

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on January 25, 2011, in Room 548-S of the Capitol.

All members were present except:

Sen. Jay Emler, excused

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes

Mary Torrence, Revisor of Statutes

Cindy Lash, Kansas Legislative Research Department

Heather O'Hara, Legislative Research Department

Ann McMorris, Committee Assistant

Conferees appearing before the Committee:

Patrick Fucik, Sprint

Melissa Wangemann, Kansas Association of Counties

Curt Wright, Taylor Oil, Wellsville

Walter Way, Johnson County Emergency Communications

Others attending: See attached list.

Hearing on

SB 30 - Concerning 911 emergency services; prepaid wireless fees, collection and distribution

Matt Sterling, Assistant Revisor of Statutes, provided a brief description of the contents of each section of **SB 30**. (Attachment 1)

Mr. Sterling introduced a technical amendment to **SB 30**. (Attachment 2)

Proponents

Patrick Fucik, Director of State Government Affairs for Sprint, spoke on behalf of industry members- Sprint, AT&T, Verizon, Kansas Cable Association, T-Mobile, Cox Communications and U.S. Cellular, who support **SB 30** because it improves the collection process for prepaid wireless products and increases funding for the Kansas 911 system which benefits the public safety of our citizens. In particular **SB 30** addresses one crucial element in the process necessary to update Kansas' 911 statutes: the collection of the Enhanced 911 (E911) fee on prepaid wireless service by retailers at the point of sale. (Attachment 3)

Melissa Wangemann, Kansas Association of Counties, testified in support of **SB 30**. (Attachment 4)

Walter Way, Johnson County Government, spoke in favor of the proposed change to collect the 911 fee at the retail point of sale. He noted the expiration on July 1, 2011 of Kansas law which authorizes a 1% wireless enhanced 911 grant fee upon prepaid wireless service sold in the state. (Attachment 5)

Written testimony only presented by:

Commissioner John Miller, President, Kansas Legislative Policy Group (Attachment 6)

Chris Carroll, AT&T (Attachment 7)

Neutral

Curt Wright, Taylor Oil, Inc, Wellsville, Kansas, supports the concept behind **SB 30** and the intended purpose; however, he voiced concerns about the implementation process. (Attachment 8)

After committee questions and discussion, Chair asked for ideas on how to make the process more simple for the retailers.

Chair closed the hearing on **SB 30**.

The meeting was adjourned at 2:30 p.m.

Respectfully submitted,
Ann McMorris, Committee Assistant

Attachments - 8

**SENATE UTILITIES
COMMITTEE GUEST LIST
JANUARY 25, 2011**

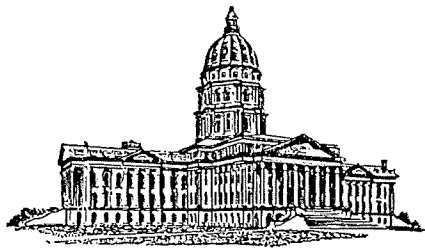
NAME	REPRESENTING
Lon Stanton	NORTHERN NATURAL GAS CO
Wally Way	Johnson County
Nelson Krueger	U.S. Cellular
John Iowa	CenturyLink
Eric Haas	Gov. Banks Office
PATRICK Fucile	Sprint
Joe Mosimann	PMCA of KS
Curt Wagner	Taylor Oil Inc
Chris Carlson	AT&T
Trair Lowe	Little Court Relations
Melissa Wargemann	KAC
Roy Caches	Sprint
Shirley Allen	KTRIC
Tom Day	KCC
Tim Grackner	AT&T
Mike Smith	DATA
Dina Fink	VERIZON
Doug Smith	KLPG

[illegible]

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Chairman Apple and members of the Senate Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: January 25, 2011
Subject: Senate Bill 30

SB 30 is a bill that would implement a 1.1% fee on all prepaid wireless service sold in Kansas and require sellers, defined as "a person who sells prepaid wireless service to another person" to collect and remit such fees. Under current law, there is a 1% fee on prepaid wireless service that is collected by wholesalers of prepaid wireless service. Below is a brief description of the contents of each section in the bill.

