

SUBSTITUTE FOR SENATE BILL No. 50

By Committee on Utilities

2-23

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

11

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

13 New Section 1. (a) Sections 1 through 19 and 25, and
14 amendments thereto, shall be known and may be cited as the Kansas
15 911 act.

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

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

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

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

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

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

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

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

33 (g) "Local collection point administrator" or "LCPA" means, on

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

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

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

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

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

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

30 (m) "PSAP" means a public safety answering point operated by a
31 city or county.

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

35 (o) "Seller" means a person who sells prepaid wireless service to
36 another person.

37 (p) "Service user" means any person who is provided exchange
38 telecommunications service, wireless telecommunications service, VoIP
39 service, prepaid wireless service or any other service capable of

1 contacting a PSAP.

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

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

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

9 (t) “Wireless telecommunications service” means commercial
10 mobile radio service as defined by 47 C.F.R. 20.3 as in effect on the
11 effective date of this act.

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

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

29 (3) Other voting members of the 911 coordinating council shall
30 include: One member of the Kansas house of representatives as
31 appointed by the speaker of the house; one member of the Kansas
32 house of representatives as appointed by the minority leader of the
33 house; one member of the Kansas senate as appointed by the senate
34 president; and one member of the Kansas senate as appointed by the
35 senate minority leader.

36 (4) The 911 coordinating council shall also include non-voting
37 members to be appointed by the governor: One member representing
38 rural telecommunications companies recommended by the Kansas rural
39 independent telephone companies; one member representing incumbent

1 local exchange carriers with over 50,000 access lines; one member
2 representing large wireless providers; one member representing VoIP
3 providers; one member recommended by the league of Kansas
4 municipalities; one member recommended by the Kansas association of
5 counties; one member recommended by the Kansas geographic
6 information systems policy board; one member recommended by
7 KAN-ED; one member recommended by the Kansas division of
8 information systems and communications; and one member, a Kansas
9 resident, recommended by the Mid-America regional council.

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

16 (c) (1) The governor shall select the chair of the 911
17 coordinating council. The governor shall determine the chair's
18 compensation and the chair shall serve at the pleasure of the governor.

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

28 (d) The 911 coordinating council shall select the local collection
29 point administrator, pursuant to section 6, and amendments thereto, to
30 collect 911 fees and to distribute such fees to PSAPs and to distribute
31 911 state grant fund moneys as directed by the council. The council
32 shall determine the compensation of the LCPA. The Kansas association
33 of counties shall provide the council with any staffing necessary in
34 carrying out the business of the council or effectuating the provisions of
35 this act. Upon approval by the council, the KAC shall be reimbursed
36 for any costs incurred in assisting the council. The moneys used to
37 reimburse these expenses shall be paid from the 911 state grant fund,
38 pursuant to subsection (i).

39 (e) The 911 coordinating council is hereby authorized to adopt

1 rules and regulations necessary to effectuate the provisions of this act,
2 including, but not limited to, creating a uniform reporting form
3 designating how moneys, including 911 fees, have been spent by the
4 PSAPs, requiring service providers to notify the council pursuant to
5 subsection (j), setting standards for coordinating and purchasing
6 equipment, recommending standards for training of PSAP personnel
7 and assessing civil penalties. The chair of the council shall work with
8 the council to develop rules and regulations necessary for the
9 distribution of moneys in the 911 federal grant fund. The council shall
10 work with the chair to carry out the provisions of this act. Rules and
11 regulations necessary to begin administration of this act shall be
12 adopted by December 31, 2011.

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

18 (g) The council may appoint subcommittees as necessary to
19 administer grants, oversee collection and distribution of moneys by the
20 LCPA, develop technology standards, develop training
21 recommendations and other issues as deemed necessary by the council.
22 Subcommittees, if appointed, shall include members of the council and
23 other persons as needed.

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

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

35 (j) Every provider shall submit contact information for the
36 provider to the council prior to January 1, 2012. Any provider that has
37 not previously provided wireless telecommunications service in this
38 state shall submit contact information for the provider to the council
39 within three months of first offering wireless telecommunications

1 services in this state.

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

6 (l) The council, upon a finding that a provider has violated any
7 provision of this act, may impose a civil penalty. No civil penalty shall
8 be imposed pursuant to this section except upon the written order of the
9 council. Such order shall state the violation, the penalty to be imposed
10 and the right of such person to appeal to a hearing before the council.
11 Any such person may, within 15 days after service of the order, make a
12 written request to the council for a hearing thereon. Hearings under this
13 subsection shall be conducted in accordance with the provisions of the
14 Kansas administrative procedure act.

