

As Amended by House Committee

[As Amended by Senate Committee of the Whole]

Session of 2011

SUBSTITUTE FOR SENATE BILL No. 50

By Committee on Utilities

2-23

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

11

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

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

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

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

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

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

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

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

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

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

31 ~~(g)~~ (f) "Local collection point administrator" or "LCPA" means, on
32 the effective date of this act, the statewide association of cities established
33 by K.S.A. 12-1610e, and amendments thereto, and the statewide
34 association of counties established by K.S.A. 19-2690, and amendments

1 thereto. After January 1, 2012, "local collection point administrator" means
2 the person designated by the 911 coordinating council to serve as the local
3 collection point administrator to collect and distribute 911 fees and 911
4 state grant fund moneys.

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

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

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

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

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

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

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

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

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

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

41 ~~(r)~~ **(q)** "Subscriber radio equipment" means mobile and portable
42 radio equipment installed in vehicles or carried by persons for voice
43 communication with a radio system.

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

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

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

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

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

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

42 (b) The terms of office for voting members of the 911 coordinating
43 council shall commence on the effective date of this act and shall be

1 subject to reappointment every three years. No voting member shall serve
2 longer than two three-year terms. A voting member appointed as a
3 replacement for another voting member may finish the term of the
4 predecessor and may serve two additional three-year terms.

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

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

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

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

42 (f) The council may, pursuant to rules and regulations, raise or lower
43 the 911 fee upon a finding based on information submitted on the uniform

1 reporting forms, that moneys generated by such fee are in excess of or
2 below the costs required to operate PSAPs in the state. The council shall
3 not set the 911 fee ~~below \$.50 or above \$.60.~~

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

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

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

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

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

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

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

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

43 (o) As long as the provider is working in good faith to comply with

1 the provisions of this act, no civil penalty shall be imposed prior to
2 January 1, 2013.

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

7 New Sec. 4. (a) There is hereby established in the state treasury the
8 911 federal grant fund.

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

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

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

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

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

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

39 New Sec. 5. (a) There is hereby established in the state treasury the
40 911 state maintenance fund.

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

1 Subject to the conditions and in accordance with the requirements of this
2 act and 47 C.F.R. part 400, the chair is authorized to perform such acts
3 necessary for the effectuation of this act.

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

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

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

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

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

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

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

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

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

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

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

37 New Sec. 6. **Upon the advice and consent of the legislative**
38 **coordinating council**, the 911 coordinating council shall select the local
39 collection point administrator. In selecting the LCPA, the council shall
40 contract with the LCPA for services for no longer than ~~one~~ five years. The
41 **911 coordinating council and the legislative coordinating council** shall
42 annually review the designation of the LCPA and the contract with the
43 LCPA for services. **The LCPA shall be subject to the requirements of**

1 **the Kansas open meetings act, the Kansas open records act and shall**
2 **treat all moneys received as public funds pursuant to article 14 of**
3 **chapter 9 of the Kansas Statutes Annotated, and amendments thereto.**
4 **Notwithstanding any other provision of law to the contrary, the LCPA**
5 **shall not be considered a state agency.**

6 New Sec. 7. (a) Upon the advice and consent of the 911
7 coordinating council, the LCPA shall establish the 911 state fund and the
8 911 state grant fund which shall not be part of the state treasury. On or
9 after the effective date of this section, the secretary of administration shall
10 certify all unobligated funds remaining in the wireless enhanced 911 grant
11 fund as having originated as either federal grant moneys or 911 fee
12 moneys. All such moneys originating from 911 fees, and any interest
13 accrued on such fees, shall be paid to the LCPA for deposit in the 911 state
14 grant fund. All unobligated federal moneys, and any interest accrued on
15 such moneys, shall be transferred to the 911 federal grant fund.

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

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

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

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

38 New Sec. 8. (a) There is hereby imposed a 911 fee in the amount of
39 ~~\$.50~~ **\$.55** per month per subscriber account of any exchange
40 telecommunications service, wireless telecommunications service, VoIP
41 service, or other service capable of contacting a PSAP. Such fee shall not
42 be imposed on prepaid wireless service. It shall be the duty of each
43 exchange telecommunications service provider, wireless

1 telecommunications service provider, VoIP service provider or other
2 service provider to remit such fees to the LCPA as provided in section 9,
3 and amendments thereto.

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

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

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

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

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

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

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

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

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

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

43 (b) The prepaid wireless 911 fee shall be collected by the seller from

1 the consumer with respect to each retail transaction occurring in this state.
2 The amount of the prepaid wireless 911 fee shall be either separately stated
3 on an invoice, receipt or other similar document that is provided to the
4 consumer by the seller, or otherwise disclosed to the consumer.

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

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

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

24 (f) The prepaid wireless 911 fee shall be proportionately increased or
25 reduced, as applicable, upon any change to the fee imposed by subsection
26 (a) of section 8, and amendments thereto. The adjusted amount shall be
27 determined by dividing the amount of the fee imposed by subsection (a) of
28 section 8, and amendments thereto, by \$50. Such increase or reduction
29 shall be effective on the effective date of the change to the fee imposed by
30 subsection (a) of section 8, and amendments thereto, or, if later, the first
31 day of the calendar quarter to occur at least 60 days after the enactment to
32 the change to the fee imposed by subsection (a) of section 8, and
33 amendments thereto. The department shall provide not less than 60 days'
34 notice of such 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 New Sec. 11. (a) Prepaid wireless 911 fees collected by sellers shall
4 be remitted to the department by electronic filing that is consistent with the
5 provisions of article 36 of chapter 79 of the Kansas Statutes Annotated,
6 and amendments thereto. The department shall establish registration and
7 payment procedures for the collection of the prepaid wireless 911 fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 records concerning the collection and remittance of fees pursuant to this
2 act. The cost of any such audit shall be paid from the 911 state grant fund.