Section 1. Imposes a fee of 1.1% on all prepaid wireless services sold to be collected by the sellers.

Section 2. Requires the sellers to remit the fees to the department of revenue. After receipt of the fees, the department would have to remit all the fees to the secretary of administration within 30 days pursuant to K.S.A. 12-5324. The department is authorized to audit the sellers and remit any information to the secretary concerning nonremittance of fees by any sellers. The department would be permitted to retain 1% of the remitted charges for administrative uses and 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.

Section 3. States that the prepaid wireless 911 fee imposed by this act shall be the only 911 funding obligation imposed with respect to prepaid wireless service.

Section 4. Amends K.S.A. 12-5322, which is a definitions section, to include definitions necessary for this act, including new definitions for "consumer," "department," "retail transaction" and "seller."

Sections 5 and 6. Amend K.S.A. 12-5324 and 12-5331 to remove the current process under which the fee on prepaid wireless service sold in Kansas is collected and remitted by the wholesalers of prepaid wireless.

Section 7. Amends K.S.A. 75-5133 to permit the department of revenue to provide information concerning remittance by sellers of prepaid wireless 911 fees from returns to the secretary for purposes of verifying seller compliance with collection and remittance of such fees.

Senate Utilities Committee

3 30 Technical Amendment
Office of the Revisor of Statutes
Matt Sterling
1/25/11

1 surcharge tax or solvent fee, or both;

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

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

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

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

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

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

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

38 Sec. 8. K.S.A. 2010 Supp. 12-5322, 12-5324, 12-5331 and 75-
39 3 are hereby repealed.

Comment [1]: secretary



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Patrick R. Fucik
Director, West Region
State Government Affairs
913-315-9155 desk
913-687-5548 wireless

**Testimony of Patrick Fucik
Before the Senate Utilities Committee
In Support of SB 30:
Prepaid Wireless E911 Point of Sale Collection
January 25, 2011**

Good afternoon Chairman Apple and Members of the Committee. My name is Patrick Fucik and I am the Director of State Government Affairs for Sprint in our West Region.

I appreciate this opportunity to speak with you regarding SB 30. I am speaking today on behalf on the following industry members: Sprint, AT&T, Verizon, the Kansas Cable Association, T-Mobile, Cox Communications and U.S. Cellular.

SB 30 addresses one crucial element in the process necessary to update Kansas' 911 statutes: the collection of the Enhanced 911 (E911) fee on prepaid wireless service by retailers at the point of sale. This change alone is projected to collect revenues that would increase 911 funding by an additional \$1.2M each year and help ensure adequate funding of the 911 system in the State of Kansas.

Under current Kansas law, the wholesalers of prepaid wireless products remit 1% of their total annual sales to the 911 fund. Unfortunately, the imposition of the current fee at the wholesale level creates several compliance and administrative problems for carriers who sell prepaid wireless through third-party retailers. Wireless providers have no way to embed the fee in the wholesale price of the service because prepaid cards are sold and distributed nationally. Carriers have no way to know where cards sold at wholesale will end up being sold. As a result, carriers in Kansas pay out of their revenues instead of imposing the fee on the prepaid end user who benefits from the ability to call 911.

SB 30 would impose a 1.1% fee on all prepaid wireless products sold at retail in Kansas which would be remitted to the Department of Revenue (DOR) just as sales tax are currently remitted. The DOR will transfer those funds to the 911 state fund administrator to support the 911 system.

The wireless industry has partnered with law enforcement, the National Emergency Number Association (NENA), counties and cities in thirteen states to recently pass legislation allowing for the collection of the prepaid E911 fee at the point of sale. The National Conference of State Legislatures (NCSL) adopted a model point of sale bill and resolution in 2009 because policy makers determined that prepaid end users should contribute to state 911 funds. A list of the states that have passed prepaid point of sale legislation is attached.

