

2018

SENATE BILL NO. \_\_\_\_\_

18rs2419

## By Committee on Federal and State Affairs

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

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

Section 1. K.S.A. 2017 Supp. 12-5363 is hereby amended to read as follows: 12-5363.

As used in the Kansas 911 act:

- (a) "Consumer" means a person who purchases prepaid wireless service in a retail transaction.
- (b) "Department" means the Kansas department of revenue.
- (c) "Enhanced 911 service" or "E-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.
- (d) "Exchange telecommunications service" means the service that provides local telecommunications exchange access to a service user.
- (e) "Fund" means a monetary account into which monies are deposited. This term is subdefined as follows:
  - (1) "911 Federal Grant Fund" means a monetary account, within the state treasury, into which monies received from the federal government to be distributed to fund grant projects are deposited. These monies are used for individual PSAP grants.

- 
- (2) “911 Operations Fund” means a monetary account, outside the state treasury, into which prepaid wireless fees remitted by the Department, call handling system subscription fees, and monies remaining in the 911 state fund at year’s end are deposited. This fund is used for Council administrative costs, and deployment and sustainment of the statewide call handling system.
- (3) “911 State Fund” means a monetary account, outside the state treasury, into which 911 fees remitted by the telephone service providers to the LCPA are deposited. This fund is used for the collection and distribution of 911 fees to the PSAPs.
- (4) “911 State Grant Fund” means a monetary account, outside the state treasury, into which monies exceeding 15% of total revenues over the prior three years accumulated in the 911 operations fund, are deposited. This fund is used for collecting money to be distributed through grants to individual PSAPs.
- (5) “911 State Maintenance Fund” means a monetary account, within the state treasury, into which monies appropriated by the legislature or donated by private sources, are deposited. This fund is used for grants to individual PSAPs.
- (f) “GIS” means a geographic information system for capturing, storing, displaying, analyzing and managing data and associated attributes which are spatially referenced.

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

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

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

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

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

(l) "Non-traditional PSAP" means a PSAP not operated by a city or county and would include PSAPs operated by Universities, Tribal Governments, and the Federal Government.

(i) (m) "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.

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

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

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

~~(q)~~ (q) "PSAP" means a public safety answering point operated by a city or county.

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

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

~~(t)~~ (t) "Service user" means any person who is provided exchange telecommunications service, wireless telecommunications service, VoIP service, prepaid wireless service or any other service capable of contacting a PSAP.

~~(u)~~ (u) "Subscriber account" means the 10-digit access number assigned to a service user by a provider for the purpose of billing a service user up to the maximum capacity of the simultaneous outbound calling capability of a multi-line telephone system or equivalent service.

- 6 -

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

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

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

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

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

Sec. 2. K.S.A. 2017 Supp. 12-5364 is hereby amended to read as follows: 12-5364. (a)

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

(2) The 911 coordinating council shall consist of 13 voting members to be appointed by the governor: Two members representing information technology personnel from government units; one member representing the Kansas sheriff's association; one member representing the Kansas association of chiefs of police; one member representing a fire chief; one member recommended by the adjutant general; one member recommended by the Kansas emergency

medical services board; one member recommended by the Kansas commission for the deaf and hard of hearing; two members representing PSAPs located in counties with less than 75,000 in population; two members representing PSAPs located in counties with greater than 75,000 in population; and one member representing ~~PSAPs without regard to size~~ [the Kansas Chapter of the Association of Public Safety Communications Officials \(KS-APCO\)](#). At least two of the members representing PSAPs shall be administrators of a PSAP or have extensive prior 911 experience in Kansas.

