

SB154_L.010

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

SB21-154 be amended as follows:

1 Strike the Health & Human Services Committee Report, dated April 7,
2 2021, and substitute:

3 "Amend printed bill, page 2, strike everything below the enacting clause
4 and substitute:

5 "SECTION 1. In Colorado Revised Statutes, **add** article 64 to
6 title 27 as follows:

7 **ARTICLE 64**

8 **988 Crisis Hotline Enterprise**

9 **27-64-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
10 FINDS AND DECLARES THAT:

11 (a) ON JULY 16, 2020, THE FEDERAL COMMUNICATIONS
12 COMMISSION ADOPTED RULES, AND ON OCTOBER 17, 2020, CONGRESS
13 PASSED THE "NATIONAL SUICIDE HOTLINE DESIGNATION ACT OF 2020",
14 DESIGNATING 988 AS THE THREE-DIGIT NUMBER FOR THE NATIONAL
15 SUICIDE PREVENTION LIFELINE TO AID RAPID ACCESS TO SUICIDE
16 PREVENTION AND MENTAL HEALTH SUPPORT SERVICES;

17 (b) IT IS IMPERATIVE FOR COLORADO TO IMPLEMENT 988 AS THE
18 THREE-DIGIT NUMBER FOR CRISIS RESPONSE SERVICES IN COLORADO IN
19 ORDER TO COMPLY WITH FEDERAL REGULATIONS; IMPROVE QUALITY AND
20 ACCESS TO BEHAVIORAL HEALTH CRISIS SERVICES, ESPECIALLY FOR
21 UNDERSERVED POPULATIONS AND IN RURAL AREAS OF THE STATE; AND
22 REDUCE STIGMA SURROUNDING SUICIDE, MENTAL HEALTH, AND
23 SUBSTANCE USE CONDITIONS;

24 (c) THE 988 CRISIS HOTLINE ENTERPRISE PROVIDES VALUABLE
25 BENEFITS AND SERVICES TO TELEPHONE SERVICE USERS WHEN THE
26 ENTERPRISE FUNDS THE 988 CRISIS HOTLINE AND PROVIDES CRISIS
27 OUTREACH, STABILIZATION, AND ACUTE CARE TO INDIVIDUALS CALLING
28 THE 988 CRISIS HOTLINE FROM ANY JURISDICTION IN COLORADO
29 TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK;

30 (d) BY PROVIDING THE BENEFITS AND SERVICES SPECIFIED IN
31 SUBSECTION (1)(c) OF THIS SECTION, THE 988 CRISIS HOTLINE ENTERPRISE
32 ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN,
33 OR LIVELIHOOD, AND THEREFORE OPERATES AS A BUSINESS;

34 (e) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
35 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
36 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
37 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
38 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
39 ASSEMBLY THAT THE CHARGES IMPOSED BY THE ENTERPRISE IS A FEE, NOT

1 A TAX, BECAUSE THE CHARGES ARE IMPOSED FOR THE SPECIFIC PURPOSE
2 OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE
3 BENEFITS AND SERVICES SPECIFIED IN SUBSECTION (1)(c) OF THIS SECTION
4 TO TELEPHONE SERVICE USERS AND THE CHARGES ARE IMPOSED AT RATES
5 THAT ARE REASONABLY CALCULATED BASED ON THE COST OF THE
6 SERVICES RECEIVED BY TELEPHONE SERVICE USERS;

7 (f) SO LONG AS THE 988 CRISIS HOTLINE ENTERPRISE QUALIFIES AS
8 AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
9 CONSTITUTION, THE REVENUE FROM THE CHARGES IMPOSED BY THE
10 ENTERPRISE ARE NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN
11 SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION
12 24-77-103.6 (6)(c), AND DO NOT COUNT AGAINST EITHER THE STATE
13 FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 ARTICLE X OF THE
14 STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED
15 IN SECTION 24-77-103.6 (6)(b)(I); AND

16 (g) NO OTHER ENTERPRISE CREATED SIMULTANEOUSLY OR WITHIN
17 THE PRECEDING FIVE YEARS SERVES PRIMARILY THE SAME PURPOSE AS THE
18 988 CRISIS HOTLINE ENTERPRISE AND THE 988 CRISIS HOTLINE ENTERPRISE
19 WILL GENERATE REVENUE FROM CHARGES OF LESS THAN ONE HUNDRED
20 MILLION DOLLARS TOTAL IN ITS FIRST FIVE FISCAL YEARS. ACCORDINGLY,
21 THE CREATION OF THE 988 CRISIS HOTLINE ENTERPRISE DOES NOT REQUIRE
22 VOTER APPROVAL PURSUANT TO SECTION 24-77-108.

23 **27-64-102. Definitions.** AS USED IN THIS ARTICLE 64, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "988 CRISIS HOTLINE" MEANS A STATE-IDENTIFIED HOTLINE
26 PARTICIPATING IN THE NATIONAL SUICIDE PREVENTION LIFELINE NETWORK
27 TO RESPOND TO STATEWIDE OR REGIONAL BEHAVIORAL HEALTH CRISIS
28 CALLS.

29 (2) "CHARGE" MEANS THE 988 SURCHARGE IMPOSED BY THE
30 ENTERPRISE PURSUANT TO SECTION 27-64-103 (4)(a) AND THE PREPAID
31 WIRELESS 988 CHARGE IMPOSED BY THE ENTERPRISE PURSUANT TO
32 SECTION 27-64-103 (4)(b).

