AN ACT concerning 911 emergency services; prepaid wireless fees, collection and distribution; amending K.S.A. 2010 Supp. 12-5322, 12-5324, 12-5331 and 75-5133 and repealing the existing sections.

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

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

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

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

(d) The prepaid wireless 911 fee is the liability of the consumer and not of the seller except that the seller shall be liable to remit all prepaid wireless 911 fees that the seller collects from consumers pursuant to this section, and amendments thereto, including all such fees that the seller is deemed to collect where the amount of the charge has not been separately stated in an invoice, receipt or other similar document provided to the consumer by the seller.

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

(f) When prepaid wireless service is sold with one or more other products or services for a single, nonitemized price, then the percentage specified in subsection (a) shall apply to the entire nonitemized price
unless the seller elects to apply such percentage to: (1) A dollar amount, if
the amount of the prepaid wireless service is disclosed to the consumer as
a dollar amount, or (2) an identifiable portion of the price that is
attributable to the prepaid wireless service by reasonable and verifiable
standards from the seller's books and records that are kept in the regular
course of business for other purposes, including, but not limited to,
ontax purposes.

New Sec. 2. (a) Prepaid wireless 911 fees collected by sellers shall
be remitted to the department by electronic filing that is consistent with
the provisions of article 36 of chapter 79 of the Kansas Statutes
Annotated. The department shall establish registration and payment
procedures for the collection of the prepaid wireless 911 fee.
(b) Sellers that sell less than $50 per month of prepaid wireless
service may submit fees on a biannual basis to the department.
(c) To minimize additional costs to the department, the department
may conduct audits of sellers in conjunction with sales and use tax audits.
The department is authorized to provide the secretary with information
obtained in such audits if such information indicates that a seller may not
be complying with the provisions of this section and section 1, and
amendments thereto. The secretary may request the department to initiate
collection or audit procedures on individual sellers if collection efforts by
the secretary are unsuccessful.
(d) The department shall establish procedures by which a seller may
document that a sale is not a retail sale, which procedures shall
substantially coincide with procedures for documenting sale for resale
transactions for article 36 of chapter 79 of the Kansas Statutes Annotated.
(e) The department shall transfer all remitted prepaid wireless 911
fees to the secretary within 30 days of receipt for remittance to the state
treasurer, pursuant to K.S.A. 12-5324, and amendments thereto. Prior to
such transfer, the department may retain up to 1% of remitted charges for
use in administering the provisions of this section.
(f) In addition to retaining 1% of remitted charges for administrative
uses, the department may retain up to $70,000 of remitted funds in fiscal
year 2012 only for use in paying for programming and other one-time
costs for establishing a system for collecting the prepaid wireless 911 fee.

New Sec. 3. The prepaid wireless 911 fee imposed in this act shall
be the only 911 funding obligation imposed with respect to prepaid
wireless service in this state. No tax, fee, surcharge or other charge shall
be imposed by this state, any political subdivision of this state or any
intergovernmental agency for 911 funding purposes upon any prepaid
wireless service provider, seller or consumer with respect to the sale,
purchase, use or provision of prepaid wireless service.

Sec. 4. K.S.A. 2010 Supp. 12-5322 is hereby amended to read as
follows: 12-5322. As used in the wireless enhanced 911 act, unless the
case otherwise requires:
(a) "Advisory board" means the wireless enhanced 911 advisory
board established under K.S.A. 2010 Supp. 12-5326, and amendments
thereto.
(b) "Automatic number identification" means a feature by which a
person calling a public safety answering point has such person's 10-digit
telephone number simultaneously forwarded to the public safety
answering point and to the public safety answering point's display and
transfer.
(c) "Eligible municipality" means: (1) Any county having a
population of less than 75,000 or any city located within such a county;
or (2) any two or more such counties or cities.
(d) "Emergency telephone service" means a telephone system
utilizing a single three digit number "911" for reporting police, fire,
medical or other emergency situations.
(e) "Enhanced 911 service" means an emergency telephone service
that generally may provide, but is not limited to, selective routing,
automatic number identification and automatic location identification
features.
(f) "Exchange access facilities" means all facilities provided by the
service supplier for the facility which provides local telephone exchange
access to a service user.
(g) "Fund" means the wireless enhanced 911 grant fund established
by this act.
(h) "Governing body" means the board of county commissioners of
a county or the governing body of a city.
(i) "Local collection point administrator" means the statewide
association of cities as established by K.S.A. 12-1610e, and amendments
thereto, and the statewide association of counties as established by K.S.A.
19-2690, and amendments thereto.
(j) "Mobile telephone number" means the telephone number
assigned to a wireless telephone at the time of initial activation.
(k) "Person" means any individual, firm, partnership, copartnership,
joint venture, association, cooperative organization, corporation,
municipal or private, and whether organized for profit or not, state,
county, political subdivision, state department, commission, board,
bureau or fraternal organization, nonprofit organization, estate, trust,
business or common law trust, receiver, assignee for the benefit of
creditors, trustee or trustee in bankruptcy or any other legal entity.
(l) "Prepaid wireless telephone service" means wireless telephone
service that is activated in advance by payment for a finite dollar amount
of service or for a finite set of minutes that terminate either upon use by a
customer and delivery by the wireless provider of an agreed-upon amount
of service corresponding to the total dollar amount paid in advance or
within a certain period of time following the initial purchase or activation,
unless additional payments are made.