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

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

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

22 (p) The 911 coordinating council shall make an annual report, to
23 include a detailed description of all expenditures of the PSAPs, to the
24 house committee on energy and utilities and the senate committee on
25 utilities.

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

28 (b) The chair of the 911 coordinating council shall serve as the
29 administrator of the 911 federal grant fund and shall distribute grants in
30 accordance with the recommendations of the 911 coordinating council.
31 Subject to the conditions and in accordance with the requirements of
32 this act and 47 C.F.R. part 400, the chair is authorized to perform such
33 acts necessary for the effectuation of this act.

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

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

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

1 and

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

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

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

23 (b) The chair of the 911 coordinating council shall serve as the
24 administrator of the 911 state maintenance fund and shall distribute
25 grants in accordance with the recommendations of the 911 coordinating
26 council. Subject to the conditions and in accordance with the
27 requirements of this act and 47 C.F.R. part 400, the chair is authorized
28 to perform such acts necessary for the effectuation of this act.

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

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

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

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

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

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

38 and

39 (2) to provide grants to eligible municipalities only for necessary

1 and reasonable costs incurred or to be incurred by PSAPs for: (A)
2 Implementation of enhanced 911 service and next generation 911
3 service, as defined in section 2, and amendments thereto; (B) purchase
4 of equipment and upgrades and modification to equipment used solely
5 to process the data elements of enhanced 911 service and next
6 generation 911 service, as defined in section 2, and amendments
7 thereto; and (C) maintenance and license fees for such equipment and
8 training of personnel to operate such equipment, including costs of
9 training PSAP personnel to provide effective service to all users of the
10 emergency telephone system who have communications disabilities.
11 Such costs shall not include expenditures to lease, construct, expand,
12 acquire, remodel, renovate, repair, furnish or make improvements to
13 buildings or similar facilities or for other capital outlay or equipment
14 not expressly authorized by this act.

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

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

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

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

26 New Sec. 6. The 911 coordinating council shall select the local
27 collection point administrator. In selecting the LCPA, the council shall
28 contract with the LCPA for services for no longer than one year. The
29 council shall annually review the designation of the LCPA and the
30 contract with the LCPA for services.

31 New Sec. 7. (a) Upon the advice and consent of the 911
32 coordinating council, the LCPA shall establish the 911 state fund and
33 the 911 state grant fund which shall not be part of the state treasury. On
34 or after the effective date of this section, the secretary of administration
35 shall certify all unobligated funds remaining in the wireless enhanced
36 911 grant fund as having originated as either federal grant moneys or
37 911 fee moneys. All such moneys originating from 911 fees, and any
38 interest accrued on such fees, shall be paid to the LCPA for deposit in
39 the 911 state grant fund. All unobligated federal moneys, and any

1 interest accrued on such moneys, shall be transferred to the 911 federal
2 grant fund.

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

11 (c) The council shall develop criteria for eligible purchases and for
12 grant applicants and make the final determination as to the distribution
13 of grant funds. Such criteria shall promote the procurement of
14 equipment that meets open architecture and national technical
15 standards. Distribution of grant funds shall not include expenditures to
16 procure, maintain or upgrade subscriber radio equipment.

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

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

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

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

36 New Sec. 9. (a) Every billed service user shall be liable for the
37 911 fee until such fees have been paid to the exchange
38 telecommunications service provider, wireless telecommunications
39 service provider, VoIP service provider or other service provider.

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

5 (c) The provider shall have no obligation to take any legal action
6 to enforce the collection of the fees imposed by this act. The provider
7 shall provide annually to the LCPA a list of the amount of uncollected
8 911 fees along with the names and addresses of those service users
9 which carry a balance that can be determined by the provider to be
10 nonpayment of such fees.

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

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

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

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

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

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

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

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

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

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

33 (g) When prepaid wireless service is sold with one or more other
34 products or services for a single, non-itemized price, then the
35 percentage specified in subsection (a) shall apply to the entire non-
36 itemized price unless the seller elects to apply such percentage to: (1) If
37 the amount of the prepaid wireless service is disclosed to the consumer
38 as a dollar amount, such dollar amount; or (2) if the seller can identify
39 the portion of the price that is attributable to the prepaid wireless

1 service by reasonable and verifiable standards from its books and
2 records that are kept in the regular course of business for other
3 purposes, including, but not limited to, non-tax purposes, such portion.