33 (3) "ENTERPRISE" MEANS THE 988 CRISIS HOTLINE ENTERPRISE
34 CREATED IN SECTION 27-64-103.

35 (4) "NATIONAL SUICIDE PREVENTION LIFELINE" MEANS A
36 NATIONAL NETWORK OF LOCAL CRISIS CENTERS MAINTAINED BY THE
37 FEDERAL SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES
38 ADMINISTRATION THAT PROVIDES FREE AND CONFIDENTIAL EMOTIONAL
39 SUPPORT TO PEOPLE IN SUICIDAL CRISIS OR EMOTIONAL DISTRESS
40 TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK.

41 (5) "VETERANS CRISIS LINE" MEANS THE VETERANS CRISIS LINE
42 MAINTAINED BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.

43 **27-64-103. 988 crisis hotline enterprise - creation - powers and**

1 **duties.** (1) THERE IS CREATED IN THE DEPARTMENT OF HUMAN SERVICES
2 THE 988 CRISIS HOTLINE ENTERPRISE. THE ENTERPRISE IS AND OPERATES
3 AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT OF HUMAN
4 SERVICES FOR THE BUSINESS PURPOSE OF IMPOSING CHARGES PURSUANT
5 TO SUBSECTIONS (4)(a) AND (4)(b) OF THIS SECTION, AND UTILIZING THE
6 CHARGES' REVENUE TO FUND THE 988 CRISIS HOTLINE AND PROVIDE CRISIS
7 OUTREACH, STABILIZATION, AND ACUTE CARE TO INDIVIDUALS CALLING
8 THE 988 CRISIS HOTLINE. THE ENTERPRISE EXERCISES ITS POWER AND
9 PERFORMS ITS DUTIES AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1**
10 TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE STATE DEPARTMENT.

11 (2) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
12 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
13 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
14 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
15 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
16 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (2), THE
17 ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
18 CONSTITUTION.

19 (3) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS
20 APPOINTED BY THE GOVERNOR.

21 (4) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE TO:

22 (a) EFFECTIVE JANUARY 1, 2022, IMPOSE A 988 SURCHARGE ON
23 SERVICE USERS, AS DEFINED IN SECTION 40-17.5-101 (13), IN AN AMOUNT
24 TO BE ESTABLISHED ANNUALLY BY THE ENTERPRISE, IN COLLABORATION
25 WITH THE PUBLIC UTILITIES COMMISSION, BUT NOT TO EXCEED THIRTY
26 CENTS PER MONTH PER 988 ACCESS CONNECTION, AS DEFINED IN SECTION
27 40-17.5-101 (2). ON OR BEFORE OCTOBER 1, 2021, AND ON OR BEFORE
28 OCTOBER 1 OF EACH YEAR THEREAFTER, THE ENTERPRISE, IN
29 COLLABORATION WITH THE PUBLIC UTILITIES COMMISSION, SHALL
30 ESTABLISH THE AMOUNT OF THE SURCHARGE FOR THE NEXT CALENDAR
31 YEAR. THE AMOUNT OF THE SURCHARGE MUST BE REASONABLY
32 CALCULATED BASED ON THE COST OF THE SERVICES RECEIVED BY
33 TELEPHONE SERVICE USERS. THE AMOUNT OF THE SURCHARGE IMPOSED
34 PER 988 ACCESS CONNECTION MUST BE UNIFORM, REGARDLESS OF THE
35 TECHNOLOGY USED TO PROVIDE THE 988 ACCESS CONNECTION.

36 (b) EFFECTIVE JANUARY 1, 2022, IMPOSE A PREPAID WIRELESS 988
37 CHARGE ON EACH RETAIL TRANSACTION, AS DEFINED IN SECTION
38 40-17.5-104 (1)(d), IN AN AMOUNT TO BE ESTABLISHED ANNUALLY BY THE
39 ENTERPRISE, IN COLLABORATION WITH THE PUBLIC UTILITIES COMMISSION,
40 BUT NOT TO EXCEED THIRTY CENTS PER EACH RETAIL TRANSACTION IN
41 WHICH PREPAID WIRELESS SERVICE IS PURCHASED IN COLORADO. ON OR
42 BEFORE OCTOBER 1, 2021, AND ON OR BEFORE OCTOBER 1 OF EACH YEAR
43 THEREAFTER, THE ENTERPRISE, IN COLLABORATION WITH THE PUBLIC

1 UTILITIES COMMISSION, SHALL ESTABLISH THE AMOUNT OF THE CHARGE
2 FOR THE NEXT CALENDAR YEAR. THE AMOUNT OF THE CHARGE MUST BE
3 REASONABLY CALCULATED TO MEET THE NEEDS OF THE ENTERPRISE.

4 (c) AS REQUIRED BY SUBSECTION (5) OF THIS SECTION, FUND THE
5 988 CRISIS HOTLINE TO PROVIDE INTERVENTION SERVICES AND CRISIS CARE
6 COORDINATION TO INDIVIDUALS CALLING THE 988 CRISIS HOTLINE;

7 (d) (I) ENGAGE THE SERVICES OF THIRD PARTIES SERVING AS CRISIS
8 VENDORS TO PROVIDE CRISIS OUTREACH, STABILIZATION, ACUTE CARE,
9 AND MARKETING FOR THE 988 CRISIS HOTLINE;

10 (II) ENTER INTO ANY OTHER CONTRACTS NECESSARY FOR
11 PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY
12 OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE
13 ENTERPRISE, WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES
14 101 TO 112 OF TITLE 24.