(m) "Primary place of use" has the meaning provided in the mobile
telecommunications act, (4 U.S.C. § 116, et seq., as in effect on the
effective date of this act).

(n) "Project" means the development and acquisition of the
necessary improvements in order to facilitate the establishment of
wireless enhanced 911 service.

(o) "Project costs" means all costs or expenses which are necessary
or incident to a project and which are directly attributable thereto.

(p) "PSAP" means public safety answering point.

(q) "Pseudo-automatic number identification" means a feature by
which automatic number identification is provided to a public safety
answering point of the 10-digit telephone number of the specific cell site
or cell site sector from which a wireless call originated.

(r) "Public agency" means any city, county, municipal corporation,
public district or public authority located in whole or in part within this
state which provides or has authority to provide fire fighting, law
enforcement, ambulance, emergency medical or other emergency
services.

(s) "Secretary" means the secretary of administration.

(t) "Service supplier" means any person providing exchange
telephone service to any service user in this state.

(u) "Service user" means any person who is provided exchange
telephone service or wireless service in this state.

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

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

(x) "Tariff rate" means the rate or rates billed by a service supplier
and as stated in the service supplier's tariffs, approved by the state
corporation commission which represent the service supplier's recurring
charges for exchange access facilities or their equivalent, exclusive of all
taxes, fees, licenses or similar charges whatsoever.

(y) "Valid request" means a request to a wireless carrier for wireless
enhanced 911 service, made by a PSAP which is capable of receiving and
utilizing the data elements associated with wireless enhanced 911 service
as determined in accordance with 47 CFR 20.18 (October 1, 2002).

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

(aa) (2) "Wireless automatic location identification information" means a feature by which information is provided to a public safety answering point identifying the location of a 911 caller within the parameters established by the federal communications commission.

(bb) (aa) "Wireless carrier" means any common, private or other radio carrier licensed by the federal communications commission to provide two-way voice service in this state which provides interconnection to the public switched telephone network and access to a 24-hour answering point.

(ce) (bb) "Wireless enhanced 911 grant fee" means the fee imposed under K.S.A. 2010 Supp. 12-5324, and amendments thereto.

(dd) (cc) "Wireless enhanced 911 local fee" means the fee imposed under K.S.A. 2010 Supp. 12-5330, and amendments thereto.

(ef) (dd) "Wireless enhanced 911 service" means a communication service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification and wireless automatic location identification information to a requesting PSAP, as defined in FCC docket 94-102, which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service.

(ff) (ee) "Wireless service" means a two-way voice service provided by a wireless carrier.

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

(hh) "Department" means the Kansas department of revenue.

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

(iii) "Seller" means a person who sells prepaid wireless service to another person.

Section 5. K.S.A. 2010 Supp. 12-5324 is hereby amended to read as follows: 12-5324. (a) Subject to the provisions of K.S.A. 2010 Supp. 12-5338, and amendments thereto, effective July 1, 2004, there is hereby established a wireless enhanced 911 grant fee in the amount of $.25 per month per wireless subscriber account with primary place of use in the state of Kansas. It shall be the duty of each wireless carrier to collect such fee from the wireless service user and remit such fee to the secretary as provided by K.S.A. 2010 Supp. 12-5331, and amendments thereto.

(b) Subject to the provisions of K.S.A. 2010 Supp. 12-5338, and amendments thereto, there is hereby established a wireless enhanced 911 grant fee in an amount equal to 1% of the retail price of any prepaid-
wireless service sold in the state. It shall be the duty of each wholesaler of
prepaid wireless service to remit such fee to the secretary as provided by

(e) The secretary shall remit to the state treasurer, in accordance
with the provisions of K.S.A. 75-4215, and amendments thereto, any fees
received pursuant to this section. Upon receipt of the remittance, the state
treasurer shall deposit the entire amount in the state treasury and credit it
to the wireless enhanced 911 grant fund.