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

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

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

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

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

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

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

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

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

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

1 attributed to a specific PSAP shall be transferred to the 911 state grant
2 fund.

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

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

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

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

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

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

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

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

38 New Sec. 15. (a) Except as provided by the Kansas tort claims
39 act, and except for failure to use ordinary care, or for intentional acts,

1 the LCPA and each provider, and their employees and agents, and each
2 seller, and their employees and agents, shall not be liable for the
3 payment of damages resulting directly or indirectly from the total or
4 partial failure of any transmission to an emergency communication
5 service or for damages resulting from the performance of installing,
6 maintaining or providing 911 service.

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

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

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

15 (c) On or before December 31, 2013, and at least once every three
16 years thereafter, the division of post audit shall conduct an audit of the
17 911 system to determine: (1) Whether the moneys received by PSAPs
18 pursuant to this act are being used appropriately; (2) whether the
19 amount of moneys collected pursuant to this act is adequate; and (3) the
20 status of 911 service implementation. The auditor to conduct such audit
21 shall be specified in accordance with K.S.A. 46-1122, and amendments
22 thereto. The post auditor shall compute the reasonably anticipated cost
23 of providing audits pursuant to this subsection, subject to review and
24 approval by the contract audit committee established by K.S.A. 46-
25 1120, and amendments thereto. Upon such approval, the 911 state grant
26 fund shall reimburse the division of post audit for the amount approved
27 by the contract audit committee. The audit report shall be submitted to
28 the 911 coordinating council, the LCPA, the house energy and utilities
29 committee and the senate utilities committee.

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

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

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

1 method.

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

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

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

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

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

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

20 ~~(c)~~ (3) provisions addressing the needs of persons with
21 communication disabilities;

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

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

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

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

33 ~~(a)~~ the wireless enhanced 911 grant fee shall be discontinued, the
34 advisory board shall be abolished, any unobligated balance of the
35 wireless enhanced 911 grant fund shall be ~~paid to the local collection~~
36 ~~point administrator for distribution to PSAP's based on the population~~
37 ~~of the municipality or municipalities served by the respective PSAP~~
38 ~~distributed pursuant to subsection (a) of section 7, and amendments~~
39 ~~thereto, and the fund shall be abolished.~~

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

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

12 ~~(4) The provisions of K.S.A. 2010 Supp. 12-5323 through 12-~~
13 ~~5329, and amendments thereto, shall expire.~~

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

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

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

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

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

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

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

37 (1) Records the disclosure of which is specifically prohibited or
38 restricted by federal law, state statute or rule of the Kansas supreme
39 court or rule of the senate committee on confirmation oversight relating

1 to information submitted to the committee pursuant to K.S.A. 2010
2 Supp. 75-4315d, and amendments thereto, or the disclosure of which is
3 prohibited or restricted pursuant to specific authorization of federal law,
4 state statute or rule of the Kansas supreme court or rule of the senate
5 committee on confirmation oversight relating to information submitted
6 to the committee pursuant to K.S.A. 2010 Supp. 75-4315d, and
7 amendments thereto, to restrict or prohibit disclosure.

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

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

12 (4) Personnel records, performance ratings or individually
13 identifiable records pertaining to employees or applicants for
14 employment, except that this exemption shall not apply to the names,
15 positions, salaries or actual compensation employment contracts or
16 employment-related contracts or agreements and lengths of service of
17 officers and employees of public agencies once they are employed as
18 such.

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

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

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

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

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

37 (10) Criminal investigation records, except as provided herein.
38 The district court, in an action brought pursuant to K.S.A. 45-222, and
39 amendments thereto, may order disclosure of such records, subject to

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

- 3 (A) Is in the public interest;
- 4 (B) would not interfere with any prospective law enforcement
5 action, criminal investigation or prosecution;
- 6 (C) would not reveal the identity of any confidential source or
7 undercover agent;
- 8 (D) would not reveal confidential investigative techniques or
9 procedures not known to the general public;
- 10 (E) would not endanger the life or physical safety of any person;
11 and
- 12 (F) would not reveal the name, address, phone number or any
13 other information which specifically and individually identifies the
14 victim of any sexual offense in article 35 of chapter 21 of the Kansas
15 Statutes Annotated, and amendments thereto.