15 (III) THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE
16 OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE PURSUANT
17 TO A CONTRACT ENTERED INTO PURSUANT TO SUBSECTION (4)(d)(II) OF
18 THIS SECTION.

19 (e) BY RESOLUTION, AUTHORIZE AND ISSUE REVENUE BONDS THAT
20 ARE PAYABLE ONLY FROM THE MONEY IN THE 988 CRISIS HOTLINE CASH
21 FUND CREATED IN SECTION 27-64-104; AND

22 (f) ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION OF
23 ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS
24 SECTION.

25 (5) (a) ON OR BEFORE JULY 1, 2022, THE ENTERPRISE SHALL FUND
26 A NONPROFIT ORGANIZATION TO OPERATE THE 988 CRISIS HOTLINE AND
27 PROVIDE INTERVENTION SERVICES AND CRISIS CARE COORDINATION TO
28 INDIVIDUALS CALLING THE 988 CRISIS HOTLINE FROM ANY JURISDICTION
29 WITHIN COLORADO TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK.

30 (b) THE NONPROFIT ORGANIZATION SHALL:

31 (I) HAVE AN ACTIVE AGREEMENT WITH THE ADMINISTRATOR OF
32 THE NATIONAL SUICIDE PREVENTION LIFELINE FOR PARTICIPATION WITHIN
33 THE NETWORK;

34 (II) MEET THE NATIONAL SUICIDE PREVENTION LIFELINE
35 REQUIREMENTS AND BEST PRACTICE GUIDELINES FOR OPERATIONAL AND
36 CLINICAL STANDARDS;

37 (III) MEET THE NATIONAL SUICIDE PREVENTION LIFELINE
38 REQUIREMENTS FOR SERVING HIGH-RISK AND SPECIALIZED POPULATIONS;

39 (IV) DEPLOY MOBILE RESPONSE UNITS AND CO-RESPONDER
40 PROGRAMS THAT ARE PART OF THE BEHAVIORAL HEALTH CRISIS RESPONSE
41 SYSTEM, CREATED PURSUANT TO SECTION 27-60-103, AND COORDINATE
42 ACCESS TO CRISIS WALK-IN CENTERS, AS APPROPRIATE; AND

43 (V) PROVIDE FOLLOW-UP SERVICES TO INDIVIDUALS ACCESSING

1 THE 988 CRISIS HOTLINE.

2 (6) THE ENTERPRISE SHALL COLLABORATE WITH THE NATIONAL
3 SUICIDE PREVENTION LIFELINE AND THE VETERANS CRISIS LINE FOR THE
4 PURPOSE OF ENSURING CONSISTENT PUBLIC MESSAGING ABOUT THE 988
5 CRISIS HOTLINE CENTER AND AVAILABLE SERVICES.

6 (7) THE ENTERPRISE SHALL CONSIDER RECOMMENDATIONS FROM
7 THE STATE'S 988 PLANNING COMMITTEE TO DETERMINE HOW THE 988
8 CRISIS HOTLINE WILL INTERACT WITH THE TWENTY-FOUR-HOUR
9 TELEPHONE CRISIS SERVICES ESTABLISHED IN SECTION 27-60-103 (1)(b)(I).

10 (8) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS
11 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN
12 PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS
13 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

14 (9) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART
15 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE
16 PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS
17 OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION
18 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS
19 THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS, AS
20 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
21 LOCAL GOVERNMENTS COMBINED.

22 (10) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART
23 2 OF ARTICLE 57 OF TITLE 11.

24 **27-64-104. 988 crisis hotline cash fund - creation.** (1) THE 988
25 CRISIS HOTLINE CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND",
26 IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY
27 CREDITED TO THE FUND IN ACCORDANCE WITH ARTICLE 17.5 OF TITLE 40.

28 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
29 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
30 FUND TO THE FUND.

31 (3) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
32 ASSEMBLY, THE ENTERPRISE MAY EXPEND MONEY FROM THE FUND FOR
33 THE PURPOSES OUTLINED IN SECTION 27-64-103 (4)(c) AND (4)(d).

34 (4) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
35 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
36 THIS SECTION, SO LONG AS THE COMBINATION OF GRANTS FROM STATE AND
37 LOCAL GOVERNMENTS IS LESS THAN TEN PERCENT OF THE ENTERPRISE'S
38 TOTAL ANNUAL REVENUE.