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

(4) The 911 coordinating council shall also include nonvoting members to be appointed by the governor: One member representing rural telecommunications companies recommended by the Kansas rural independent telephone companies; one member representing incumbent local exchange carriers with over 50,000 access lines; one member representing large wireless providers; one member representing VoIP providers; one member recommended by the league of Kansas municipalities; one member recommended by the Kansas association of counties; one member recommended by the Kansas geographic information systems policy board; one member recommended by the Kansas office of information technology services; ~~and~~ one member, a Kansas resident, recommended by the Mid-America regional council; [and two members representing non-traditional PSAPs, one of which shall be a representative of Tribal Government.](#)

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

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

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

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

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

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



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

(c) (1) The governor shall select the chair of the 911 coordinating council, who shall serve at the pleasure of the governor and have extensive prior 911 experience in Kansas.

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

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

- 10 -

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

(2) The chair of the council shall work with the council ~~to develop rules and regulations necessary for the distribution of moneys in the 911 federal grant fund. The council shall work with the chair to carry out the provisions of this act.~~ to adopt rules and regulations necessary ~~to begin for the~~ administration of this act ~~shall be adopted by December 31, 2011, but the council shall not adopt any rules and regulations or any other requirement that:~~ (A) creates a mandatory certification program of PSAP operations or PSAP emergency communications personnel; ~~or (B) imposes any civil penalties for failure to adhere to recommended training standards.~~

(f) If a PSAP's GIS data is found to be out of standard or has not been updated for one year or more, and after giving written notice to the governing body that oversees the PSAP and not receiving an acceptable proposal within 60 days of such notice for the GIS data to come into compliance, the 911 coordinating council may engage a contracting firm to review and update the GIS data. A PSAP with GIS data that has not been updated for one year or more, may provide a certification attesting that the GIS data has been reviewed and remains up-to-date. If, after

receiving such certification, the council has information the data may not be up-to-date, the Council shall provide a written notice describing the areas believed to be out of date and setting a deadline of 30 days for the submission of updated GIS data. If the updated GIS data is not received after the 30 day deadline, the Council may engage a contracting firm to review and update the GIS data. In either case, the council shall assess the governing body that oversees the PSAP for the full costs of updating the GIS data.

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

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

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

~~(i)~~ (j) All expenses related to the council shall be paid from the 911 operations ~~state grant~~ fund. No more than 2.5% of the total receipts from providers and the department received by the LCPA shall be used to pay for ~~such~~ administrative expenses of the Council. Members of the

council and other persons appointed to subcommittees by the council may receive reimbursement for meals and travel expenses, but shall serve without other compensation with the exception of legislative members who shall receive compensation pursuant to K.S.A. 75-3212, and amendments thereto.

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

⊕ (l) (1) Each PSAP shall file an annual report with the council, ~~by March 1, 2012, and every by~~ March 1 ~~thereafter, a report~~ demonstrating how such PSAP has spent the moneys earned from the 911 fee during the preceding calendar year. The council shall designate the content and form of such report and any associated documentation that is required to finalize such report .

(2) If a PSAP fails to file and finalize an annual report, the council shall provide notice to the PSAP and the governing body of such PSAP of such failure. If such PSAP fails to file or finalize an annual report within 60 days of receiving such notice, 10% of each subsequent distribution of 911 fees to such PSAP pursuant to K.S.A. 12-5373, and amendments thereto, shall be withheld by the LCPA and only distributed to such PSAP once the report has been submitted.

⊕ (m) The council, upon a finding that a provider has violated any provision of this act, may impose a civil penalty. No civil penalty shall be imposed pursuant to this section except upon the written order of the council. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to a hearing before the council. Any such person may, within 15 days after service of the order, make a written request to the council for a hearing

thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

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

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

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

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

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

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

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

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

- (1) To pay all expenses incurred in the administration of the fund; and
- (2) to provide grants to eligible municipalities only for necessary and reasonable costs