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

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

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

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

36 (14) Correspondence between a public agency and a private
37 individual, other than correspondence which is intended to give notice
38 of an action, policy or determination relating to any regulatory,
39 supervisory or enforcement responsibility of the public agency or

1 which is widely distributed to the public by a public agency and is not
2 specifically in response to communications from such a private
3 individual.

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

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

10 (A) The information which the agency maintains on computer
11 facilities; and

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

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

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

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

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

32 (21) Records of a public agency having legislative powers, which
33 records pertain to proposed legislation or amendments to proposed
34 legislation, except that this exemption shall not apply when such
35 records are:

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

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

- 1 with regard to the matters to which such records pertain.
- 2 (22) Records of a public agency having legislative powers, which
3 records pertain to research prepared for one or more members of such
4 agency, except that this exemption shall not apply when such records
5 are:
- 6 (A) Publicly cited or identified in an open meeting or in an agenda
7 of an open meeting; or
- 8 (B) distributed to a majority of a quorum of any body which has
9 authority to take action or make recommendations to the public agency
10 with regard to the matters to which such records pertain.
- 11 (23) Library patron and circulation records which pertain to
12 identifiable individuals.
- 13 (24) Records which are compiled for census or research purposes
14 and which pertain to identifiable individuals.
- 15 (25) Records which represent and constitute the work product of
16 an attorney.
- 17 (26) Records of a utility or other public service pertaining to
18 individually identifiable residential customers of the utility or service,
19 except that information concerning billings for specific individual
20 customers named by the requester shall be subject to disclosure as
21 provided by this act.
- 22 (27) Specifications for competitive bidding, until the
23 specifications are officially approved by the public agency.
- 24 (28) Sealed bids and related documents, until a bid is accepted or
25 all bids rejected.
- 26 (29) Correctional records pertaining to an identifiable inmate or
27 release, except that:
- 28 (A) The name; photograph and other identifying information;
29 sentence data; parole eligibility date; custody or supervision level;
30 disciplinary record; supervision violations; conditions of supervision,
31 excluding requirements pertaining to mental health or substance abuse
32 counseling; location of facility where incarcerated or location of parole
33 office maintaining supervision and address of a releasee whose crime
34 was committed after the effective date of this act shall be subject to
35 disclosure to any person other than another inmate or releasee, except
36 that the disclosure of the location of an inmate transferred to another
37 state pursuant to the interstate corrections compact shall be at the
38 discretion of the secretary of corrections;
- 39 (B) the ombudsman of corrections, the attorney general, law

1 enforcement agencies, counsel for the inmate to whom the record
2 pertains and any county or district attorney shall have access to
3 correctional records to the extent otherwise permitted by law;

4 (C) the information provided to the law enforcement agency
5 pursuant to the sex offender registration act, K.S.A. 22-4901 et seq.,
6 and amendments thereto, shall be subject to disclosure to any person,
7 except that the name, address, telephone number or any other
8 information which specifically and individually identifies the victim of
9 any offender required to register as provided by the Kansas offender
10 registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall
11 not be disclosed; and

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

17 (30) Public records containing information of a personal nature
18 where the public disclosure thereof would constitute a clearly
19 unwarranted invasion of personal privacy.

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

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

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

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

36 (35) Any report or record which is made pursuant to K.S.A. 65-
37 4922, 65-4923 or 65-4924, and amendments thereto, and which is
38 privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
39 thereto.

1 (36) Information which would reveal the precise location of an
2 archeological site.

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

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

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

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

15 (41) All financial analysis ratios and examination synopses
16 concerning insurance companies that are submitted to the
17 commissioner by the national association of insurance commissioners'
18 insurance regulatory information system.

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

21 (43) Market research, market plans, business plans and the terms
22 and conditions of managed care or other third party contracts,
23 developed or entered into by the university of Kansas medical center in
24 the operation and management of the university hospital which the
25 chancellor of the university of Kansas or the chancellor's designee
26 determines would give an unfair advantage to competitors of the
27 university of Kansas medical center.

28 (44) The amount of franchise tax paid to the secretary of revenue
29 or the secretary of state by domestic corporations, foreign corporations,
30 domestic limited liability companies, foreign limited liability
31 companies, domestic limited partnership, foreign limited partnership,
32 domestic limited liability partnerships and foreign limited liability
33 partnerships.