39 **27-64-105. Reports.** (1) BEGINNING JANUARY 1, 2023, AND EACH
40 JANUARY 1 THEREAFTER, THE DEPARTMENT OF HUMAN SERVICES SHALL:

41 (a) SUBMIT INFORMATION ABOUT THE USAGE OF THE 988 CRISIS
42 HOTLINE AND SERVICES PROVIDED TO THE FEDERAL SUBSTANCE ABUSE
43 AND MENTAL HEALTH SERVICES ADMINISTRATION AND INFORMATION

1 ABOUT THE EXPENDITURES OF THE 988 CRISIS HOTLINE CASH FUND TO THE
2 FEDERAL COMMUNICATIONS COMMISSION; AND

3 (b) REPORT PROGRESS ON THE IMPLEMENTATION OF THE 988 CRISIS
4 HOTLINE, INCLUDING THE USAGE OF THE 988 CRISIS HOTLINE, THE
5 SERVICES PROVIDED, AND THE DEPOSITS AND EXPENDITURES FROM THE
6 988 CRISIS HOTLINE CASH FUND AS PART OF ITS "STATE MEASUREMENT
7 FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
8 GOVERNMENT ACT" HEARING REQUIRED BY SECTION 2-7-203.

9 **SECTION 2.** In Colorado Revised Statutes, **add** article 17.5 to
10 title 40 as follows:

11 **ARTICLE 17.5**

12 **988 Surcharge and Prepaid Wireless 988 Charge**
13 **for the 988 Crisis Hotline**

14 **40-17.5-101. Definitions.** AS USED IN THIS ARTICLE 17.5, UNLESS
15 THE CONTEXT OTHERWISE REQUIRES:

16 (1) "988" MEANS THE THREE-DIGIT ABBREVIATED DIALING CODE
17 USED TO REPORT A BEHAVIORAL HEALTH CRISIS.

18 (2) "988 ACCESS CONNECTION" MEANS ANY COMMUNICATIONS
19 SERVICE INCLUDING WIRELINE, WIRELESS CELLULAR, INTERCONNECTED
20 VOICE OVER INTERNET PROTOCOL, OR SATELLITE IN WHICH CONNECTIONS
21 ARE ENABLED, CONFIGURED, OR CAPABLE OF MAKING 988 CALLS. "988
22 ACCESS CONNECTION" DOES NOT INCLUDE FACILITIES-BASED BROADBAND
23 SERVICES. THE NUMBER OF 988 ACCESS CONNECTIONS IS DETERMINED BY
24 THE CONFIGURED CAPACITY FOR SIMULTANEOUS OUTBOUND CALLING. FOR
25 EXAMPLE, FOR A DIGITAL SIGNAL-1 (DS-1) LEVEL SERVICE OR
26 EQUIVALENT THAT IS CHANNELIZED AND SPLIT INTO SEPARATE CHANNELS
27 FOR VOICE COMMUNICATIONS, THE NUMBER OF 988 ACCESS CONNECTIONS
28 WOULD BE EQUAL TO THE NUMBER OF CHANNELS CAPABLE OF MAKING
29 SIMULTANEOUS CALLS.

30 (3) "988 CRISIS HOTLINE ENTERPRISE" OR "ENTERPRISE" MEANS
31 THE 988 CRISIS HOTLINE ENTERPRISE CREATED IN SECTION 27-64-103.

32 (4) "988 SURCHARGE" OR "SURCHARGE" MEANS THE 988
33 SURCHARGE IMPOSED BY THE 988 CRISIS HOTLINE ENTERPRISE PURSUANT
34 TO SECTION 27-64-103 (4)(a).

35 (5) "COMMISSION" OR "PUBLIC UTILITIES COMMISSION" MEANS THE
36 PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO CREATED IN
37 SECTION 40-2-101.

38 (6) "CONSUMER" MEANS A PERSON WHO PURCHASES PREPAID
39 WIRELESS TELECOMMUNICATIONS SERVICE IN A RETAIL TRANSACTION.

40 (7) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

41 (8) "PERSON" MEANS ANY INDIVIDUAL; FIRM; PARTNERSHIP;
42 COPARTNERSHIP; JOINT VENTURE; ASSOCIATION; COOPERATIVE
43 ORGANIZATION; CORPORATION, EITHER MUNICIPAL OR PRIVATE AND

1 ORGANIZED FOR PROFIT OR NOT; GOVERNMENTAL AGENCY; STATE;
2 COUNTY OR CITY AND COUNTY; POLITICAL SUBDIVISION; STATE
3 DEPARTMENT; COMMISSION; BOARD; OR BUREAU, FRATERNAL
4 ORGANIZATION, NONPROFIT ORGANIZATION, ESTATE, TRUST, BUSINESS OR
5 COMMON LAW TRUST, RECEIVER, ASSIGNEE FOR THE BENEFIT OF
6 CREDITORS, TRUSTEE, OR TRUSTEE IN BANKRUPTCY; OR ANY OTHER
7 SERVICE USER.

8 (9) "PREPAID WIRELESS 988 CHARGE" OR "CHARGE" MEANS THE
9 CHARGE IMPOSED BY THE 988 CRISIS HOTLINE ENTERPRISE PURSUANT TO
10 SECTION 27-64-103 (4)(b).

11 (10) "RETAIL TRANSACTION" MEANS THE PURCHASE OF PREPAID
12 WIRELESS TELECOMMUNICATIONS SERVICE FROM A SELLER FOR ANY
13 PURPOSE OTHER THAN RESALE.

14 (11) "SELLER" MEANS A PERSON WHO SELLS PREPAID WIRELESS
15 TELECOMMUNICATIONS SERVICES TO ANOTHER PERSON.

16 (12) "SERVICE SUPPLIER" MEANS A PERSON PROVIDING 988 ACCESS
17 CONNECTIONS TO ANY SERVICE USER IN THE STATE, EITHER DIRECTLY OR
18 BY RESALE.