Sec. 6. K.S.A. 2010 Supp. 12-5331 is hereby amended to read as
follows: 12-5331. (a) Every billed wireless service user shall be liable for
the wireless enhanced 911 grant fee and the wireless enhanced 911 local
fee until such fees have been paid to the wireless carrier.

(b) The duty to collect any such fees imposed pursuant to this act
shall commence July 1, 2004. Such fees shall be added to and may be
stated separately in billings for the subscriber account. If stated separately
in billings, the fees shall be labeled "KS E-911 fees."

(c) The wireless carrier shall have no obligation to take any legal
action to enforce the collection of the fees imposed by this act. The
wireless carrier shall provide annually to the secretary a list of amounts of
uncollected wireless enhanced 911 grant fees along with the names and
addresses of those wireless service users which carry a balance that can
be determined by the wireless carrier to be nonpayment of such fees. The
wireless carrier shall provide annually to the local collection point
administrator a list of amounts of uncollected wireless enhanced 911 local
fees along with the names and addresses of those wireless service users
which carry a balance that can be determined by the wireless carrier to be
nonpayment of such fees.

(d) The fees imposed by this act shall be collected insofar as
practicable at the same time as, and along with, the charges for wireless
service in accordance with regular billing practice of the wireless carrier.

(e) The wireless enhanced 911 grant fee and the amounts required to
be collected therefor are due monthly. The amount of any such fees
collected in one month by the wireless carrier shall be remitted to the
secretary not more than 15 days after the close of the calendar month. On
or before the 15th day of each calendar month following, a return for the
preceding month shall be filed with the secretary in such form as the
secretary and the wireless carrier shall agree. The wireless carrier
required to file the return shall deliver the return together with a
remittance of the amount of the fees payable to the secretary. The wireless
carrier shall maintain records of the amount of any such fees collected
pursuant to action in accord with this act. Such records shall be
maintained for a period of three years from the time the fees are collected.

(f) The wireless enhanced 911 local fee and the amounts required to
be collected therefor are due monthly. The amount of any such fees collected in one month by the wireless carrier shall be remitted to the local collection point administrator not more than 15 days after the close of the calendar month. On or before the 15th day of each calendar month following, a return for the preceding month shall be filed with the local collection point administrator. Such return shall be in such form and shall contain such information as required by the administrator. The wireless carrier required to file the return shall deliver the return together with a remittance of the amount of the fees payable to the local collection point administrator. The wireless carrier shall maintain records of the amount of any such fees collected pursuant to action in accord with this act. Such records shall be maintained for a period of three years from the time the fees are collected.

(g) In the case of prepaid wireless telephone service, the monthly wireless enhanced 911 grant fee shall be remitted to the secretary by the wholesaler of the prepaid wireless service not more than 15 days after the close of the calendar month in which the prepaid wireless service is sold by such wholesaler.

(h) Except as provided by subsection (d) of K.S.A. 2010 Supp. 12-5330, and amendments thereto, not later than 30 days after receipt of moneys from wireless carriers pursuant to this section, the local collection point administrator shall distribute such moneys collected from the wireless enhanced 911 local fee to PSAP's based upon primary place of use information provided by wireless carriers. The local collection point administrator may retain an administrative fee of not more than 2% of moneys collected from such fee. Moneys which cannot be attributed to a specific PSAP shall be utilized for the purposes set out in subsection (b) of K.S.A. 2010 Supp. 12-5330, and amendments thereto. Until all PSAP's have achieved phase II status, such moneys shall only be distributed for such purposes to PSAP's that have not achieved phase II status. When all PSAP's have achieved phase II status, then such moneys shall be distributed for such purposes to any PSAP.

(i) The local collection point administrator shall keep accurate accounts of all receipts and disbursements of moneys from the wireless enhanced 911 local fee. The receipts and disbursements shall be audited yearly by a licensed municipal accountant or certified public accountant and the audit report shall be submitted to the secretary.