The key to maintaining the most effective 911 system in Kansas is a consistent and reliable source of funding. The passage of SB 30 will ensure that all users of wireless communications services contribute equitably to the funding of the Kansas 911 system while making the method for the collection of such fees as simple as possible for retailers in the State.

Senate Utilities Committee
January 25, 2011
Attachment 3-1

Pr
In. / testimony on KS SB 30

Unlike last year's legislation, SB 30 does not include an allowance for retailers to maintain a percentage of their sales on prepaid products to cover their costs of collecting and remitting the fee. However, it does allow retailers that sell less than \$50 per month of prepaid products to remit those E911 fees on a bi-annual basis to the DOR.

With the increase in prepaid wireless usage, making up almost 18% of the total wireless market share, it is more important than ever to ensure that prepaid wireless end users are contributing equitably to the Kansas 911 fund. The projection of \$1.2M in new funding from prepaid wireless 911 fees is attached to this testimony.

Because the prepaid point of sale provisions were included in the overall 911 rewrite bill last year, a few technical amendments are needed to SB 30 due to the fact that it was introduced as a stand alone bill this year. We have those amendments ready to offer at the appropriate time.

In conclusion, the carriers I represent today support SB 30 because it improves the collection process for prepaid wireless products and increases funding for the Kansas 911 system which benefits the public safety of our citizens. We encourage the Committee to pass SB 30 and I would be happy to answer any questions.

Thank you.

States that have Enacted Prepaid Point of Sale Legislation:

- ME LD 1056 (effective date 1/1/2010)
- LA HB 856 (effective date 1/1/2010)
- TX HB 1831 (effective date 6/1/2010)
- IN HB 1086 (signed 3/25/2010; effective date 7/1/2010)
- SC H 4551 (signed 3/30/2010; effective date 7/1/2011)
- VA HB 754 (signed 4/11/2010; effective date 1/1/2011)
- TN SB 2497 (signed 4/16/2010; effective date 7/1/2011)
- OK HB 2556 (signed 5/4/2010; effective date 1/1/2011)
- MS SB 2938 (signed 5/13; effective date 7/1/2010)
- CO SB 120 (signed 6/7/2010; effective date 1/1/2011)
- RI HB7397, Article 9 (became law 6/12/10; effective date 8/1/2010)
- DC Bill 18-0731 (signed 7/2/2010; effective date 10/1/2010)
- PA HB 2321 (signed 11/23/2010; effective date 7/1/2011)

Kansas Prepaid Wireless Point of Sale 911 Revenue Worksheet (December 2010 Update)

FCC Reported Subscribers (Postpaid and Prepaid) as of Dec. 2009 Source: FCC Local Competition Report December 2009	2,466,000
Assumed 1% increase December 2009 to December 2010 CTIA and analyst estimates	24,660
Estimated Kansas Wireless Subscribers 12/2010	2,490,660
Estimated Prepaid Wireless Market Share 12/10 CTIA national estimate is 20.5%; KS estimate is 2.84 percentage points lower based on actual carrier data from 7/09	17.7%
Estimated KS Prepaid Subscribers 12/10 from FCC Data	439,851
Monthly Revenue @ \$27.50 avg. revenue per month Morgan Stanley estimate, 9 11 2009 "Telecom Services" report	\$12,095,902
Proposed % fee	1.10%
monthly revenue months	\$ 133,055 X 12
annual revenue before deduction	\$ 1,596,657
Less 1% holdback for the DOR	\$ 15,966
Less DOR one time fee	\$ 70,000
911 Revenue from Prepaid Wireless	\$ 1,510,691

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This estimate compares to less than \$350,000 that was remitted to the state on prepaid wireless in fiscal year 2009.



TESTIMONY TO THE SENATE UTILITIES COMMITTEE
ON SB 30
JANUARY 25, 2011

Chairman Apple and Members of the Committee:

I appreciate the opportunity to offer testimony in support of SB 30.