34 (45) Records, other than criminal investigation records, the
35 disclosure of which would pose a substantial likelihood of revealing
36 security measures that protect: (A) Systems, facilities or equipment
37 used in the production, transmission or distribution of energy, water or
38 communications services; (B) transportation and sewer or wastewater
39 treatment systems, facilities or equipment; or (C) private property or

1 persons, if the records are submitted to the agency. For purposes of this
2 paragraph, security means measures that protect against criminal acts
3 intended to intimidate or coerce the civilian population, influence
4 government policy by intimidation or coercion or to affect the
5 operation of government by disruption of public services, mass
6 destruction, assassination or kidnapping. Security measures include, but
7 are not limited to, intelligence information, tactical plans, resource
8 deployment and vulnerability assessments.

9 (46) Any information or material received by the register of deeds
10 of a county from military discharge papers (DD Form 214). Such
11 papers shall be disclosed: To the military dischargee; to such
12 dischargee's immediate family members and lineal descendants; to such
13 dischargee's heirs, agents or assigns; to the licensed funeral director
14 who has custody of the body of the deceased dischargee; when required
15 by a department or agency of the federal or state government or a
16 political subdivision thereof; when the form is required to perfect the
17 claim of military service or honorable discharge or a claim of a
18 dependent of the dischargee; and upon the written approval of the
19 commissioner of veterans affairs, to a person conducting research.

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

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

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

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

38 (b) Except to the extent disclosure is otherwise required by law or
39 as appropriate during the course of an administrative proceeding or on

1 appeal from agency action, a public agency or officer shall not disclose
2 financial information of a taxpayer which may be required or requested
3 by a county appraiser or the director of property valuation to assist in
4 the determination of the value of the taxpayer's property for ad valorem
5 taxation purposes; or any financial information of a personal nature
6 required or requested by a public agency or officer, including a name,
7 job description or title revealing the salary or other compensation of
8 officers, employees or applicants for employment with a firm,
9 corporation or agency, except a public agency. Nothing contained
10 herein shall be construed to prohibit the publication of statistics, so
11 classified as to prevent identification of particular reports or returns and
12 the items thereof.

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

16 (d) If a public record contains material which is not subject to
17 disclosure pursuant to this act, the public agency shall separate or
18 delete such material and make available to the requester that material in
19 the public record which is subject to disclosure pursuant to this act. If a
20 public record is not subject to disclosure because it pertains to an
21 identifiable individual, the public agency shall delete the identifying
22 portions of the record and make available to the requester any
23 remaining portions which are subject to disclosure pursuant to this act,
24 unless the request is for a record pertaining to a specific individual or to
25 such a limited group of individuals that the individuals' identities are
26 reasonably ascertainable, the public agency shall not be required to
27 disclose those portions of the record which pertain to such individual or
28 individuals.

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

32 (f) Notwithstanding the provisions of subsection (a), any public
33 record which has been in existence more than 70 years shall be open
34 for inspection by any person unless disclosure of the record is
35 specifically prohibited or restricted by federal law, state statute or rule
36 of the Kansas supreme court or by a policy adopted pursuant to K.S.A.
37 72-6214, and amendments thereto.

38 (g) Any confidential records or information relating to security
39 measures provided or received under the provisions of subsection (a)

1 (45) shall not be subject to subpoena, discovery or other demand in any
2 administrative, criminal or civil action.

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

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

18 (1) Publish statistics, so classified as to prevent identification of
19 particular 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
24 (g) of K.S.A. 46-1106, and amendments thereto;

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

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

37 (6) provide, upon request by a city or county clerk or treasurer or
38 finance officer of any city or county receiving distributions from a local
39 excise tax, monthly reports identifying each retailer doing business in