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

(b) The secretary of revenue or the secretary's designee may:
(1) Publish statistics, so classified as to prevent identification of
particular reports or returns and the items thereof;
(2) allow the inspection of returns by the attorney general or the
attorney general's designee;
(3) provide the post auditor access to all such excise tax reports or
returns in accordance with and subject to the provisions of subsection (g)
of K.S.A. 46-1106, and amendments thereto;
(4) disclose taxpayer information from excise tax returns to persons
or entities contracting with the secretary of revenue where the secretary
has determined disclosure of such information is essential for completion
of the contract and has taken appropriate steps to preserve confidentiality;
(5) provide information from returns and reports filed under article
42 of chapter 79 of the Kansas Statutes Annotated to county appraisers as
is necessary to insure proper valuations of property. Information from
such returns and reports may also be exchanged with any other state
agency administering and collecting conservation or other taxes and fees
imposed on or measured by mineral production;
(6) provide, upon request by a city or county clerk or treasurer or
finance officer of any city or county receiving distributions from a local
excise tax, monthly reports identifying each retailer doing business in
such city or county or making taxable sales sourced to such city or
county, setting forth the tax liability and the amount of such tax remitted
by each retailer during the preceding month, and identifying each
business location maintained by the retailer and such retailer's sales or use
tax registration or account number;
(7) provide information from returns and applications for
registration filed pursuant to K.S.A. 12-187, and amendments thereto,
and K.S.A. 79-3601, and amendments thereto, to a city or county
treasurer or clerk or finance officer to explain the basis of statistics
contained in reports provided by subsection (b)(6);
(8) disclose the following oil and gas production statistics received
by the department of revenue in accordance with K.S.A. 79-4216 et seq.,
and amendments thereto: V olumes of production by well name, well
number, operator's name and identification number assigned by the state
corporation commission, lease name, leasehold property description,
county of production or zone of production, name of purchaser and
purchaser's tax identification number assigned by the department of
revenue, name of transporter, field code number or lease code, tax period,
exempt production volumes by well name or lease, or any combination of
this information;
(9) release or publish liquor brand registration information provided
by suppliers, farm wineries and microbreweries in accordance with the
liquor control act. The information to be released is limited to: Item
number, universal numeric code, type status, product description, alcohol
percentage, selling units, unit size, unit of measurement, supplier number,
supplier name, distributor number and distributor name;
(10) release or publish liquor license information provided by liquor
licensees, distributors, suppliers, farm wineries and microbreweries in
accordance with the liquor control act. The information to be released is
limited to: County name, owner, business name, address, license type,
license number, license expiration date and the process agent contact
information;
(11) release or publish cigarette and tobacco license information
obtained from cigarette and tobacco licensees in accordance with the
Kansas cigarette and tobacco products act. The information to be released
is limited to: County name, owner, business name, address, license type
and license number;
(12) provide environmental surcharge or solvent fee, or both,
information from returns and applications for registration filed pursuant
to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the
secretary of health and environment or the secretary's designee for the
sole purpose of ensuring that retailers collect the environmental surcharge
tax or solvent fee, or both;
(13) provide water protection fee information from returns and
applications for registration filed pursuant to K.S.A. 82a-954, and
amendments thereto, to the secretary of the state board of agriculture or
the secretary's designee and the secretary of the Kansas water office or
the secretary's designee for the sole purpose of verifying revenues
deposited to the state water plan fund;
(14) provide to the secretary of commerce copies of applications for
project exemption certificates sought by any taxpayer under the enterprise
zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606,
and amendments thereto;
(15) disclose information received pursuant to the Kansas cigarette
and tobacco act and subject to the confidentiality provisions of this act to
any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
4701, and amendments thereto, or to any law enforcement officer, as
defined in subsection (c)(10) of K.S.A. 21-3110, and amendments
thereto, on behalf of a criminal justice agency, when requested in writing
in conjunction with a pending investigation; and
(16) provide to retailers tax exemption information for the sole
purpose of verifying the authenticity of tax exemption numbers issued by
the department.; and
(17) provide information concerning remittance by sellers of
prepaid wireless 911 fees from returns to the 911 state fund administrator,
as defined in section 2, and amendments thereto, for purposes of
verifying seller compliance with collection and remittance of such fees.
(c) Any person receiving any information under the provisions of
subsection (b) shall be subject to the confidentiality provisions of
subsection (a) and to the penalty provisions of subsection (d).
(d) Any violation of this section shall be a class A, nonperson
misdemeanor, and if the offender is an officer or employee of this state,
such officer or employee shall be dismissed from office. Reports of
violations of this paragraph shall be investigated by the attorney general.
The district attorney or county attorney and the attorney general shall
have authority to prosecute any violation of this section if the offender is
a city or county clerk or treasurer or finance officer of a city or county.
Sec. 8. K.S.A. 2010 Supp. 12-5322, 12-5324, 12-5331 and 75-5133
are hereby repealed.
Sec. 9. This act shall take effect and be in force from and after