19 (13) "SERVICE USER" MEANS A PERSON WHO IS PROVIDED A 988
20 ACCESS CONNECTION IN THE STATE.

21 **40-17.5-102. 988 surcharge - collection - rules.** (1) THE
22 COMMISSION SHALL COLLECT, ON BEHALF OF THE 988 CRISIS HOTLINE
23 ENTERPRISE, THE 988 SURCHARGE IMPOSED BY THE ENTERPRISE PURSUANT
24 TO SECTION 27-64-103 (4)(a) TO FUND THE ENTERPRISE. THE COMMISSION
25 SHALL COLLABORATE WITH THE ENTERPRISE TO ESTABLISH THE AMOUNT
26 OF THE SURCHARGE FOR THE NEXT CALENDAR YEAR.

27 (2) EACH SERVICE SUPPLIER SHALL COLLECT THE SURCHARGE
28 FROM ITS SERVICE USERS. THE SURCHARGE IS THE LIABILITY OF THE
29 SERVICE USER AND NOT OF THE SERVICE SUPPLIER; EXCEPT THAT THE
30 SERVICE SUPPLIER IS LIABLE TO REMIT ALL SURCHARGES THAT THE
31 SERVICE SUPPLIER COLLECTS FROM SERVICE USERS.

32 (3) (a) THE SERVICE SUPPLIER SHALL REMIT THE COLLECTED
33 SURCHARGES TO THE COMMISSION ON A MONTHLY BASIS IN A MANNER
34 ESTABLISHED BY THE COMMISSION. THE COMMISSION SHALL ESTABLISH
35 REMITTANCE PROCEDURES BY RULE. A SERVICE SUPPLIER IS SUBJECT TO
36 THE PENALTIES AND PROCEDURES IN SECTION 40-17.5-103 FOR THE
37 FAILURE TO COLLECT OR CORRECTLY REMIT A SURCHARGE IN
38 ACCORDANCE WITH THIS SECTION.

39 (b) A SERVICE SUPPLIER MAY DEDUCT AND RETAIN ONE PERCENT
40 OF THE SURCHARGES THAT ARE COLLECTED BY THE SERVICE SUPPLIER
41 FROM ITS SERVICE USERS.

42 (c) (I) THE STATE TREASURER SHALL CREDIT THE SURCHARGE
43 COLLECTIONS REMITTED TO THE COMMISSION PURSUANT TO SUBSECTION

1 (3)(a) OF THIS SECTION TO THE 988 CRISIS HOTLINE CASH FUND CREATED
2 IN SECTION 27-64-104. ANY SURCHARGE TRANSMITTED TO THE STATE
3 TREASURER THAT IS COLLECTED ON BEHALF OF THE 988 CRISIS HOTLINE
4 ENTERPRISE IS EXCLUDED FROM STATE FISCAL YEAR SPENDING.

5 (II) THE COMMISSION MAY RETAIN UP TO FOUR PERCENT OF THE
6 COLLECTED SURCHARGES NECESSARY TO REIMBURSE THE COMMISSION FOR
7 ITS DIRECT AND INDIRECT COSTS OF ADMINISTERING THE COLLECTION AND
8 REMITTANCE OF SURCHARGES FOR THE 988 CRISIS HOTLINE, INCLUDING
9 COSTS RELATED TO CONDUCTING AUDITS OF SERVICE SUPPLIERS IN
10 ACCORDANCE WITH SECTION 40-17.5-103.

11 (4) THE SURCHARGE IMPOSED BY THE ENTERPRISE PURSUANT TO
12 SECTION 27-64-103 (4)(a) IS THE ONLY DIRECT 988 FUNDING OBLIGATION
13 IMPOSED UPON SERVICE USERS IN THE STATE. NO TAX, FEE, SURCHARGE,
14 OR OTHER CHARGE TO FUND THE 988 CRISIS HOTLINE IS IMPOSED BY THE
15 STATE, ANY POLITICAL SUBDIVISION OF THE STATE, OR ANY
16 INTERGOVERNMENTAL AGENCY UPON A SELLER OR CONSUMER WITH
17 RESPECT TO THE SALE, PURCHASE, USE, OR PROVISION OF 988 ACCESS
18 CONNECTION IN THE STATE.

19 (5) THIS SECTION DOES NOT APPLY TO PREPAID WIRELESS
20 TELECOMMUNICATIONS SERVICES.

21 **40-17.5-103. Remittance of surcharges - incorrect or**
22 **delinquent reports - penalties - administrative fees - rules.** (1) EVERY
23 SERVICE SUPPLIER SHALL COLLECT THE 988 SURCHARGE BY THE 988 CRISIS
24 HOTLINE ENTERPRISE PURSUANT TO SECTION 27-64-103 (4)(a) FROM ITS
25 SERVICE USERS.

26 (2) THE DUTY TO COLLECT OR REMIT THE 988 SURCHARGE
27 COMMENCES ON JANUARY 1, 2022. THE 988 SURCHARGE MUST BE STATED
28 SEPARATELY OR ON THE SAME LINE ITEM AS THE 911 SURCHARGE CREATED
29 IN SECTION 29-11-102.3. THE REVENUES COLLECTED FROM THE 988 AND
30 911 SURCHARGES MUST NOT BE COMBINED IN ANY WAY AND MUST BE
31 COLLECTED AND REMITTED TO THE COMMISSION SEPARATELY.

