

SENATE BILL No. 420

By Committee on Federal and State Affairs

2-12

1 AN ACT concerning the Kansas 911 act; relating to emergency services;
2 concerning 911 fees, collection and distribution; amending K.S.A. 2017
3 Supp. 12-5363, 12-5364, 12-5365, 12-5366, 12-5367, 12-5368, 12-
4 5369, 12-5370, 12-5371, 12-5372, 12-5373, 12-5374, 12-5375, 12-
5 5376, 12-5377, 12-5378 and 12-5380 and repealing the existing
6 sections; also repealing K.S.A. 2017 Supp. 12-5327, 12-5338 and 12-
7 5361.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2017 Supp. 12-5363 is hereby amended to read as
11 follows: 12-5363. As used in the Kansas 911 act:

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

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

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

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

21 (e) "GIS" means a geographic information system for capturing,
22 storing, displaying, analyzing and managing data and associated
23 attributes that are spatially referenced.

24 (f) "GIS data" means the geometry and associated attributes
25 packaged in a geodatabase that defines the roads, address points and
26 boundaries within a PSAP's jurisdiction.

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

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

1 ~~(g)~~ (i) "Multi-line telephone system" means a system comprised of
2 common control units, telephones and control hardware and software
3 providing local telephone service to multiple end-use customers that may
4 include VoIP service and network and premises based systems such as
5 centrex, private branch exchange and hybrid key telephone systems.

6 ~~(h)~~ (j) "Next generation 911" or "NG911" means 911 service that
7 conforms with national emergency number association (NENA) i3
8 standards and enables PSAPs to receive Enhanced 911 service calls and
9 emergency calls from Internet Protocol (IP) based technologies and
10 applications that may include text messaging, image, video and data
11 information from callers.

12 ~~(i)~~ (k) "Person" means any individual, firm, partnership,
13 copartnership, joint venture, association, cooperative organization,
14 corporation, municipal or private, and whether organized for profit or not,
15 state, county, political subdivision, state department, commission, board,
16 bureau or fraternal organization, nonprofit organization, estate, trust,
17 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)~~ (l) "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 a
23 known amount.

24 ~~(k)~~ (m) "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 in
26 effect on the effective date of this act.

27 ~~(l)~~ (n) "Provider" means any person providing exchange
28 telecommunications service, wireless telecommunications service, VoIP
29 service or other service capable of contacting a PSAP. A provider may also
30 be a 911 system operator.

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

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

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

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

42 ~~(q)~~ (s) "Subscriber account" means the 10-digit access number
43 assigned to a service user by a provider for the purpose of billing a service

1 user up to the maximum capacity of the simultaneous outbound calling
2 capability of a multi-line telephone system or equivalent service.

3 ~~(t)~~ (t) "Subscriber radio equipment" means mobile and portable radio
4 equipment installed in vehicles or carried by persons for voice
5 communication with a radio system.

6 ~~(s)~~ (u) "VoIP service" means voice over internet protocol.

7 ~~(t)~~ (v) "Wireless telecommunications service" means commercial
8 mobile radio service as defined by 47 C.F.R. § 20.3 as in effect on the
9 effective date of this act.

10 ~~(t)~~ (w) "911 call" means any electronic request for emergency
11 response, presented by means of wireline, wireless, VoIP or
12 telecommunications device for the deaf (TDD) technology, text message or
13 any other technology by which a service user initiates an immediate
14 information interchange or conversation with a PSAP.

15 ~~(t)~~ (x) "911 system operator" means any entity that accepts 911 calls
16 from providers, processes those calls and presents those calls to the
17 appropriate PSAP. A "911 system operator" may also be a provider.

18 Sec. 2. K.S.A. 2017 Supp. 12-5364 is hereby amended to read as
19 follows: 12-5364. (a) (1) There is hereby created the 911 coordinating
20 council which shall monitor the delivery of 911 services, develop
21 strategies for future enhancements to the 911 system and distribute
22 available grant funds to PSAPs. In as much as possible, the council shall
23 include individuals with technical expertise regarding 911 systems,
24 internet technology and GIS technology.