Kansas law currently requires prepaid phones to contribute 911 fees, just as hard-wire phones and traditional wireless phones do. While working with the telecommunications industry on the development of the 911 legislation, we learned that the current law's mechanism for collection of fees from prepaid phones – from the wholesaler – is inefficient and ineffective, and likely does not net the full amount owed to the state of Kansas.

It is our understanding that other states have had success implementing a system of collection at the point of retail sale. KAC has been told that transitioning to such a system will net an approximate increase of \$1.2m in annual 911 fees.

KAC also understands from our conversations with our telecommunications partners that there are approximately 440,000 prepaid phone subscribers in Kansas, or almost 18% of the Kansas market. Nationally, the average market share of prepaid phones is 20%. Like other phone users, prepaid phones can, and do, access 911 emergency services. All phone subscribers should be treated equally in the levy of this fee.

In conclusion, KAC supports SB 30 and requests that the Committee pass the bill.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Melissa A. Wangemann".

Melissa A. Wangemann
General Counsel and Director of Legislative Services



JOHNSON COUNTY, KANSAS Emergency Communications

www.jocoks911.org • 11880 S. Sunset Drive, Olathe, KS 66061

TESTIMONY TO THE SENATE UTILITIES COMMITTEE ON SENATE BILL 30

Chairman Apple and Members of the Committee:

I represent Johnson County Government and the Kansas City Regional E911 System that serves Johnson, Miami, Wyandotte and Leavenworth Counties as well as five Missouri metropolitan area Counties. I am providing testimony in support of SB 30.

Existing Kansas law authorizes a 1% wireless enhanced 911 grant fee upon prepaid wireless service sold in the state and that authorization will expire July 1, 2011. The result will be that prepaid wireless telephone customers will not be paying a 911 usage fee after that date to support the operation of the E911 system in Kansas but customers having contracts for wireless service will continue to pay a 911 fee.

Wireless telephone subscribers in Kansas who have chosen prepaid wireless telephone service instead of contractual service with carriers are estimated at 443,000 prepaid subscribers, or 18% of the Kansas market. Nationally, prepaid wireless customers comprise over 20% of the market and that percentage has been growing.

SB 30 addresses the above concerns by imposing a prepaid wireless 911 fee of 1.1% per retail transaction so that prepaid wireless telephone users also contribute toward the equitable and adequate funding of E911 services that they access. The proposed change to collect the 911 fee at the retail point of sale instead of from the wholesalers of such service has been authorized by a number of states to ensure more consistent collection of such fees from all prepaid wireless service customers. In Kansas, Telecommunications industry officials estimate that over \$1.5 million in 911 fees would be collected statewide by authorizing the 911 fee of 1.1% at retail point of sale for prepaid wireless telephone service.

Wireless telephone users now make between 70% to 80% of all E911 calls received by Kansas 911 dispatch centers in the Kansas City Regional E911 system. It is important to the successful operation of the 911 system in the Kansas City area and across the State that all persons accessing the E911 system with their wireless phones be assessed an equitable fee to support this essential public safety service.

I would request your favorable consideration of this bill.

Walter Way, Director
Johnson County Emergency Communications
Olathe, Kansas

Senate Utilities Committee
January 25, 2011
Attachment 5-1



**Testimony of
Commissioner John Miller
Norton County Commissioner
President, Kansas Legislative Policy Group
Before the Senate Committee on Utilities
RE: Senate Bill No. 30
January 25, 2011**

Dear Chairman Apple and Members of the Committee:

The Kansas Legislative Policy Group (KLPG) is pleased to provide written testimony in support of Senate Bill No. 30. KLPG is a bipartisan, non-profit corporation of elected commissioners from 30 western Kansas counties. We appreciate the opportunity to submit remarks on this issue, which is of great importance to our member counties.

