.
 16 (d) The fees imposed by this act shall be collected insofar as practi-
 17 cable at the same time as, and along with, the charges for local exchange,
 18 wireless, VoIP, or other service in accordance with regular billing practice
 19 of the provider.
 20 (e) The 911 fees and the amounts required to be collected therefor
 21 are due monthly. The amount of such fees collected in one month by the
 22 provider shall be remitted to the LCPA not more than 15 days after the
 23 close of the calendar month. On or before the 15th day of each calendar
 24 month following, a return for the preceding month shall be filed with the
 25 LCPA. Such return shall be in such form and shall contain such infor-
 26 mation as required by the LCPA. The provider required to file the return
 27 shall deliver the return together with a remittance of the amount of fees
 28 payable to the LCPA. The provider shall maintain records of the amount
 29 of any such fees collected in accordance with this act for a period of three
 30 years from the time the fees are collected.
 31 (f) The provider may retain an administrative fee of not more than
 32 2% of moneys collected from such fee. The LCPA may retain an admin-
 33 istrative fee of not more than 2% of moneys collected from such fee.
 34 (g) The provisions of this section shall not be construed to apply to
 35 prepaid wireless service.
 36 (h) This section shall take effect on and after January 1, 2011.
 37 New Sec. 5. (a) There is hereby imposed a prepaid wireless 911 fee
 38 of 1.1% per retail transaction or, on and after the effective date of an
 39 adjusted amount per retail transaction that is established under subsec-
 40 tion (f), such adjusted amount.
 41 (b) The prepaid wireless 911 fee shall be collected by the seller from
 42 the consumer with respect to each retail transaction occurring in this
 43 state. The amount of the prepaid wireless 911 fee shall be either sepa-

(b) Each PSAP shall file with the 911 coordinating council, a uniform reporting form, as described in section 10, by January 1 of each subsequent calendar year.
 (2) The 911 coordinating council may, pursuant to rules and regulations, raise or lower the 911 fee upon a finding, based on information indicated by the reporting forms, that moneys generated by such fee are in excess of or are below the cost required to operate a PSAP. The 911 coordinating council shall not lower the 911 fee below \$.40 and shall not raise such fee above \$.60.

and the remaining subsections relettered accordingly

7-2

deposited into the LCPA grant fund to be distributed, upon application by a PSAP, with priority given to such PSAPs seeking consolidation and shall be distributed

7-3

1 use information provided by the providers and 18% shall be redistributed
 2 to PSAPs located in counties with less than 75,000 in population pursuant
 3 to rules and regulations established by the 911 coordinating council. Mon-
 4 eys which cannot be attributed to a specific PSAP shall be transferred to
 5 the LCPA grant fund.

6 (b) Moneys collected from the fee on prepaid wireless service pur-
 7 suant to section 5, and amendments thereto, shall be transferred to the
 8 LCPA grant fund.

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

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

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

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

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

32 New Sec. 10. (a) There is hereby created a 911 coordinating council
 33 which shall monitor the delivery of 911 services, develop strategies for
 34 future enhancements to the 911 system, and distribute available grant
 35 funds to PSAPs. In as much as possible, the 911 coordinating council shall
 36 include individuals with technical expertise regarding 911 systems, inter-
 37 net technology, and GIS technology. The coordinating council shall con-
 38 sist of 12 members to be appointed by the governor: Two members rep-
 39 resenting wireless telecommunications providers; one member
 40 representing a local exchange provider to be recommended by the Kansas
 41 telecommunications industry association; one member representing a ru-
 42 ral telecommunications company recommended by the Kansas rural in-
 43 dependent telephone companies; one member representing VoIP pro-

7-4

1 viders; two members recommended by the league of Kansas
2 municipalities; two members recommended by the Kansas association of
3 counties; one member recommended by the Kansas commission for the
4 deaf and hard of hearing; one member recommended by the Kansas
5 emergency medical services board; and, one member recommended by
6 the adjutant general. The council shall also include two members of the
7 Kansas house of representatives as appointed by the speaker of the house;
8 one member of the Kansas house of representatives as appointed by the
9 minority leader of the house; two members of the Kansas senate as ap-
10 pointed by the senate president and one member of the Kansas senate
11 as appointed by the senate minority leader. The governor shall designate
12 one member as chair of the council.

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

on the effective date of this act

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

creating a uniform reporting form designating how 911 fee moneys have
been spent by the PSAPs, requiring service providers to notify the 911
coordinating council, setting standards for coordinating and purchasing
equipment and

19 ~~(d) No civil penalty shall be imposed pursuant to this section except~~
20 ~~upon the written order of the 911 coordinating council. Such order shall~~
21 ~~state the violation, the penalty to be imposed and the right of such pro-~~
22 ~~vider to appeal the penalty in accordance with the provisions of the Kansas~~
23 ~~administrative procedure act.~~

(d) Every provider shall provide the council with contact information for the
provider prior to January 1, 2011. Any provider that has not previously provided
wireless telecommunications service in this state shall provide the council with
contact information for the provider within three months of first offering wireless
communications services in this state.

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

26 (f) So long as the provider is working in good faith to comply with
27 the provisions of this act, no civil penalty shall be imposed prior to January
28 1, 2012.

(e) Each PSAP shall file with the 911 coordinating council, a report
demonstrating how such PSAP has spent the moneys earned from the 911 fee.
The 911 coordinating council shall designate the content and form of such
report.