25 (2) The 911 coordinating council shall consist of 13 voting members
26 to be appointed by the governor: Two members representing information
27 technology personnel from government units; one member representing
28 the Kansas sheriff's association; one member representing the Kansas
29 association of chiefs of police; one member representing a fire chief; one
30 member recommended by the adjutant general; one member recommended
31 by the Kansas emergency medical services board; one member
32 recommended by the Kansas commission for the deaf and hard of hearing;
33 two members representing PSAPs located in counties with less than
34 75,000 in population; two members representing PSAPs located in
35 counties with greater than 75,000 in population; and one member
36 representing PSAPs without regard to size. At least two of the members
37 representing PSAPs shall be administrators of a PSAP or have extensive
38 prior 911 experience in Kansas.

39 (3) Other voting members of the 911 coordinating council shall
40 include: One member of the Kansas house of representatives as appointed
41 by the speaker of the house; one member of the Kansas house of
42 representatives as appointed by the minority leader of the house; one
43 member of the Kansas senate as appointed by the senate president; and one

1 member of the Kansas senate as appointed by the senate minority leader.

2 (4) The 911 coordinating council shall also include nonvoting
3 members to be appointed by the governor: One member representing rural
4 telecommunications companies recommended by the Kansas rural
5 independent telephone companies; one member representing incumbent
6 local exchange carriers with over 50,000 access lines; one member
7 representing large wireless providers; one member representing VoIP
8 providers; one member recommended by the league of Kansas
9 municipalities; one member recommended by the Kansas association of
10 counties; one member recommended by the Kansas geographic
11 information systems policy board; one member recommended by the
12 Kansas office of information technology services; and one member, a
13 Kansas resident, recommended by the Mid-America regional council.

14 (b) (1) Except as provided in subsection (b)(2) and (b)(3), the terms
15 of office for voting members of the 911 coordinating council shall
16 commence on the effective date of this act and shall be subject to
17 reappointment every three years. No voting member shall serve longer
18 than two successive three-year terms. A voting member appointed as a
19 replacement for another voting member may finish the term of the
20 predecessor and may serve two additional successive three-year terms.

21 (2) The following members, whose terms began on the effective date
22 of this act, shall serve initial terms as follows:

23 (A) One member representing information technology personnel from
24 government units, one member recommended by the adjutant general, one
25 member representing PSAPs located in counties with less than 75,000 in
26 population and one member representing PSAPs located in counties with
27 ~~greater than 75,000~~ *or more* in population shall serve a term of two years;

28 (B) one member representing information technology personnel from
29 government units, one member recommended by the Kansas emergency
30 medical services board, one member representing PSAPs located in
31 counties with less than 75,000 in population and one member representing
32 PSAPs without regard to size shall serve a term of three years; and

33 (C) one member representing a fire chief, one member recommended
34 by the Kansas commission for the deaf and hard of hearing, one member
35 representing the Kansas association of chiefs of police and one member
36 representing PSAPs located in counties with ~~greater than 75,000~~ *or more*
37 in population shall serve a term of four years.

38 (3) The initial term for one member representing the Kansas sheriff's
39 association shall begin on July 1, 2014, and be for a period of three years.

40 (4) The terms of members specified in this subsection shall expire on
41 June 30 in the last year of such member's term.

42 (c) (1) The governor shall select the chair of the 911 coordinating
43 council, who shall serve at the pleasure of the governor and have extensive

1 prior 911 experience in Kansas.

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

11 (d) The 911 coordinating council, by an affirmative vote of nine
12 voting members, shall select the local collection point administrator,
13 pursuant to K.S.A. 2017 Supp. 12-5367, and amendments thereto, to
14 collect 911 fees and to distribute such fees to PSAPs and to distribute 911
15 state grant fund moneys as directed by the council. The council shall adopt
16 rules and regulations for the terms of the contract with the LCPA. All
17 contract terms and conditions shall satisfy all contract requirements as
18 established by the secretary of administration. The council shall determine
19 the compensation of the LCPA who shall provide the council with any
20 staffing necessary in carrying out the business of the council or
21 effectuating the provisions of this act. The moneys used to reimburse these
22 expenses shall be paid from the 911 state grant fund, pursuant to
23 subsection (i).