Senate Bill No. 30 provides for a fee on prepaid wireless services to pay for emergency 911 services in Kansas and the funds generated by the fee shall be credited to the "wireless enhanced 911 grant fund". Since 1980, Kansas has taxed hard-wired telephone lines for 911 services and in 2004, wireless customers started paying into the fund. Prepaid wireless customers have been paying into the fund as well, although the current mechanism for collection of the funds is not especially efficient and there may be instances where not all the required fees are properly remitted to the State. Senate Bill No 30 provides a clear mechanism for funding and defines the public policy on collection of the required 911 fees for prepaid wireless transactions.

This proposed legislation and the associated grant program, which the funds go into, are necessary and vital for our member counties to provide standardized and high quality emergency 911 services. The legislation and the continued flow of funding will allow our counties to continue to make available the best possible emergency telephone service with improved technology and the latest equipment. Many of our communities are unable to individually generate sufficient funding to meet the basic needs of their 911 systems and this grant fund is a resource our counties can tap into to assist in providing and maintaining quality 911 service meeting public safety needs of those traveling in and through Kansas.

KLPG appreciates the willingness of all the interested parties in continuing to work together on this important issue and arrive at the legislation you see before you today.

We encourage this Committee to favorably consider Senate Bill No. 30.

Thank you for your consideration and the opportunity to present these written remarks.

Senate Utilities Committee
January 25, 2011
Attachment 6-1

KANSAS LEGISLATIVE POLICY GROUP



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Director
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**Testimony of Chris Carroll, Director of External Affairs – AT&T Kansas
Before the Senate Utilities Committee in Support of SB30
January 25, 2011**

Mr. Chairman and Members of the Committee,

My name is Chris Carroll. I appreciate this opportunity to provide written testimony in support of Senate Bill 30, which addresses a gap in how telecommunications users fund the 911 system in Kansas.

Background

At the end of 2010 there were approximately 2.5M wireless phones in Kansas (based on FCC reports). Of these wireless phones, 440,000 (nearly 18%) are "prepaid" devices. Customers of prepaid wireless service do not fund the 911 system like other telecommunications customers. Prepaid wireless is a "cash and carry" offering that satisfies a consumer demand that has been growing at over 15% annually for the past several years. A combination of the weak economy and the rollout of competitively-priced prepaid "unlimited monthly" calling plans have led to this significant growth in the prepaid sector.

Prepaid customers can remain anonymous because they do not sign a contract or provide an address. For these customers, there is no deposit and no credit check, and indeed no relationship with the wireless service provider, thus no monthly bill. They simply buy a bucket of minutes at the point of sale (POS) and when they run out of minutes, they can buy additional minutes at a POS retailer (cash or credit, and in any tax jurisdiction), from an Internet-based vendor, or through an "800" number, or simply throw the phone away.

The technology behind prepaid wireless service is very similar to postpaid wireless services, but the marketing and sales of these plans are vastly different than monthly billed plans. For example, over 80% of prepaid wireless transactions occur in retail outlets where the seller is not the wireless service provider. These third-party retailers, such as Wal-Mart, Best Buy, and Radio Shack, purchase prepaid telecommunications service in bulk at wholesale rates, and sell them at retail to the ultimate customer.

Senate Utilities Committee
January 25, 2011
Attachment 7-1

911 fees have traditionally been assessed on the end user, with a requirement that the wireless provider bill the customer each month and remit the fees to the 911 agency. However, with over 80% of prepaid sales occurring via retailers, the wireless provider does not have any direct financial transaction with the end user and has no way to collect the fee. The only time there is a financial transaction with the customer for prepaid services is at the point-of-sale. Collection of the fee at the wholesale level is not reasonable either, because prepaid items are sold in bulk to national retailers who distribute them to retail stores across the country. Without knowing where the cards will ultimately be sold, the wireless provider has no precise way of knowing the amount of the 911 fee to charge on a wholesale transaction.