incurred or to be incurred by PSAPs for: (A) Implementation of enhanced 911 service and next generation 911 service, as defined in K.S.A. 2017 Supp. 12-5363, and amendments thereto; (B) purchase of equipment and upgrades and modification to equipment used solely to process the data elements of enhanced 911 service and next generation 911 service, as defined in K.S.A. 2017 Supp. 12-5363, and amendments thereto; and (C) maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or for other capital outlay or equipment not expressly authorized by this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. K.S.A. 2017 Supp. 12-5368 is hereby amended to read as follows: 12-5368. (a) Upon the ~~advice and consent~~ approval of the 911 coordinating council, the LCPA shall establish the 911 state fund, the 911 operations fund, and the 911 state grant fund which shall not be part of



the state treasury. ~~On or after the effective date of this section, the secretary of administration shall certify all unobligated funds remaining in the wireless enhanced 911 grant fund as having originated as either federal grant moneys or 911 fee moneys. All such moneys originating from 911 fees, and any interest accrued on such fees, shall be paid to the LCPA for deposit in the 911 state fund or 911 state grant operations fund. All unobligated federal moneys, and any interest accrued on such moneys, shall be transferred to the 911 federal grant fund.~~

(b) (1) As further provided in paragraph (2), the LCPA shall withhold from the distribution to the PSAP pursuant to K.S.A. 2017 Supp. 12-5374, and amendments thereto, \$.23 from every 911 fee remitted pursuant to K.S.A. 2017 Supp. 12-5369, and amendments thereto, and shall deposit such amount in the 911 operations fund for sustainment of the statewide NG911 system and standardized functionality upgrades to that system.

(2) In the event that the funds so withheld exceed 15% of the total receipts from providers and the department received by the LCPA ~~total moneys transferred to the LCPA and deposited in the 911 state fund~~ over the prior three years, such funds in excess of that 15% total shall be deposited in the 911 state grant fund and used for PSAP grants based on demonstrated need pursuant to subsection (d).

~~(b)~~ (c) The council shall be responsible for ensuring that the 911 operations fund and the 911 state grant fund and any interest earned on money credited to the funds is only expended for the following purposes:

(1) Projects involving the development and implementation of next generation 911 services; (2) costs associated with PSAP consolidation or cost-sharing projects; (3) expenses related to the 911 coordinating council; (4) costs of audits conducted pursuant to K.S.A. 2017 Supp. 12-5377, and amendments thereto; and (5) other costs pursuant to K.S.A. 2017 Supp. 12-

5375, and amendments thereto.

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

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

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

Sec. 7. K.S.A. 2017 Supp. 12-5369 is hereby amended to read as follows: 12-5369. (a) There is hereby imposed a 911 fee in the amount of ~~\$.53~~\$1.03 per month per subscriber account of any exchange telecommunications service, wireless telecommunications service, VoIP service, or other service capable of contacting a PSAP. Such fee shall not be imposed on prepaid wireless service. It shall be the duty of each exchange telecommunications service provider, wireless telecommunications service provider, VoIP service provider or other service provider to remit such fees to the LCPA as provided in K.S.A. 2017 Supp. 12-5370, and amendments thereto.

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

Sec. 8. K.S.A. 2017 Supp. 12-5370 is hereby amended to read as follows: 12-5370. (a) Every billed service user shall be liable for the 911 fee until such fees have been paid to the exchange telecommunications service provider, wireless telecommunications service provider, VoIP service provider or other service provider.

(b) The duty to collect the fees imposed pursuant to this act shall commence January 1, 2012. 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 "911 fees."

(c) The provider shall have no obligation to take any legal action to enforce the collection of the fees imposed by this act. The provider shall provide annually to the LCPA a list of the amount of uncollected 911 fees along with the names and addresses of those service users which carry a balance that can be determined by the provider 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 local exchange, wireless, VoIP, or other service in accordance with regular billing practice of the provider.

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

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

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

Sec. 9. K.S.A. 2017 Supp. 12-5371 is hereby amended to read as follows: 12-5371. (a) (1) There is hereby imposed a prepaid wireless 911 fee of ~~1.06%~~ 2.06% per retail transaction.

(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~~ ~~(e)(3)~~ of K.S.A. 79-3673 (c)(3), and amendments thereto.