24 (e) (1) The 911 coordinating council is hereby authorized to adopt
25 rules and regulations necessary to effectuate the provisions of this act,
26 including, but not limited to: (A) Creating a uniform reporting form
27 designating how moneys, including 911 fees, have been spent by the
28 PSAPs; (B) requiring service providers to notify the council pursuant to
29 subsection (j); (C) ~~setting~~ *establishing* standards for coordinating and
30 purchasing equipment; (D) recommending standards for *general*
31 *operations* training of PSAP personnel; (E) *establishing training*
32 *standards and programs related to the technology and operations of the*
33 *NG911-hosted solution*; (F) *establishing data standards, maintenance*
34 *policies and data reporting requirements for GIS data*; and (G) assessing
35 civil penalties.

36 (2) The chair of the council shall work with the council ~~to develop~~
37 ~~rules and regulations necessary for the distribution of moneys in the 911~~
38 ~~federal grant fund. The council shall work with the chair to carry out the~~
39 ~~provisions of this act. to adopt~~ rules and regulations necessary ~~to begin for~~
40 *the administration of this act shall be adopted by December 31, 2011, but*
41 *the council shall not adopt any rules and regulations or any other*
42 *requirement that: (A) Creates a mandatory certification program of PSAP*
43 *operations or PSAP emergency communications personnel; or (B) imposes*

1 *any civil penalties for failure to adhere to recommended training*
 2 *standards.*

3 *(f) The 911 coordinating council may engage a contracting firm to*
 4 *review and update the GIS data for a PSAP with GIS data that has not*
 5 *been updated in more than a year. The council shall assess the governing*
 6 *body that oversees such PSAP for the full costs of updating the GIS data*
 7 *for that PSAP.*

8 ~~(f)~~ *(g) The council may, pursuant to rules and regulations, raise or*
 9 *lower the 911 fee established pursuant to K.S.A. 2017 Supp. 12-5369, and*
 10 *amendments thereto, upon a finding based on information submitted on the*
 11 *uniform reporting forms, that moneys generated by such fee are in excess*
 12 *of or below the costs required to operate PSAPs in the state. The council*
 13 *shall not set the 911 fee above ~~\$.60~~ \$.95.*

14 ~~(g)~~ *(h) The council may appoint subcommittees as necessary to*
 15 *administer grants, oversee collection and distribution of moneys by the*
 16 *LCPA, develop technology standards, develop training recommendations*
 17 *and other issues as deemed necessary by the council. Subcommittees, if*
 18 *appointed, shall include members of the council and other persons as*
 19 *needed.*

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

25 ~~(i)~~ *(j) All expenses related to the council shall be paid from the 911*
 26 *state grant fund. No more than 2.5% of the total receipts from providers*
 27 *and the department received by the LCPA shall be used to pay for such*
 28 *expenses. Members of the council and other persons appointed to*
 29 *subcommittees by the council may receive reimbursement for meals and*
 30 *travel expenses, but shall serve without other compensation with the*
 31 *exception of legislative members who shall receive compensation*
 32 *pursuant to K.S.A. 75-3212, and amendments thereto.*

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

38 ~~(k)~~ *(l) Each PSAP shall file an annual report with the council, ~~by~~*
 39 *~~March 1, 2012, and every~~ by March 1 thereafter, a report demonstrating*
 40 *how such PSAP has spent the moneys earned from the 911 fee during the*
 41 *preceding calendar year. The council shall designate the content and form*
 42 *of such report.*

43 ~~(l)~~ *(m) The council, upon a finding that a provider has violated any*

1 provision of this act, may impose a civil penalty. No civil penalty shall be
2 imposed pursuant to this section except upon the written order of the
3 council. Such order shall state the violation, the penalty to be imposed and
4 the right of such person to appeal to a hearing before the council. Any such
5 person may, within 15 days after service of the order, make a written
6 request to the council for a hearing thereon. Hearings under this subsection
7 shall be conducted in accordance with the provisions of the Kansas
8 administrative procedure act.

9 ~~(m)~~ (n) Any action of the council pursuant to subsection ~~(h)~~ (m) is
10 subject to review in accordance with the Kansas judicial review act.

11 ~~(n)~~ (o) Any civil penalty assessed against a PSAP shall not exceed
12 \$500. Any civil penalties recovered pursuant to this section shall be
13 transferred to the LCPA for deposit in the 911 state grant fund.