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

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

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

20 New Sec. 17. (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
25 customer's bill as a surcharge or by any other lawful method.

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

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

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

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

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

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

43 ~~(c)~~ (3) provisions addressing the needs of persons with

1 communication disabilities;

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

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

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

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

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

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

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

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

32 ~~(b)~~ On and after July 1, 2011, the proceeds of the wireless enhanced
33 911 local fee shall be used only to pay for costs of emergency telephone
34 service described in K.S.A. 12-5304, and amendments thereto, and
35 expenditures authorized by K.S.A. 2010 Supp. 12-5330, and amendments
36 thereto.

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

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

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

1 amount per month.

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

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

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

11 (1) Records the disclosure of which is specifically prohibited or
12 restricted by federal law, state statute or rule of the Kansas supreme court
13 or rule of the senate committee on confirmation oversight relating to
14 information submitted to the committee pursuant to K.S.A. 2010 Supp. 75-
15 4315d, and amendments thereto, or the disclosure of which is prohibited or
16 restricted pursuant to specific authorization of federal law, state statute or
17 rule of the Kansas supreme court or rule of the senate committee on
18 confirmation oversight relating to information submitted to the committee
19 pursuant to K.S.A. 2010 Supp. 75-4315d, and amendments thereto, to
20 restrict or prohibit disclosure.

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

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

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

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

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

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

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

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

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

9 (A) Is in the public interest;

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

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

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

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

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

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

25 (11) Records of agencies involved in administrative adjudication or
26 civil litigation, compiled in the process of detecting or investigating
27 violations of civil law or administrative rules and regulations, if disclosure
28 would interfere with a prospective administrative adjudication or civil
29 litigation or reveal the identity of a confidential source or undercover
30 agent.

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

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

41 (14) Correspondence between a public agency and a private
42 individual, other than correspondence which is intended to give notice of
43 an action, policy or determination relating to any regulatory, supervisory or

1 enforcement responsibility of the public agency or which is widely
2 distributed to the public by a public agency and is not specifically in
3 response to communications from such a private 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 assistance
16 where financial need is a consideration for the award.

17 (18) Plans, designs, drawings or specifications which are prepared by
18 a person other than an employee of a public agency or records which are
19 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 to
22 be drilled, or are drilling or causing to be drilled, holes for the purpose of
23 discovery or production of oil or gas, to the extent that disclosure is
24 limited by rules and regulations of the state corporation commission.

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

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

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

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

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

43 (A) Publicly cited or identified in an open meeting or in an agenda of

1 an open meeting; or

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

5 (23) Library patron and circulation records which pertain to
6 identifiable individuals.

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

9 (25) Records which represent and constitute the work product of an
10 attorney.

11 (26) Records of a utility or other public service pertaining to
12 individually identifiable residential customers of the utility or service,
13 except that information concerning billings for specific individual
14 customers named by the requester shall be subject to disclosure as
15 provided by this act.

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

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

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

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

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

37 (C) the information provided to the law enforcement agency pursuant
38 to the sex offender registration act, K.S.A. 22-4901 et seq., and
39 amendments thereto, shall be subject to disclosure to any person, except
40 that the name, address, telephone number or any other information which
41 specifically and individually identifies the victim of any offender required
42 to register as provided by the Kansas offender registration act, K.S.A. 22-
43 4901 et seq., and amendments thereto, shall not be disclosed; and

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

6 (30) Public records containing information of a personal nature where
7 the public disclosure thereof would constitute a clearly unwarranted
8 invasion of personal privacy.

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

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

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

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

25 (35) Any report or record which is made pursuant to K.S.A. 65-4922,
26 65-4923 or 65-4924, and amendments thereto, and which is privileged
27 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

28 (36) Information which would reveal the precise location of an
29 archeological site.

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

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

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

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

42 (41) All financial analysis ratios and examination synopses
43 concerning insurance companies that are submitted to the commissioner by

1 the national association of insurance commissioners' insurance regulatory
2 information system.

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

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

11 (44) The amount of franchise tax paid to the secretary of revenue or
12 the secretary of state by domestic corporations, foreign corporations,
13 domestic limited liability companies, foreign limited liability companies,
14 domestic limited partnership, foreign limited partnership, domestic limited
15 liability partnerships and foreign limited liability partnerships.

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

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

41 (47) Information that would reveal the location of a shelter or a
42 safehouse or similar place where persons are provided protection from
43 abuse or the name, address, location or other contact information of

1 alleged victims of stalking, domestic violence or sexual assault.

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

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

11 (50) *Information provided by providers to the local collection point*
12 *administrator or to the 911 coordinating council pursuant to the Kansas*
13 *911 act, and amendments thereto, upon request of the party submitting*
14 *such records.*

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

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

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

43 (e) The provisions of this section shall not be construed to exempt

1 from public disclosure statistical information not descriptive of any
2 identifiable person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of health and environment or the secretary's designee for the sole purpose
2 of ensuring that retailers collect the environmental surcharge tax or solvent
3 fee, or both;

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

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

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

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

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

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

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

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

43 Sec. 26. K.S.A. 12-5309 and K.S.A. 2010 Supp. 12-5327, 12-5338,

1 12-5361, 45-221 and 75-5133 are hereby repealed.

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

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

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