

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 21-154

BY SENATOR(S) Kolker and Simpson, Bridges, Buckner, Coram, Danielson, Fenberg, Gardner, Ginal, Gonzales, Hansen, Hisey, Jaquez Lewis, Lee, Moreno, Pettersen, Priola, Rankin, Scott, Smallwood, Sonnenberg, Story, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Cutter and Soper, Amabile, Bernett, Bird, Boesenecker, Daugherty, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Kennedy, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Roberts, Sirota, Sullivan, Titone, Valdez A., Van Winkle, Will, Young, Garnett.

CONCERNING THE IMPLEMENTATION OF THE 988 NATIONAL SUICIDE PREVENTION LIFELINE NETWORK IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

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

ARTICLE 64 **988 Crisis Hotline Enterprise**

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

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

(e) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL v. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE CHARGES IMPOSED BY THE ENTERPRISE IS A FEE, NOT A TAX, BECAUSE THE CHARGES ARE IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BENEFITS AND SERVICES SPECIFIED IN SUBSECTION (1)(c) OF THIS SECTION TO TELEPHONE

SERVICE USERS AND THE CHARGES ARE IMPOSED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE COST OF THE SERVICES RECEIVED BY TELEPHONE SERVICE USERS;

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

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

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

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

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

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

(4) "NATIONAL SUICIDE PREVENTION LIFELINE" MEANS A NATIONAL NETWORK OF LOCAL CRISIS CENTERS MAINTAINED BY THE FEDERAL

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION THAT PROVIDES FREE AND CONFIDENTIAL EMOTIONAL SUPPORT TO PEOPLE IN SUICIDAL CRISIS OR EMOTIONAL DISTRESS TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK.

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

27-64-103. 988 crisis hotline enterprise - creation - powers and duties. (1) THERE IS CREATED IN THE DEPARTMENT OF HUMAN SERVICES THE 988 CRISIS HOTLINE ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT OF HUMAN SERVICES FOR THE BUSINESS PURPOSE OF IMPOSING CHARGES PURSUANT TO SUBSECTIONS (4)(a) AND (4)(b) OF THIS SECTION, AND UTILIZING THE CHARGES' REVENUE TO FUND THE 988 CRISIS HOTLINE AND PROVIDE CRISIS OUTREACH, STABILIZATION, AND ACUTE CARE TO INDIVIDUALS CALLING THE 988 CRISIS HOTLINE. THE ENTERPRISE EXERCISES ITS POWER AND PERFORMS ITS DUTIES AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE STATE DEPARTMENT.

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

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

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

(a) EFFECTIVE JANUARY 1, 2022, IMPOSE A 988 SURCHARGE ON SERVICE USERS, AS DEFINED IN SECTION 40-17.5-101 (13), IN AN AMOUNT TO BE ESTABLISHED ANNUALLY BY THE ENTERPRISE, IN COLLABORATION WITH THE PUBLIC UTILITIES COMMISSION, BUT NOT TO EXCEED THIRTY CENTS PER MONTH PER 988 ACCESS CONNECTION, AS DEFINED IN SECTION 40-17.5-101 (2). ON OR BEFORE OCTOBER 1, 2021, AND ON OR BEFORE OCTOBER 1 OF

EACH YEAR THEREAFTER, THE ENTERPRISE, IN COLLABORATION WITH THE PUBLIC UTILITIES COMMISSION, SHALL ESTABLISH THE AMOUNT OF THE SURCHARGE FOR THE NEXT CALENDAR YEAR. THE AMOUNT OF THE SURCHARGE MUST BE REASONABLY CALCULATED BASED ON THE COST OF THE SERVICES RECEIVED BY TELEPHONE SERVICE USERS. THE AMOUNT OF THE SURCHARGE IMPOSED PER 988 ACCESS CONNECTION MUST BE UNIFORM, REGARDLESS OF THE TECHNOLOGY USED TO PROVIDE THE 988 ACCESS CONNECTION.

(b) EFFECTIVE JANUARY 1, 2022, IMPOSE A PREPAID WIRELESS 988 CHARGE ON EACH RETAIL TRANSACTION, AS DEFINED IN SECTION 40-17.5-104 (1)(d), IN AN AMOUNT TO BE ESTABLISHED ANNUALLY BY THE ENTERPRISE, IN COLLABORATION WITH THE PUBLIC UTILITIES COMMISSION, BUT NOT TO EXCEED THIRTY CENTS PER EACH RETAIL TRANSACTION IN WHICH PREPAID WIRELESS SERVICE IS PURCHASED IN COLORADO. ON OR BEFORE OCTOBER 1, 2021, AND ON OR BEFORE OCTOBER 1 OF EACH YEAR THEREAFTER, THE ENTERPRISE, IN COLLABORATION WITH THE PUBLIC UTILITIES COMMISSION, SHALL ESTABLISH THE AMOUNT OF THE CHARGE FOR THE NEXT CALENDAR YEAR. THE AMOUNT OF THE CHARGE MUST BE REASONABLY CALCULATED TO MEET THE NEEDS OF THE ENTERPRISE.