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

17 (p) The 911 coordinating council shall make an annual report, to
18 include a detailed description of all expenditures made from 911 fees
19 received by the PSAPs, to the house committee on *energy*, utilities and
20 telecommunications and the senate committee on utilities.

21 Sec. 3. K.S.A. 2017 Supp. 12-5365 is hereby amended to read as
22 follows: 12-5365. (a) There is hereby established in the state treasury the
23 911 federal grant fund.

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

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

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

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

36 (2) to provide grants to eligible municipalities only for necessary and
37 reasonable costs incurred or to be incurred by PSAPs for: (A)
38 Implementation of enhanced 911 service and next generation 911 service,
39 as defined in K.S.A. 2017 Supp. 12-5363, and amendments thereto; (B)
40 purchase of equipment and upgrades and modification to equipment used
41 solely to process the data elements of enhanced 911 service and next
42 generation 911 service, as defined in K.S.A. 2017 Supp. 12-5363, and
43 amendments thereto; and (C) maintenance and license fees for such

1 equipment and training of personnel to operate such equipment, including
2 costs of training PSAP personnel to provide effective service to all users of
3 the emergency telephone system who have communications disabilities.
4 Such costs shall not include expenditures to lease, construct, expand,
5 acquire, remodel, renovate, repair, furnish or make improvements to
6 buildings or similar facilities or for other capital outlay or equipment not
7 expressly authorized by this act.

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

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

13 Sec. 4. K.S.A. 2017 Supp. 12-5366 is hereby amended to read as
14 follows: 12-5366. (a) There is hereby established in the state treasury the
15 911 state maintenance fund.

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

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

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

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

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

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

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

30 (2) to provide grants to eligible municipalities only for necessary and
31 reasonable costs incurred or to be incurred by PSAPs for: (A)
32 Implementation of enhanced 911 service and next generation 911 service,
33 as defined in K.S.A. 2017 Supp. 12-5363, and amendments thereto; (B)
34 purchase of equipment and upgrades and modification to equipment used
35 solely to process the data elements of enhanced 911 service and next
36 generation 911 service, as defined in K.S.A. 2017 Supp. 12-5363, and
37 amendments thereto; and (C) maintenance and license fees for such
38 equipment and training of personnel to operate such equipment, including
39 costs of training PSAP personnel to provide effective service to all users of
40 the emergency telephone system who have communications disabilities.
41 Such costs shall not include expenditures to lease, construct, expand,
42 acquire, remodel, renovate, repair, furnish or make improvements to
43 buildings or similar facilities or for other capital outlay or equipment not

1 expressly authorized by this act.

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

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

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

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

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

14 Sec. 5. K.S.A. 2017 Supp. 12-5367 is hereby amended to read as
15 follows: 12-5367. The 911 coordinating council, by an affirmative vote of
16 nine voting members, shall select the local collection point administrator.
17 In selecting the LCPA, the council shall contract with the LCPA for
18 services for no longer than two years, however, the council may, by an
19 affirmative vote of nine voting members, extend such contract for up to
20 two additional years. The 911 coordinating council shall receive the ~~advice~~
21 ~~and consent~~ *approval* of the legislative coordinating council in selecting an
22 LCPA if the entity to be designated as the LCPA is different than the
23 previous entity designated as the LCPA. The 911 coordinating council
24 shall annually review the designation of the LCPA and the contract with
25 the LCPA for services. The LCPA shall be subject to the requirements of
26 the Kansas open meetings act, the Kansas open records act and shall treat
27 all moneys received as public funds pursuant to article 14 of chapter 9 of
28 the Kansas Statutes Annotated, and amendments thereto. Notwithstanding
29 any other provision of law to the contrary, the LCPA shall not be
30 considered a state agency.