- 21 -

(d) The prepaid wireless 911 fee is the liability of the consumer and not of the seller nor of any provider, 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) The prepaid wireless 911 fee shall be proportionately reduced, ~~as applicable,~~ upon any ~~change~~ reduction to the fee imposed by ~~subsection (a) of~~ K.S.A. 2017 Supp. 12-5369(a), and amendments thereto, pursuant to the council's authority to reduce the fee under K.S.A. 2017 Supp. 12-5364(g), and amendments thereto. The adjusted amount shall be ~~determined by the product of~~ dividing the numeric amount of the new fee ~~imposed by subsection of adjusted~~ pursuant to K.S.A. 2017 Supp. ~~12-5369-12-5364(g),~~ and amendments thereto, by ~~\$50-50~~. Such ~~increase or~~ reduction shall be effective on the effective date of the ~~change to~~ reduction of the fee imposed by ~~subsection (a) of~~ K.S.A. 2017 Supp. 12-5369(a), and amendments thereto, or, if later, the first day of the calendar quarter to occur at least 60 days after the enactment ~~to the change to~~ of the reduction of the fee imposed by ~~subsection (a) of~~ K.S.A. 2017 Supp. 12-5369(a), and amendments thereto. The department shall provide not less than 60 days' notice of such ~~increase or~~ decrease on the department's website.

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

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

Sec. 10. K.S.A. 2017 Supp. 12-5372 is hereby amended to read as follows: 12-5372. (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, and amendments thereto. The department shall establish registration and payment procedures for the collection of the prepaid wireless 911 fee.

(b) 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 LCPA with information obtained in such audits if such information indicates that a seller may not be complying with the provisions of this section and K.S.A. 2017 Supp. 12-5371, and amendments thereto. The LCPA may request the department to initiate collection or audit procedures on individual sellers if collection efforts by the LCPA are unsuccessful.

(c) 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, and amendments thereto.

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

~~(e) 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.~~

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

Sec. 11. K.S.A. 2017 Supp. 12-5373 is hereby amended to read as follows: 12-5373. ~~(a)~~ 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.

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

Sec. 12. K.S.A. 2017 Supp. 12-5374 is hereby amended to read as follows: 12-5374. (a) Except for the amounts withheld by the LCPA pursuant to K.S.A. 2017 Supp. 12-5368(b), and amendments thereto, and any amounts withheld pursuant to K.S.A. 2017 Supp. 12-5364(k)(2), and amendments thereto, not later than 30 days after the receipt of moneys from providers pursuant to K.S.A. 2017 Supp. 12-5370 and 12-5371, and amendments thereto, and the department pursuant to K.S.A. 2017 Supp. 12-5372, and amendments thereto, the LCPA shall

distribute such moneys to PSAPs based upon the following distribution method: In a county with a population over 80,000, 82% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 65,000 and 79,999, 85% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 55,000 and 64,999, 88% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 45,000 and 54,999, 91% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 35,000 and 44,999, 94% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 25,000 and 34,999, 97% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; and in a county with a population of less than 25,000, 100% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information. There shall be a minimum county distribution of ~~\$50,000~~ \$60,000 and no county shall receive less



than ~~\$50,000~~ \$60,000 of direct distribution moneys. If there is more than one PSAP in a county then the direct distribution allocated to that county by population shall be deducted from the minimum county distribution and the difference shall be proportionately divided between the PSAPs in the county. All moneys remaining after distribution, moneys withheld pursuant to K.S.A. 2017 Supp. 12-5368(b), and amendments thereto, and any moneys which cannot be attributed to a specific PSAP shall be transferred to the 911 operations ~~state-grant~~ fund.

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

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

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

(e) Information provided by providers to the local collection point administrator or to the

911 coordinating council pursuant to this act will be treated as proprietary records which will be withheld from the public upon request of the party submitting such records.