32 (3) A SERVICE SUPPLIER IS LIABLE ONLY FOR THE 988 SURCHARGE
33 COLLECTED PURSUANT TO THIS ARTICLE 17.5 UNTIL IT IS REMITTED TO THE
34 COMMISSION. THE AMOUNT REMITTED BY THE SERVICE SUPPLIER MUST
35 REFLECT THE ACTUAL COLLECTIONS BASED ON THE ACTUAL 988 ACCESS
36 CONNECTIONS BILLED.

37 (4) A SERVICE SUPPLIER SHALL REMIT THE 988 SURCHARGE IN
38 ACCORDANCE WITH SECTION 40-17.5-102 AND RULES ADOPTED BY THE
39 COMMISSION.

40 (5) (a) THE SERVICE SUPPLIER SHALL MAINTAIN A RECORD OF THE
41 AMOUNT OF EACH 988 SURCHARGE COLLECTED AND REMITTED BY SERVICE
42 USER ADDRESS FOR A PERIOD OF THREE YEARS AFTER THE TIME THE
43 CHARGE WAS COLLECTED AND REMITTED.

1 (b) IF A SERVICE SUPPLIER FAILS TO TIMELY FILE A REPORT AND
2 REMIT THE 988 SURCHARGE AS REQUIRED BY THIS SECTION, OR IF A
3 SERVICE SUPPLIER FILES AN INCORRECT REPORT OR FAILS TO REMIT THE
4 CORRECT AMOUNT, THE COMMISSION SHALL ESTIMATE THE AMOUNT OF
5 THE REMITTANCE DUE FOR THE PERIOD OR PERIODS FOR WHICH THE
6 SERVICE SUPPLIER IS DELINQUENT. THE COMMISSION SHALL MAKE THE
7 ESTIMATE BASED UPON THE INFORMATION AVAILABLE. THE COMMISSION
8 SHALL COMPUTE AND ASSESS A PENALTY EQUAL TO FIFTEEN PERCENT OF
9 THE ESTIMATE OF THE DELINQUENT AMOUNT, AND SHALL ASSESS INTEREST
10 ON THE DELINQUENT CHARGES AT THE RATE OF ONE PERCENT EACH MONTH
11 FROM THE DATE WHEN DUE UNTIL THE DATE PAID.

12 (c) EXCEPT AS PROVIDED IN THIS SECTION AND UNLESS SUCH TIME
13 IS EXTENDED BY AGREEMENT PURSUANT TO SUBSECTION (5)(d) OF THIS
14 SECTION, THE AMOUNT OF A DELINQUENT REMITTANCE AND THE PENALTY
15 AND INTEREST OWED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION,
16 OTHER THAN INTEREST ACCRUING THEREAFTER, MUST BE ASSESSED
17 WITHIN THREE YEARS AFTER THE DATE THE INCORRECT REPORT WAS FILED
18 OR THE DELINQUENT REPORT WAS TO BE FILED. THE COMMISSION SHALL
19 NOT FILE A NOTICE OF LIEN, ISSUE A DISTRRAINT WARRANT, INSTITUTE A
20 SUIT FOR COLLECTION, OR TAKE OTHER ACTION TO COLLECT THE AMOUNT
21 AFTER THE EXPIRATION OF SUCH PERIOD UNLESS THE COMMISSION ISSUES
22 A NOTICE OF ASSESSMENT FOR THE AMOUNT WITHIN SUCH PERIOD OR
23 WITHIN AN EXTENDED PERIOD PURSUANT TO SUBSECTION (5)(d) OF THIS
24 SECTION.

25 (d) IF, BEFORE THE EXPIRATION OF THE TIME PRESCRIBED FOR THE
26 ASSESSMENT OF DELINQUENT AMOUNTS IN SUBSECTION (5)(c) OF THIS
27 SECTION, THE COMMISSION AND THE SERVICE SUPPLIER CONSENT IN
28 WRITING TO AN ASSESSMENT AFTER SUCH TIME, THE AMOUNT
29 CALCULATED IN ACCORDANCE WITH SUBSECTION (5)(b) OF THIS SECTION
30 MAY BE ASSESSED AT ANY TIME PRIOR TO THE EXPIRATION OF THE PERIOD
31 AGREED UPON. THE PERIOD AGREED UPON MAY BE EXTENDED BY
32 SUBSEQUENT AGREEMENTS IN WRITING MADE BEFORE THE EXPIRATION OF
33 THE PERIOD PREVIOUSLY AGREED UPON. THE COMMISSION MAY FILE A LIEN
34 AGAINST THE PROPERTY OF THE SERVICE SUPPLIER FOR UP TO ONE YEAR
35 AFTER THE EXPIRATION OF ANY SUCH PERIOD, UNLESS OTHERWISE
36 SPECIFICALLY PROVIDED IN THIS ARTICLE 17.5.