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

The 911 coordinating council shall make an annual report to
the house committee on energy and utilities and the senate
committee on utilities.

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

35 New Sec. 11. (a) PSAPs, the LCPA, providers and sellers shall not
36 be liable for any form of damages resulting directly or indirectly from the
37 performance of installing, maintaining or providing 911 service.

and relettering the remaining subsections accordingly

38 (b) This section shall be in force and effective on and after January
39 1, 2011.

40 New Sec. 12. (a) The receipts and disbursements of the LCPA shall
41 be audited yearly by a licensed municipal accountant or certified public
42 accountant.

43 (b) The LCPA may require an audit of any provider's books and re-

1 use information provided by the providers and 18% shall be redistributed
2 to PSAPs located in counties with less than 75,000 in population pursuant
3 to rules and regulations established by the 911 coordinating council. Mon-
4 eys which cannot be attributed to a specific PSAP shall be transferred to
5 the LCPA grant fund.

6 (b) Moneys collected from the fee on prepaid wireless service pur-
7 suant to section 5, and amendments thereto, shall be transferred to the
8 LCPA grant fund.

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

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

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

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

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

32 New Sec. 10. (a) There is hereby created a 911 coordinating council
33 which shall monitor the delivery of 911 services, develop strategies for
34 future enhancements to the 911 system, and distribute available grant
35 funds to PSAPs. In as much as possible, the 911 coordinating council shall
36 include individuals with technical expertise regarding 911 systems, inter-
37 net technology, and GIS technology. The coordinating council shall con-
38 sist of 12 members to be appointed by the governor: Two members rep-
39 resenting wireless telecommunications providers; one member
40 representing a local exchange provider to be recommended by the Kansas
41 telecommunications industry association; one member representing a ru-
42 ral telecommunications company recommended by the Kansas rural in-
43 dependent telephone companies; one member representing VoIP pro-

fee

. software

and software

PSAP personnel or the training of other personnel directly involved with the use of 911 equipment

the provider for the emergency telephone service

. installation and maintenance

(b)

. maintain or upgrade subscriber radio equipment or salaries for PSAP personnel

and relettering the remaining subsections accordingly

8-2

1 cords concerning the collection and remittance of fees pursuant to this
2 act. The cost of any such audit shall be paid from the LCPA grant fund.

3 (c) On or before December 31, 2011, and at least once every three
4 years thereafter, the division of post audit shall conduct an audit of the
5 911 system to determine: (1) Whether the moneys received by PSAPs
6 pursuant to this act are being used appropriately; (2) whether the amount
7 of moneys collected pursuant to this act is adequate; and (3) the status of
8 911 service implementation. The auditor to conduct such audit shall be
9 specified in accordance with K.S.A. 46-1122, and amendments thereto.
10 The post auditor shall compute the reasonably anticipated cost of provid-
11 ing audits pursuant to this subsection, subject to review and approval by
12 the contract audit committee established by K.S.A. 46-1120, and amend-
13 ments thereto. Upon such approval, the LCPA grant fund shall reimburse
14 the division of post audit for the amount approved by the contract audit
15 committee. The audit report shall be submitted to the 911 coordinating
16 council, the LCPA, the house energy and utilities committee and the
17 senate utilities committee.

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

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

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

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

28 New Sec. 14. (a) The LCPA shall establish and maintain a grant fund
29 for PSAPs, which shall not be part of the state treasury. Such money and
30 any interest earned on such money may only be expended for the follow-
31 ing purposes: projects involving the development/of next generation 911
32 services; costs associated with PSAP consolidation or cost-sharing pro-
33 jects; expenses related to the 911 coordinating council; the costs of audits
34 conducted pursuant to section 12 on its effective date, and amendments
35 thereto; and other purposes as defined in section 9 on its effective date,
36 and amendments thereto.

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

40 New Sec. 15. On the effective date of this act, all funds remaining
41 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
42 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
43 funds received on or after the effective date of this act and prior to January

and implementation

subsections (b) and (c)

costs pursuant to

Such criteria shall promote the purchase
of standardized equipment.

1 cords concerning the collection and remittance of fees pursuant to this
 2 act. The cost of any such audit shall be paid from the LCPA grant fund.

3 (c) On or before December 31, 2011, and at least once every three
 4 years thereafter, the division of post audit shall conduct an audit of the
 5 911 system to determine: (1) Whether the moneys received by PSAPs
 6 pursuant to this act are being used appropriately; (2) whether the amount
 7 of moneys collected pursuant to this act is adequate; and (3) the status of
 8 911 service implementation. The auditor to conduct such audit shall be
 9 specified in accordance with K.S.A. 46-1122, and amendments thereto.
 10 The post auditor shall compute the reasonably anticipated cost of provid-
 11 ing audits pursuant to this subsection, subject to review and approval by
 12 the contract audit committee established by K.S.A. 46-1120, and amend-
 13 ments thereto. Upon such approval, the LCPA grant fund shall reimburse
 14 the division of post audit for the amount approved by the contract audit
 15 committee. The audit report shall be submitted to the 911 coordinating
 16 council, the LCPA, the house energy and utilities committee and the
 17 senate utilities committee.

18 (d) The legislature shall review this act at the regular 2015 legislative
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LCPA grant fund moneys may also be used for salary and associated costs for a full-time 911 administrator, provided that the aggregate amount of administrative expenses for this section not exceed 15% of the money credited to the grant fund annually.