31 Sec. 6. K.S.A. 2017 Supp. 12-5368 is hereby amended to read as
32 follows: 12-5368. (a) Upon the ~~advice and consent~~ *approval* of the 911
33 coordinating council, the LCPA shall establish the 911 state fund and the
34 911 state grant fund which shall not be part of the state treasury. ~~On or~~
35 ~~after the effective date of this section, the secretary of administration shall~~
36 ~~certify all unobligated funds remaining in the wireless enhanced 911 grant~~
37 ~~fund as having originated as either federal grant moneys or 911 fee-~~
38 ~~moneys. All such moneys originating from 911 fees, and any interest~~
39 ~~accrued on such fees, shall be paid to the LCPA for deposit in the 911 state~~
40 ~~fund or 911 state grant fund. All unobligated federal moneys, and any~~
41 ~~interest accrued on such moneys, shall be transferred to the 911 federal~~
42 ~~grant fund.~~

43 (b) *The LCPA shall withhold from the distribution to the PSAP*

1 *pursuant to K.S.A. 2017 Supp. 12-5374, and amendments thereto, \$.10*
 2 *from every 911 fee remitted pursuant to K.S.A. 2017 Supp. 12-5369, and*
 3 *amendments thereto, and shall deposit such amount in the 911 state grant*
 4 *fund to fund standardized functionality upgrades to the next generation*
 5 *911 system. In the event that the funds so withheld exceed 15% of the total*
 6 *moneys transferred to the LCPA and deposited in the 911 state fund over*
 7 *the prior three years, such funds in excess of that 15% total shall be used*
 8 *for competitive PSAP grants based on demonstrated need pursuant to*
 9 *subsection (d).*

10 ~~(b)~~ (c) The council shall be responsible for ensuring that the 911 state
 11 grant fund and any interest earned on money credited to the fund is only
 12 expended for the following purposes: (1) Projects involving the
 13 development and implementation of next generation 911 services; (2) costs
 14 associated with PSAP consolidation or cost-sharing projects; (3) expenses
 15 related to the 911 coordinating council; (4) costs of audits conducted
 16 pursuant to K.S.A. 2017 Supp. 12-5377, and amendments thereto; and (5)
 17 other costs pursuant to K.S.A. 2017 Supp. 12-5375, and amendments
 18 thereto.

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

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

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

33 Sec. 7. K.S.A. 2017 Supp. 12-5369 is hereby amended to read as
 34 follows: 12-5369. ~~(a)~~ There is hereby imposed a 911 fee in the amount of
 35 ~~\$.53~~ \$.90 per month per subscriber account of any exchange
 36 telecommunications service, wireless telecommunications service, VoIP
 37 service, or other service capable of contacting a PSAP. Such fee shall not
 38 be imposed on prepaid wireless service. It shall be the duty of each
 39 exchange telecommunications service provider, wireless
 40 telecommunications service provider, VoIP service provider or other
 41 service provider to remit such fees to the LCPA as provided in K.S.A.
 42 2017 Supp. 12-5370, and amendments thereto.

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

1 Sec. 8. K.S.A. 2017 Supp. 12-5370 is hereby amended to read as
2 follows: 12-5370. (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, 2012. 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 "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 shall
12 provide annually to the LCPA a list of the amount of uncollected 911 fees
13 along with the names and addresses of those service users which carry a
14 balance that can be determined by the provider to be nonpayment of such
15 fees.

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

20 (e) The 911 fees and the amounts required to be collected therefor are
21 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
26 information as required by the LCPA. The provider required to file the
27 return shall deliver the return together with a remittance of the amount of
28 fees payable to the LCPA. The provider shall maintain records of the
29 amount of any such fees collected in accordance with this act for a period
30 of three years from the time the fees are collected.

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

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

34 Sec. 9. K.S.A. 2017 Supp. 12-5371 is hereby amended to read as
35 follows: 12-5371. (a) There is hereby imposed a prepaid wireless 911 fee
36 of ~~1.06%~~ 1.8% per retail transaction or, on and after the effective date of
37 an adjusted amount per retail transaction that is established under
38 subsection (f), such adjusted amount.