- 1 such city or county or making taxable sales sourced to such city or
2 county, setting forth the tax liability and the amount of such tax
3 remitted by each retailer during the preceding month, and identifying
4 each business location maintained by the retailer and such retailer's
5 sales or use tax registration or account number;
- 6 (7) provide information from returns and applications for
7 registration filed pursuant to K.S.A. 12-187, and amendments thereto,
8 and K.S.A. 79-3601, and amendments thereto, to a city or county
9 treasurer or clerk or finance officer to explain the basis of statistics
10 contained in reports provided by subsection (b)(6);
- 11 (8) disclose the following oil and gas production statistics received
12 by the department of revenue in accordance with K.S.A. 79-4216 et
13 seq., and amendments thereto: Volumes of production by well name,
14 well number, operator's name and identification number assigned by the
15 state corporation commission, lease name, leasehold property
16 description, county of production or zone of production, name of
17 purchaser and purchaser's tax identification number assigned by the
18 department of revenue, name of transporter, field code number or lease
19 code, tax period, exempt production volumes by well name or lease, or
20 any combination of this information;
- 21 (9) release or publish liquor brand registration information
22 provided by suppliers, farm wineries and microbreweries in accordance
23 with the liquor control act. The information to be released is limited to:
24 Item number, universal numeric code, type status, product description,
25 alcohol percentage, selling units, unit size, unit of measurement,
26 supplier number, supplier name, distributor number and distributor
27 name;
- 28 (10) release or publish liquor license information provided by
29 liquor licensees, distributors, suppliers, farm wineries and
30 microbreweries in accordance with the liquor control act. The
31 information to be released is limited to: County name, owner, business
32 name, address, license type, license number, license expiration date and
33 the process agent contact information;
- 34 (11) release or publish cigarette and tobacco license information
35 obtained from cigarette and tobacco licensees in accordance with the
36 Kansas cigarette and tobacco products act. The information to be
37 released is limited to: County name, owner, business name, address,
38 license type and license number;
- 39 (12) provide environmental surcharge or solvent fee, or both,

- 1 information from returns and applications for registration filed pursuant
2 to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the
3 secretary of health and environment or the secretary's designee for the
4 sole purpose of ensuring that retailers collect the environmental
5 surcharge tax or solvent fee, or both;
- 6 (13) provide water protection fee information from returns and
7 applications for registration filed pursuant to K.S.A. 82a-954, and
8 amendments thereto, to the secretary of the state board of agriculture or
9 the secretary's designee and the secretary of the Kansas water office or
10 the secretary's designee for the sole purpose of verifying revenues
11 deposited to the state water plan fund;
- 12 (14) provide to the secretary of commerce copies of applications
13 for project exemption certificates sought by any taxpayer under the
14 enterprise zone sales tax exemption pursuant to subsection (cc) of
15 K.S.A. 79-3606, and amendments thereto;
- 16 (15) disclose information received pursuant to the Kansas cigarette
17 and tobacco act and subject to the confidentiality provisions of this act
18 to any criminal justice agency, as defined in subsection (c) of K.S.A.
19 22-4701, and amendments thereto, or to any law enforcement officer, as
20 defined in subsection (c)(10) of K.S.A. 21-3110, and amendments
21 thereto, on behalf of a criminal justice agency, when requested in
22 writing in conjunction with a pending investigation; ~~and~~
- 23 (16) provide to retailers tax exemption information for the sole
24 purpose of verifying the authenticity of tax exemption numbers issued
25 by the department; *and*
- 26 *(17) provide information concerning remittance by sellers, as*
27 *defined in section 2, and amendments thereto, of prepaid wireless 911*
28 *fees from returns to the local collection point administrator, as defined*
29 *in section 2, and amendments thereto, for purposes of verifying seller*
30 *compliance with collection and remittance of such fees.*
- 31 (c) Any person receiving any information under the provisions of
32 subsection (b) shall be subject to the confidentiality provisions of
33 subsection (a) and to the penalty provisions of subsection (d).
- 34 (d) Any violation of this section shall be a class A, nonperson
35 misdemeanor, and if the offender is an officer or employee of this state,
36 such officer or employee shall be dismissed from office. Reports of
37 violations of this paragraph shall be investigated by the attorney
38 general. The district attorney or county attorney and the attorney
39 general shall have authority to prosecute any violation of this section if

1 the offender is a city or county clerk or treasurer or finance officer of a
2 city or county.

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

7 Sec. 26. K.S.A. 12-5309 and K.S.A. 2010 Supp. 12-5327, 12-
8 5338, 12-5361, 45-221 and 75-5133 are hereby repealed.

9 Sec. 27. From and after January 1, 2012, K.S.A. 12-5303, 12-
10 5305, 12-5306, 12-5307, 12-5308 and K.S.A. 2010 Supp. 12-5301, 12-
11 5302, 12-5304, 12-5310, 12-5321, 12-5322, 12-5323, 12-5324, 12-
12 5325, 12-5326, 12-5327, 12-5328, 12-5329, 12-5330, 12-5331, 12-
13 5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-5337, 12-5351, 12-
14 5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357, 12-5358, 12-
15 5359 and 12-5360 are hereby repealed.

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

18