37 (e) THE COMMISSION MAY CONDUCT AN AUDIT OF A SERVICE
38 SUPPLIER'S BOOKS AND RECORDS CONCERNING THE COLLECTION AND
39 REMITTANCE OF THE CHARGES AUTHORIZED BY THIS ARTICLE 17.5. A
40 PUBLIC INSPECTION OF THE AUDIT AND OF DOCUMENTS REVIEWED IN THE
41 AUDIT IS SUBJECT TO SECTION 24-72-204. THE COMMISSION IS RESPONSIBLE
42 FOR EXPENSES THE COMMISSION MAY INCUR TO CONDUCT THE AUDIT. IN
43 CONNECTION WITH AUDITS PERFORMED, SERVICE SUPPLIERS SHALL MAKE

1 RELEVANT RECORDS AVAILABLE TO THE AUDITORS AT NO CHARGE. THE
2 COMMISSION SHALL PROMULGATE RULES GOVERNING THE AUDIT AND
3 APPEAL PROCEDURES.

4 (f) THE COMMISSION SHALL DEPOSIT ANY PENALTIES OR INTEREST
5 IN THE 988 CRISIS HOTLINE CASH FUND CREATED IN SECTION 27-64-104.

6 **40-17.5-104. Prepaid wireless 988 charge - collection - rules.**

7 (1) (a) THE SELLER SHALL COLLECT, ON BEHALF OF THE 988 CRISIS
8 HOTLINE ENTERPRISE, THE PREPAID WIRELESS 988 CHARGE IMPOSED BY
9 THE ENTERPRISE PURSUANT TO SECTION 27-64-103 (4)(b) FROM THE
10 CONSUMER ON EACH RETAIL TRANSACTION OCCURRING IN THE STATE. THE
11 AMOUNT OF THE PREPAID WIRELESS 988 CHARGE SHALL BE EITHER
12 DISCLOSED TO THE CONSUMER, OR SEPARATELY STATED OR STATED ON
13 THE SAME LINE ITEM AS THE 911 SURCHARGE CREATED IN SECTION
14 29-11-102.3 ON AN INVOICE, RECEIPT, OR OTHER SIMILAR DOCUMENT THE
15 SELLER PROVIDES TO THE CONSUMER. A SELLER SHALL ELECT TO EITHER
16 DISCLOSE OR SEPARATELY STATE THE CHARGE AND SHALL NOT CHANGE
17 THE ELECTION WITHOUT THE WRITTEN CONSENT OF THE DEPARTMENT. THE
18 SELLER IS DEEMED TO HAVE COLLECTED THE CHARGE NOTWITHSTANDING
19 THE SELLER'S FAILURE TO SEPARATELY DISCLOSE OR STATE THE CHARGE
20 ON AN INVOICE, RECEIPT, OR OTHER SIMILAR DOCUMENT THE SELLER
21 PROVIDES TO THE CONSUMER.

22 (b) FOR PURPOSES OF THIS SECTION, A RETAIL TRANSACTION
23 OCCURS IN COLORADO IF:

24 (I) THE CONSUMER EFFECTS THE RETAIL TRANSACTION IN PERSON
25 AT A BUSINESS LOCATION IN COLORADO;

26 (II) IF SUBSECTION (1)(b)(I) OF THIS SECTION DOES NOT APPLY, THE
27 PRODUCT IS DELIVERED TO THE CONSUMER AT A COLORADO ADDRESS
28 PROVIDED TO THE SELLER;

29 (III) IF SUBSECTIONS (1)(b)(I) AND (1)(b)(II) OF THIS SECTION DO
30 NOT APPLY, THE SELLER'S RECORDS, MAINTAINED IN THE ORDINARY
31 COURSE OF BUSINESS, INDICATE THAT THE CONSUMER'S ADDRESS IS IN
32 COLORADO AND THE RECORDS ARE NOT MADE OR KEPT IN BAD FAITH;

33 (IV) IF SUBSECTIONS (1)(b)(I) TO (1)(b)(III) OF THIS SECTION DO
34 NOT APPLY, THE CONSUMER GIVES A COLORADO ADDRESS DURING THE
35 CONSUMMATION OF THE SALE, INCLUDING THE CONSUMER'S PAYMENT
36 INSTRUMENT IF NO OTHER ADDRESS IS AVAILABLE, AND THERE IS NO
37 INDICATION THAT THE ADDRESS IS GIVEN IN BAD FAITH; OR

38 (V) IF SUBSECTIONS (1)(b)(I) TO (1)(b)(IV) OF THIS SECTION DO
39 NOT APPLY, THE MOBILE TELEPHONE NUMBER IS ASSOCIATED WITH A
40 COLORADO LOCATION.

41 (c) THE PREPAID WIRELESS 988 CHARGE IS THE LIABILITY OF THE
42 CONSUMER AND NOT OF THE SELLER; EXCEPT THAT THE SELLER IS LIABLE
43 TO REMIT ALL PREPAID WIRELESS 988 CHARGES THAT THE SELLER

1 COLLECTS FROM A CONSUMER AS PROVIDED IN SUBSECTION (2) OF THIS
2 SECTION.

3 (d) THE AMOUNT OF THE PREPAID WIRELESS 988 CHARGE THAT IS
4 COLLECTED BY A SELLER FROM A CONSUMER IS NOT INCLUDED IN THE BASE
5 FOR MEASURING ANY TAX, FEE, SURCHARGE, OR OTHER CHARGE THAT IS
6 IMPOSED BY THE STATE, ANY POLITICAL SUBDIVISION OF THE STATE, OR
7 ANY INTERGOVERNMENTAL AGENCY.