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

Sec. 13. K.S.A. 2017 Supp. 12-5375 is hereby amended to read as follows: 12-5375. (a) The proceeds of the 911 fees imposed pursuant to this act, and any interest earned on revenue derived from such fee, shall be used only for necessary and reasonable costs incurred or to be incurred by PSAPs for: (1) Implementation of 911 services; (2) purchase of 911 equipment and upgrades; (3) maintenance and license fees for 911 equipment; (4) training of personnel, not to include salaries; (5) monthly recurring charges billed by service suppliers; (6) installation, service establishment and nonrecurring start-up charges billed by the service supplier; (7) charges for capital improvements and equipment or other physical enhancements to the 911 system; (8) or the original acquisition and installation of road signs designed to aid in the delivery of emergency service. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities. Such costs shall also not include expenditures to purchase, procure, maintain or upgrade subscriber radio equipment.

(b) The 911 coordinating council shall, pursuant to rules and regulations, establish a process for a PSAP, at the discretion of the PSAP, to seek pre-approval of an expenditure. The council shall respond in writing within 30 days whether the requested expenditure is approved or disapproved. If the expenditure is disapproved, the written notification shall state the reason for

the disapproval and such PSAP may, within 15 days after service of the notification, make a written request to the council for a hearing to be conducted in accordance with the provisions of the Kansas administrative procedure act.

~~(a)~~ (c) Each year, the Council shall review expenditures of 911 funds reported on the annual report for each PSAP. The Council shall appoint a committee to review such expenditures. If the committee determines that a reported expenditure was outside of the purposes authorized in this act, the committee shall request that the expenditure be refunded by the PSAP to the PSAP's 911 account. If a PSAP does not concur with the finding of the committee, the PSAP may request a review of the decision of the committee before the 911 coordinating council. If the 911 coordinating council, based upon information obtained from ~~the PSAP reports or~~ an audit of a PSAP, determines that any PSAP has used any 911 fees for any purpose other than those authorized in this act, the governing body for such PSAP shall repay all such funds used for any unauthorized purposes to the 911 fee fund of such PSAP. Additionally, the 911 coordinating council may require such PSAP to pay, plus the lesser of \$500 or 10%, of such misused funds, to the LCPA for deposit in the 911 ~~operations state grant~~ fund, upon a finding the expenditure was made intentionally from the 911 fee fund of such PSAP for a purpose clearly established as an unauthorized expenditure. No such repayment of 911 fees shall be imposed pursuant to this section except upon the written order of the council. Such order shall state the unauthorized purposes for which the funds were used, the amount of funds to be repaid and the right of such PSAP to appeal to a hearing before the ~~council~~ Kansas Office of Administrative Hearings. Any such PSAP may, within 15 days after service of the order, make a written request to the council for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

~~(b)~~ (d) Any final action of the council pursuant to subsection (b) or (c) is subject to

review in accordance with the Kansas judicial review act.

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

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

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

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

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

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

(c) On or before December 31, ~~2013-2018~~, and at least once every ~~three~~ five years thereafter, the division of post audit shall conduct an audit of the 911 system to determine: (1) Whether the moneys received by PSAPs pursuant to this act are being used appropriately; (2) whether the amount of moneys collected pursuant to this act is adequate; and (3) the status of 911 service implementation. The auditor to conduct such audit shall be specified in accordance with

K.S.A. 46-1122, and amendments thereto. The post auditor shall compute the reasonably

anticipated cost of providing audits pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the 911 operations ~~state grant~~ fund shall reimburse the division of post audit for the amount approved by the contract audit committee. The audit report shall be submitted to the 911 coordinating council, the LCPA, the house committee on utilities and telecommunications and the senate committee on utilities.

(d) The legislature shall review this act at the regular ~~2014~~ 2019 legislative session and at the regular legislative session every five years thereafter.

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

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

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

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

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

Sec. 19. This act shall take effect and be in force from and after [October 1, 2019 and](#) its publication in the statute book.