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

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

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

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

20 (f) The prepaid wireless 911 fee shall be proportionately increased or
21 reduced, as applicable, upon any change to the fee imposed by ~~subsection~~
22 ~~(a) of K.S.A. 2017 Supp. 12-5369(a), and amendments thereto, pursuant~~
23 ~~to the council's authority to change the fee under K.S.A. 2017 Supp. 12-~~
24 ~~5364(g), and amendments thereto.~~ The adjusted amount shall be
25 ~~determined by the product of dividing the numeric amount of the new fee~~
26 ~~imposed by subsection (a) of adjusted pursuant to K.S.A. 2017 Supp. 12-~~
27 ~~5369 12-5364(g), and amendments thereto, by \$50 50.~~ Such increase or
28 reduction shall be effective on the effective date of the change to the fee
29 imposed by ~~subsection (a) of K.S.A. 2017 Supp. 12-5369(a), and~~
30 ~~amendments thereto, or, if later, the first day of the calendar quarter to~~
31 ~~occur at least 60 days after the enactment to the change to the fee imposed~~
32 ~~by subsection (a) of K.S.A. 2017 Supp. 12-5369(a), and amendments~~
33 ~~thereto. The department shall provide not less than 60 days' notice of such~~
34 ~~increase or decrease on the department's website.~~

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

1 tax purposes, such portion.

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

3 Sec. 10. K.S.A. 2017 Supp. 12-5372 is hereby amended to read as
4 follows: 12-5372. (a) Prepaid wireless 911 fees collected by sellers shall
5 be remitted to the department by electronic filing that is consistent with the
6 provisions of article 36 of chapter 79 of the Kansas Statutes Annotated,
7 and amendments thereto. The department shall establish registration and
8 payment procedures for the collection of the prepaid wireless 911 fee.

9 (b) To minimize additional costs to the department, the department
10 may conduct audits of sellers in conjunction with sales and use tax audits.
11 The department is authorized to provide the LCPA with information
12 obtained in such audits if such information indicates that a seller may not
13 be complying with the provisions of this section and K.S.A. 2017 Supp.
14 12-5371, and amendments thereto. The LCPA may request the department
15 to initiate collection or audit procedures on individual sellers if collection
16 efforts by the LCPA are unsuccessful.

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

22 (d) The department shall transfer all remitted prepaid wireless 911
23 fees to the LCPA within 30 days of receipt for distribution as provided in
24 K.S.A. 2017 Supp. 12-5374, and amendments thereto.

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

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

30 Sec. 11. K.S.A. 2017 Supp. 12-5373 is hereby amended to read as
31 follows: 12-5373. ~~(a)~~ The prepaid wireless 911 fee imposed in this act
32 shall be the only 911 funding obligation imposed with respect to prepaid
33 wireless service in this state. No tax, fee, surcharge or other charge shall be
34 imposed by this state, any political subdivision of this state or any
35 intergovernmental agency for 911 funding purposes upon any prepaid
36 wireless service provider, seller or consumer with respect to the sale,
37 purchase, use or provision of prepaid wireless service.

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

39 Sec. 12. K.S.A. 2017 Supp. 12-5374 is hereby amended to read as
40 follows: 12-5374. (a) *Except for the amounts withheld by the LCPA*
41 *pursuant to K.S.A. 2017 Supp. 12-5368(b), and amendments thereto,* not
42 later than 30 days after the receipt of moneys from providers pursuant to
43 K.S.A. 2017 Supp. 12-5370 and 12-5371, and amendments thereto, and

1 the department pursuant to K.S.A. 2017 Supp. 12-5372, and amendments
2 thereto, the LCPA shall distribute such moneys to PSAPs based upon the
3 following distribution method: In a county with a population over 80,000,
4 82% of the money collected from service users whose place of primary
5 use, as provided by the providers, is within the county shall be distributed
6 to the PSAPs within the county based on place of primary use information;
7 in a county with a population between 65,000 and 79,999, 85% of the
8 money collected from service users whose place of primary use, as
9 provided by the providers, is within the county shall be distributed to the
10 PSAPs within the county based on place of primary use information; in a
11 county with a population between 55,000 and 64,999, 88% of the money
12 collected from service users whose place of primary use, as provided by
13 the providers, is within the county shall be distributed to the PSAPs within
14 the county based on place of primary use information; in a county with a
15 population between 45,000 and 54,999, 91% of the money collected from
16 service users whose place of primary use, as provided by the providers, is
17 within the county shall be distributed to the PSAPs within the county
18 based on place of primary use information; in a county with a population
19 between 35,000 and 44,999, 94% of the money collected from service
20 users whose place of primary use, as provided by the providers, is within
21 the county shall be distributed to the PSAPs within the county based on
22 place of primary use information; in a county with a population between
23 25,000 and 34,999, 97% of the money collected from service users whose
24 place of primary use, as provided by the providers, is within the county
25 shall be distributed to the PSAPs within the county based on place of
26 primary use information; and in a county with a population of less than
27 25,000, 100% of the money collected from service users whose place of
28 primary use, as provided by the providers, is within the county shall be
29 distributed to the PSAPs within the county based on place of primary use
30 information. There shall be a minimum county distribution of ~~-\$50,000~~
31 ~~\$60,000~~ and no county shall receive less than ~~-\$50,000~~ ~~\$60,000~~ of direct
32 distribution moneys. If there is more than one PSAP in a county then the
33 direct distribution allocated to that county by population shall be deducted
34 from the minimum county distribution and the difference shall be
35 proportionately divided between the PSAPs in the county. All moneys
36 remaining after distribution, *moneys withheld pursuant to K.S.A. 2017*
37 *Supp. 12-5368(b), and amendments thereto*, and any moneys which cannot
38 be attributed to a specific PSAP shall be transferred to the 911 state grant
39 fund.

