

## HOUSE BILL No. 2514

By Committee on Utilities

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AN ACT concerning telecommunications; relating to availability of high-speed digital service; concerning wireless service towers; providing for administrative fines for certain violations; establishing an enhanced 911 fund.

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

Section 1. (a) As used in this section:

(1) "High-speed digital service" means service which: (A) Provides upstream, from customer to provider, and downstream, from provider to customer, transmission of digital signals at a rate of at least 512 kilobits per second; (B) is based on a digital architecture capable of carrying internet or other multilayered protocols; (C) has functionality which allows constant connection to the internet; and (D) has capacity to scale to greater capacity and functionality as uses evolve and applications requiring greater bandwidth emerge.

(2) "Local exchange carrier" has the meaning provided in K.S.A. 66-1,187, and amendments thereto.

(b) The state corporation commission shall allow a local exchange carrier which is subject to traditional rate of return regulation a rate of return of 1% more than such carrier would otherwise be allowed if at least ½ of that additional 1% is used to make the carrier's high-speed digital service more affordable.

(c) On and after January 1, 2006, each local exchange carrier shall make available to not less than 95% of the carrier's customers high-speed digital service. On and after January 1, 2008, each local exchange carrier shall make high-speed digital service available to not less than 99% of the carrier's customers. Such service shall be available through facilities owned, leased or contracted for by the carrier.

Sec. 2. (a) As used in this section:

(1) "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.

(2) "Enhanced 911 service" means an emergency telephone service

1 that generally may provide, but is not limited to, selective routing, auto-  
2 matic number identification and automatic location identification  
3 features.

4 (3) "Pseudo-automatic number identification" means a feature by  
5 which automatic number identification is provided to a public safety an-  
6 swering point of the 10-digit telephone number of the specific cell site  
7 or cell site sector from which a wireless call originated.

8 (4) "Wireless automatic location identification information" means a  
9 feature by which information is provided to a public safety answering  
10 point identifying the location of a 911 caller within the parameters estab-  
11 lished by the federal communications commission.

12 (5) "Wireless carrier" and "wireless service" have the meanings pro-  
13 vided by K.S.A. 12-5301, and amendments thereto.

14 (6) "Wireless enhanced 911 service" means a communication service  
15 by which wireless telecommunication carriers can provide automatic  
16 number identification, pseudo-automatic number identification or wire-  
17 less automatic location identification information to a requesting public  
18 safety answering point as defined in FCC docket 94-102 which is capable  
19 of receiving and utilizing the data elements associated with wireless en-  
20 hanced 911 service.

21 (7) "Wireless service tower" means a tower constructed or adapted  
22 for the location of transmission or related equipment to be used in the  
23 provision of wireless service.

24 (b) Location of wireless service towers used to provide enhanced 911  
25 or wireless enhanced 911 service shall not be denied on the basis of their  
26 actual or perceived visual impact but a city or county may establish rea-  
27 sonable standards for the appearance of such towers.

28 (c) A city or county may require two or more wireless carriers to co-  
29 locate on specific wireless service towers. If wireless carriers are unable  
30 to reach an agreement regarding reasonable rates for co-location, the state  
31 corporation commission shall determine rates.

32 Sec. 3. The state corporation commission may assess against any tel-  
33 ecommunication utility a civil fine for failure of such utility to comply  
34 with any order or rules and regulations of the commission. Such fine shall  
35 be in accordance with a schedule of civil fines established by the com-  
36 mission. The fines established by such schedule shall be based on the  
37 potential for harm to the public welfare and the potential for monetary  
38 gain by the utility from the failure to comply. Such fines shall be in ad-  
39 dition to any other fine provided by law for the failure to comply. The  
40 commission shall remit to the state treasurer, in accordance with the  
41 provisions of K.S.A. 75-4215, and amendments thereto, all moneys re-  
42 ceived by the commission from fines assessed pursuant to this section.  
43 Upon receipt of the remittance, the state treasurer shall deposit the entire

1 amount in the state treasury and credit it to the enhanced 911 fund.

2 Sec. 4. (a) There is hereby created in the state treasury the enhanced  
3 911 fund.

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

5 (1) Amounts received pursuant to section 3, and amendments  
6 thereto;

7 (2) amounts received by the state from the federal government for  
8 the purposes of the fund;

9 (3) amounts appropriated or otherwise made available by the legis-  
10 lature for the purposes of the fund;

11 (4) interest attributable to investment of moneys in the fund; and

12 (5) amounts received from any public or private entity for the pur-  
13 poses of the fund.

14 (c) Moneys in the enhanced E911 fund shall be expended only for:

15 (1) Necessary and reasonable costs incurred or to be incurred by pub-  
16 lic service answering points to implement wireless enhanced 911 service;

17 (2) costs of purchasing equipment and upgrades and modification to  
18 equipment used solely to process the data elements of wireless enhanced  
19 911 service; and

20 (3) costs of maintenance and license fees for such equipment and  
21 training of personnel to operate such equipment, including costs of train-  
22 ing personnel of a public service answering point to provide effective  
23 service to all users of the emergency telephone system who have com-  
24 munications disabilities. Such costs shall not include expenditures for new  
25 or expanded buildings or similar facilities or to construct other capital  
26 improvements not expressly authorized by law.

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

30 (1) The average daily balance of moneys in the wireless enhanced  
31 911 grant fund for the preceding month; and

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

34 (e) All payments and disbursements from the fund shall be made in  
35 accordance with appropriation acts upon warrants of the director of ac-  
36 counts and reports issued pursuant to vouchers approved by the chair-  
37 person of the state corporation commission or by a person or persons  
38 designated by the chairperson. All payments and disbursements from the  
39 fund, and beginning and ending balances thereof, shall be subject each  
40 year to post audit in accordance with article 11 of chapter 46 of the Kansas  
41 Statutes Annotated, and amendments thereto.

42 (f) As used in this section, terms have the meanings provided by sec-  
43 tion 2, and amendments thereto.

1     Sec. 5. This act shall take effect and be in force from and after its  
2 publication in the statute book.  
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