SB30 - A Proposed Solution

Almost three years ago, the wireless industry approached some of our major national retail partners to develop a system that would allow 911 fees on prepaid wireless service to be collected from consumers at the point of sale. The key principles that governed these discussions were as follows:

- The fee must be transparent and disclosed to the purchaser
- The system should piggyback on existing sales and use tax collection methodologies in order to minimize retailer compliance costs
- The system should compensate retailers for compliance costs
- The system should treat all transactions the same, whether in person or remote transactions, and regardless of whether the sales are through a service provider or through a third party retailer
- The amount of the fee should reflect the fact that purchasers of prepaid wireless service tend to have lower incomes and generally spend less each month on their service

The prepaid wireless industry developed proposed model legislation that incorporates these principles. This model legislation was presented to the National Conference of State Legislatures' (NCSL) Task Force on Telecommunications and Electronic Commerce in January, 2009. The Task Force held two hearings and ultimately endorsed the model act, with minor amendments, in July, and again in January of 2010.

Thirteen states have already adopted the proposed prepaid wireless point of sale solution based upon the industry's model bill. We anticipate that at least half of the remaining states will consider the legislation in the current session.

SB30 incorporates the provisions of the NCSL-approved model act into the Kansas statutes. Key provisions include:

- A fee of 1.1% ¹ per retail transaction collected by the retail seller and remitted to the Department of Revenue
- The fee would apply to Kansas customers who buy from a retail store located in Kansas, from an Internet-based vendor, or through an "800" number
- The fee would apply to both the initial purchase, as well as every "recharge" of additional minutes with prepaid phone cards
- The fee would be administered by the Kansas Department of Revenue, and all collection, audit, remittance, and other procedures would mirror the sales tax (which already applies to prepaid at the point of sale)

Conclusion

It is estimated that 72% of all calls into the PSAP's originate from wireless phones. Collecting 911 fees from those that benefit by having access to 911 emergency services is critical to meeting public expectations for effective and accessible 911 emergency services. SB30 will ensure that all wireless phone users help to fund the 911 system.

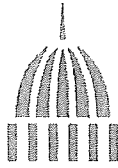
The wireless industry continues to make significant investments to make high quality wireless service available in Kansas. A very large amount of capital is also being invested to bring wireless broadband services to as many customers as possible. Implementing point of sale collection of 911 fees for prepaid wireless would provide more clarity and transparency for customers, increase the amount of 911 funds available to support 911 in all areas of the state, and increase the efficiency of wireless operations in Kansas.

It is time to update current statutes and provide a fair and efficient funding process for all who benefit from the 911 system.

I ask for your support of SB30.

Thank You.

¹ The 1.1% fee is determined based on a 55 cent 911 fee for postpaid wireless and wireline subscribers that was proposed in HB2423 and H Sub for SB48 during the 2010 session. Prepaid usage averages \$27.50 per month compared to an average \$50 monthly post paid bill. This equates to a 1.1% fee. If Kansas changes the 55 cent fee in the future, the percent applied to prepaid wireless service could also be changed commensurately.



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

NCSL RESOLUTION ON THE COLLECTION OF E911 FEES ON WIRELESS PREPAID SERVICE AT THE POINT-OF-SALE ACT

EXECUTIVE COMMITTEE TASK FORCE ON STATE & LOCAL TAXATION OF COMMUNICATIONS AND ELECTRONIC COMMERCE

WHEREAS, E9-1-1 fees have historically been collected from telecommunications users on their monthly bills and remitted to governments by telecommunications providers; and

WHEREAS, the lack of a billing relationship between the prepaid wireless user and the sellers and providers of prepaid wireless service means that the existing collection methodologies are not well suited to prepaid wireless, causing administrative and legal disputes that inhibit collection of E9-1-1 fees on prepaid wireless service; and

WHEREAS, the number of prepaid wireless users has grown from less than 6% of the wireless marketplace in 2003 to over 18% in 2009; and

WHEREAS, the growth in popularity of prepaid wireless service has led states to consider methods to impose E9-1-1 fees on prepaid wireless service; and

WHEREAS, prepaid wireless users benefit from the access to the 9-1-1 system and should therefore contribute proportionately to funding the 9-1-1 system; and

WHEREAS, the prepaid wireless industry has approached the states with model legislation to create a uniform collection methodology that would collect prepaid wireless E9-1-1 fees on end users at the retail point of sale; and