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

1 (c) All moneys in the 911 state fund that have been collected from the
2 prepaid wireless 911 fee shall be deposited in the 911 state grant fund
3 unless—\$2 \$3 million of such moneys have been deposited in any given
4 year then all remaining moneys shall be distributed to the counties in an
5 amount proportional to each county's population as a percentage share of
6 the population of the state. For each PSAP within a county, such moneys
7 shall be distributed to each PSAP in an amount proportional to the PSAP's
8 population as a percentage share of the population of the county. If there is
9 no PSAP within a county, then such moneys shall be distributed to the
10 PSAP providing service to such county. Such moneys distributed to
11 counties and PSAPs only shall be used for the uses authorized in K.S.A.
12 2017 Supp. 12-5375, and amendments thereto.

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

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

19 (f) The provisions of subsection (e) shall expire on July 1, 2021,
20 unless the legislature acts to reenact such provision. The provisions of
21 subsection (e) shall be reviewed by the legislature prior to July 1, 2021.

22 Sec. 13. K.S.A. 2017 Supp. 12-5375 is hereby amended to read as
23 follows: 12-5375. (a) The proceeds of the 911 fees imposed pursuant to
24 this act, and any interest earned on revenue derived from such fee, shall be
25 used only for necessary and reasonable costs incurred or to be incurred by
26 PSAPs for: (1) Implementation of 911 services; (2) purchase of 911
27 equipment and upgrades; (3) maintenance and license fees for 911
28 equipment; (4) training of personnel; (5) monthly recurring charges billed
29 by service suppliers; (6) installation, service establishment and
30 nonrecurring start-up charges billed by the service supplier; (7) charges for
31 capital improvements and equipment or other physical enhancements to
32 the 911 system; (8) *reimbursement of documented expenses for PSAP*
33 *employees while exclusively engaged in PSAP-related training, not to*
34 *exceed an annual total of 24 hours per employee; or—(8) (9) the original*
35 *acquisition and installation of road signs designed to aid in the delivery of*
36 *emergency service. Such costs shall not include expenditures to lease,*
37 *construct, expand, acquire, remodel, renovate, repair, furnish or make*
38 *improvements to buildings or similar facilities. Such costs shall also not*
39 *include expenditures to purchase subscriber radio equipment.*

40 (b) *The 911 coordinating council shall, pursuant to rules and*
41 *regulations, establish a process for a PSAP, at the discretion of the PSAP,*
42 *to seek pre-approval of an expenditure. The council shall respond in*
43 *writing within 30 days whether the requested expenditure is approved or*

1 *disapproved. If the expenditure is disapproved, the written notification*
 2 *shall state the reason for the disapproval and such PSAP may, within 15*
 3 *days after service of the notification, make a written request to the council*
 4 *for a hearing to be conducted in accordance with the provisions of the*
 5 *Kansas administrative procedure act.*

6 ~~(b)~~ (c) If the 911 coordinating council, based upon information
 7 obtained from the PSAP reports or an audit of the PSAPs, determines that
 8 any PSAP has used any 911 fees for any purpose other than those
 9 authorized in this act, such PSAP shall repay all such funds used for any
 10 unauthorized purposes, plus *the lesser of \$500 or 10%*, to the LCPA for
 11 deposit in the 911 state grant fund. No such repayment of 911 fees shall be
 12 imposed pursuant to this section except upon the written order of the
 13 council. Such order shall state the unauthorized purposes for which the
 14 funds were used, the amount of funds to be repayed and the right of such
 15 PSAP to appeal to a hearing before the council. Any such PSAP may,
 16 within 15 days after service of the order, make a written request to the
 17 council for a hearing thereon. Hearings under this subsection shall be
 18 conducted in accordance with the provisions of the Kansas administrative
 19 procedure act.