8 (2) (a) THE SELLER SHALL REMIT ANY COLLECTED PREPAID
9 WIRELESS 988 CHARGES TO THE DEPARTMENT AT THE TIMES AND IN THE
10 MANNER PROVIDED IN PART 1 OF ARTICLE 26 OF TITLE 39. THE
11 DEPARTMENT SHALL ESTABLISH, BY RULE, REGISTRATION AND PAYMENT
12 PROCEDURES THAT SUBSTANTIALLY COINCIDE WITH THE REGISTRATION
13 AND PAYMENT PROCEDURES THAT APPLY UNDER PART 1 OF ARTICLE 26 OF
14 TITLE 39. A SELLER IS SUBJECT TO THE PENALTIES UNDER PART 1 OF
15 ARTICLE 26 OF TITLE 39 FOR FAILURE TO COLLECT OR REMIT A PREPAID
16 WIRELESS 988 CHARGE IN ACCORDANCE WITH THIS SECTION.

17 (b) A SELLER MAY DEDUCT AND RETAIN THREE AND THREE-TENTHS
18 PERCENT OF THE PREPAID WIRELESS 988 CHARGES THAT ARE COLLECTED
19 BY THE SELLER FROM THE CONSUMERS.

20 (c) THE AUDIT AND APPEAL PROCEDURES APPLICABLE TO THE
21 STATE SALES TAX PURSUANT TO PART 1 OF ARTICLE 26 OF TITLE 39 APPLY
22 TO PREPAID WIRELESS 988 CHARGES.

23 (d) THE DEPARTMENT SHALL, BY RULE, ESTABLISH PROCEDURES BY
24 WHICH A SELLER MAY DOCUMENT THAT A TRANSACTION IS NOT A RETAIL
25 TRANSACTION, WHICH PROCEDURES MUST SUBSTANTIALLY COINCIDE WITH
26 THE PROCEDURES FOR DOCUMENTING THAT A SALE WAS WHOLESALE FOR
27 PURPOSES OF THE SALES TAX PURSUANT TO PART 1 OF ARTICLE 26 OF TITLE
28 39.

29 (e) (I) THE STATE TREASURER SHALL CREDIT THE PREPAID
30 WIRELESS 988 CHARGES REMITTED TO THE DEPARTMENT PURSUANT TO
31 SUBSECTION (2)(a) OF THIS SECTION TO THE 988 CRISIS HOTLINE CASH
32 FUND CREATED IN SECTION 27-64-104.

33 (II) THE DEPARTMENT MAY RETAIN UP TO THREE PERCENT OF THE
34 COLLECTED CHARGES NECESSARY TO REIMBURSE THE DEPARTMENT FOR
35 ITS DIRECT COSTS OF ADMINISTERING THE COLLECTION AND REMITTANCE
36 OF PREPAID WIRELESS 988 CHARGES.

37 (3) THE PREPAID WIRELESS 988 CHARGE IMPOSED PURSUANT TO
38 SECTION 27-60-103 (4)(b) IS THE ONLY DIRECT 988 FUNDING OBLIGATION
39 IMPOSED WITH RESPECT TO PREPAID WIRELESS TELECOMMUNICATIONS
40 SERVICE IN THE STATE. NO TAX, FEE, SURCHARGE, OR OTHER CHARGE TO
41 FUND THE 988 CRISIS HOTLINE IS IMPOSED BY THE STATE, ANY POLITICAL
42 SUBDIVISION OF THE STATE, OR ANY INTERGOVERNMENTAL AGENCY UPON
43 A SELLER OR CONSUMER WITH RESPECT TO THE SALE, PURCHASE, USE, OR

1 PROVISION OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE.
2 **40-17.5-105. Immunity of providers.** NO SERVICE PROVIDER OR
3 SERVICE SUPPLIER, OR ANY EMPLOYEE OR AGENT THEREOF, SHALL BE
4 LIABLE FOR ANY DAMAGES IN A CIVIL ACTION FOR INJURIES, DEATH, OR
5 LOSS TO PERSON OR PROPERTY INCURRED AS A RESULT OF ANY ACT OR
6 OMISSION OF SUCH SERVICE PROVIDER, SERVICE SUPPLIER, EMPLOYEE, OR
7 AGENT IN CONNECTION WITH DEVELOPING, ADOPTING, IMPLEMENTING,
8 MAINTAINING, ENHANCING, OR PROVIDING 988 ACCESS CONNECTION OR
9 SERVICE, UNLESS SUCH DAMAGE OR INJURY WAS INTENTIONALLY CAUSED
10 BY OR RESULTED FROM GROSS NEGLIGENCE OF THE PROVIDER, SUPPLIER,
11 EMPLOYEE, OR AGENT.

12 **SECTION 3.** In Colorado Revised Statutes, 24-75-402, **add**
13 (5)(rr) as follows:

14 **24-75-402. Cash funds - limit on uncommitted reserves -**
15 **reduction in the amount of fees - exclusions.** (5) Notwithstanding any
16 provision of this section to the contrary, the following cash funds are
17 excluded from the limitations specified in this section:

18 (rr) THE 988 CRISIS HOTLINE CASH FUND CREATED IN SECTION
19 27-64-104.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in
27 November 2022 and, in such case, will take effect on the date of the
28 official declaration of the vote thereon by the governor."."

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