WHEREAS, the adoption of a uniform methodology for collecting E9-1-1 fees from prepaid wireless consumers would provide needed funding for E9-1-1 systems while minimizing administrative costs for states and providers of prepaid wireless service; and

WHEREAS, the adoption of variations of the model legislation by the states of Maine, Texas, Louisiana and Wisconsin in 2009 legislation demonstrates the need for the National Conference of State Legislatures to endorse a single model to encourage states to adopt an uniform approach; and

WHEREAS, consistent state action through enactment of a model legislation for the collection of E9-1-1 fees on prepaid will forestall federal government intrusion or preemption.

THEREFORE, LET IT BE RESOLVED, that the National Conference of State Legislatures endorses the point-of-sale model legislation, the "Prepaid Wireless Charge," and calls upon State legislatures to pass legislation that implements point-of-sale-collection of E911 fees.

Taylor Oil, Inc.
504 Main
PO Box 581
Wellsville, KS 66092
(785) 883-2072

January 22, 2011

Senators,

My name is Curt Wright, I am Vice President of Taylor Oil, Inc. in Wellsville, KS. We are a family owned and operated business distributing gasoline and diesel fuel to customers throughout Eastern Kansas and Western Missouri. We operate 4 convenience stores, (Spring Hill, Ottawa, Lyndon, and Emporia) where we sell prepaid wireless and long distance products. We do not sell the actual phones; we sell the pins and cards for adding time to a phone.

I have asked to testify as a neutral, but maybe a better description would be both a proponent and an opponent. I can support the concept behind the legislation and the intended purpose; however I have concerns about the implementation process.

We make prepaid cell products available to our customer basically as a service. The commission rates are between 2 and 15 percent depending on the carrier. In 2010, we sold \$26,904.04 in prepaid cell in my 4 stores. The commission was \$2,295.19 for the year, an average of 8.5%. The profits are not large to begin with and therefore the implementation cannot be troublesome or many retailers will simply choose to not offer the service to customers which will reduce the availability of these products to Kansas consumers.

Prepaid cell time is the most frequently purchased product on stolen and/or fraudulent checks and credit cards in my stores, which subtracts from my bottom line in many cases.

Most if not all businesses submit sales, use, withholding and unemployment taxes, but our industry must also submit motor fuel tax returns, retail fuel reports, liquid fuel carrier reports, underground and aboveground tank reports and on and on, at both the State and Federal level. It is precisely this kind of regulation that aggravates most small business owners. We don't necessarily disagree with what you are trying to accomplish, however, if the implementation adds more unproductive time to ourselves or our employees it is essentially an additional tax on us. If, it only takes 10 minutes per month per location to gather the information and file a return, that is 8 hours per year for my 4 locations. I've lost a full day of productivity each year to collect \$295.94 for the state. There should be an easier method, such as collecting the fee before the product gets to me. Other C-store operators have echoed this sentiment to me as well.

My other concern is how we implement on our cash registers. The language is a little confusing but I think many cash registers can make this work. Most, but not all, registers will allow 2 or more tax rates per transaction and can print that on the receipt; however there are those that do not allow a single product or product department to be subject to multiple rates and reported separately. We can't afford

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Attachment 8-1

to make the sale of these products any more difficult or time consuming to our employees. Again, anything that takes time away from my employees has the exact same effect as a tax on our company.

I appreciate the opportunity to provide the retailers perspective on this issue. Although we don't oppose the concept of the E 911 legislation my main concern is implementation for all retailers. I've pointed out some of the many reporting requirements retailers must complete and submit. We don't want any new regulations or requirements that end up costing us time and/or money rather than utilizing our time to be productive.

My company collects a huge amount of taxes for the State of Kansas, and I know many states pay retailers a commission to collect taxes. It appears to me that if Kansas paid retailers to collect taxes there might be less of a push back from the retailers. My request; please find an easier way to implement.

Sincerely,

Curt Wright
Vice President