20 ~~(e)~~ (d) Any action of the council pursuant to subsection ~~(b)~~ (c) is
 21 subject to review in accordance with the Kansas judicial review act.

22 ~~(d) As long as the PSAP is working in good faith to use the 911 fees~~
 23 ~~for expenditures authorized by this act, no repayment of 911 fees shall be~~
 24 ~~required prior to January 1, 2013.~~

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

26 Sec. 14. K.S.A. 2017 Supp. 12-5376 is hereby amended to read as
 27 follows: 12-5376. ~~(a)~~ Except as provided by the Kansas tort claims act,
 28 and except for failure to use ordinary care, or for intentional acts, the
 29 LCPA and each provider, and their employees and agents, and each seller,
 30 and their employees and agents, shall not be liable for the payment of
 31 damages resulting directly or indirectly from the total or partial failure of
 32 any transmission to an emergency communication service or for damages
 33 resulting from the performance of installing, maintaining or providing 911
 34 service.

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

36 Sec. 15. K.S.A. 2017 Supp. 12-5377 is hereby amended to read as
 37 follows: 12-5377. (a) The receipts and disbursements of the LCPA shall be
 38 audited yearly by a licensed municipal accountant or certified public
 39 accountant.

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

43 (c) On or before December 31, ~~2013~~ 2018, and at least once every

1 ~~three~~ *five* years thereafter, the division of post audit shall conduct an audit
2 of the 911 system to determine: (1) Whether the moneys received by
3 PSAPs pursuant to this act are being used appropriately; (2) whether the
4 amount of moneys collected pursuant to this act is adequate; and (3) the
5 status of 911 service implementation. The auditor to conduct such audit
6 shall be specified in accordance with K.S.A. 46-1122, and amendments
7 thereto. The post auditor shall compute the reasonably anticipated cost of
8 providing audits pursuant to this subsection, subject to review and
9 approval by the contract audit committee established by K.S.A. 46-1120,
10 and amendments thereto. Upon such approval, the 911 state grant fund
11 shall reimburse the division of post audit for the amount approved by the
12 contract audit committee. The audit report shall be submitted to the 911
13 coordinating council, the LCPA, the house committee on utilities and
14 telecommunications and the senate committee on utilities.

15 (d) The legislature shall review this act at the regular ~~2014~~ 2018
16 legislative session and at the regular legislative session every five years
17 thereafter.

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

19 Sec. 16. K.S.A. 2017 Supp. 12-5378 is hereby amended to read as
20 follows: 12-5378. ~~(a)~~ Nothing in this act shall be construed to limit the
21 ability of a provider from recovering directly from the provider's
22 customers its costs associated with designing, developing, deploying and
23 maintaining 911 service and its cost of collection and administration of the
24 fees imposed by this act, whether such costs are itemized on the customer's
25 bill as a surcharge or by any other lawful method.

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

27 Sec. 17. K.S.A. 2017 Supp. 12-5380 is hereby amended to read as
28 follows: 12-5380. The governing body of each city and county shall
29 provide or contract for the 24-hour receipt of ~~wireless-emergency~~ 911 calls
30 for all ~~wireless~~ service areas within the jurisdiction of the city or county.

31 Sec. 18. K.S.A. 2017 Supp. 12-5327, 12-5338, 12-5361, 12-5363, 12-
32 5364, 12-5365, 12-5366, 12-5367, 12-5368, 12-5369, 12-5370, 12-5371,
33 12-5372, 12-5373, 12-5374, 12-5375, 12-5376, 12-5377, 12-5378 and 12-
34 5380 are hereby repealed.

35 Sec. 19. This act shall take effect and be in force from and after its
36 publication in the statute book.