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

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

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

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

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

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

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

(b) THE NONPROFIT ORGANIZATION SHALL:

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

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

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

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

(V) PROVIDE FOLLOW-UP SERVICES TO INDIVIDUALS ACCESSING THE 988 CRISIS HOTLINE.

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

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

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

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

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

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

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

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

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

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

(a) SUBMIT INFORMATION ABOUT THE USAGE OF THE 988 CRISIS HOTLINE AND SERVICES PROVIDED TO THE FEDERAL SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION AND INFORMATION ABOUT THE EXPENDITURES OF THE 988 CRISIS HOTLINE CASH FUND TO THE FEDERAL COMMUNICATIONS COMMISSION; AND

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

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

ARTICLE 17.5
988 Surcharge and Prepaid Wireless 988 Charge
for the 988 Crisis Hotline

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

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

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

CALLS.

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

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

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

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

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

(8) "PERSON" MEANS ANY INDIVIDUAL; FIRM; PARTNERSHIP; COPARTNERSHIP; JOINT VENTURE; ASSOCIATION; COOPERATIVE ORGANIZATION; CORPORATION, EITHER MUNICIPAL OR PRIVATE AND ORGANIZED FOR PROFIT OR NOT; GOVERNMENTAL AGENCY; STATE; COUNTY OR CITY AND COUNTY; POLITICAL SUBDIVISION; STATE DEPARTMENT; COMMISSION; BOARD; OR BUREAU, 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 SERVICE USER.

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

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

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

(12) "SERVICE SUPPLIER" MEANS A PERSON PROVIDING 988 ACCESS

CONNECTIONS TO ANY SERVICE USER IN THE STATE, EITHER DIRECTLY OR BY RESALE.

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

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

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

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

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

(c) (I) THE STATE TREASURER SHALL CREDIT THE SURCHARGE COLLECTIONS REMITTED TO THE COMMISSION PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO THE 988 CRISIS HOTLINE CASH FUND CREATED IN SECTION 27-64-104. ANY SURCHARGE TRANSMITTED TO THE STATE TREASURER THAT IS COLLECTED ON BEHALF OF THE 988 CRISIS HOTLINE ENTERPRISE IS EXCLUDED FROM STATE FISCAL YEAR SPENDING.

(II) THE COMMISSION MAY RETAIN UP TO FOUR PERCENT OF THE COLLECTED SURCHARGES NECESSARY TO REIMBURSE THE COMMISSION FOR

ITS DIRECT AND INDIRECT COSTS OF ADMINISTERING THE COLLECTION AND REMITTANCE OF SURCHARGES FOR THE 988 CRISIS HOTLINE, INCLUDING COSTS RELATED TO CONDUCTING AUDITS OF SERVICE SUPPLIERS IN ACCORDANCE WITH SECTION 40-17.5-103.

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

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

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

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

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

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

(5) (a) THE SERVICE SUPPLIER SHALL MAINTAIN A RECORD OF THE

AMOUNT OF EACH 988 SURCHARGE COLLECTED AND REMITTED BY SERVICE USER ADDRESS FOR A PERIOD OF THREE YEARS AFTER THE TIME THE CHARGE WAS COLLECTED AND REMITTED.

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

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

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

(e) THE COMMISSION MAY CONDUCT AN AUDIT OF A SERVICE SUPPLIER'S BOOKS AND RECORDS CONCERNING THE COLLECTION AND REMITTANCE OF THE CHARGES AUTHORIZED BY THIS ARTICLE 17.5. A PUBLIC INSPECTION OF THE AUDIT AND OF DOCUMENTS REVIEWED IN THE AUDIT IS SUBJECT TO SECTION 24-72-204. THE COMMISSION IS RESPONSIBLE FOR EXPENSES THE COMMISSION MAY INCUR TO CONDUCT THE AUDIT. IN CONNECTION WITH AUDITS PERFORMED, SERVICE SUPPLIERS SHALL MAKE RELEVANT RECORDS AVAILABLE TO THE AUDITORS AT NO CHARGE. THE COMMISSION SHALL PROMULGATE RULES GOVERNING THE AUDIT AND APPEAL PROCEDURES.

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

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

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

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

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

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

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

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

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

(c) THE PREPAID WIRELESS 988 CHARGE IS THE LIABILITY OF THE CONSUMER AND NOT OF THE SELLER; EXCEPT THAT THE SELLER IS LIABLE TO REMIT ALL PREPAID WIRELESS 988 CHARGES THAT THE SELLER COLLECTS FROM A CONSUMER AS PROVIDED IN SUBSECTION (2) OF THIS SECTION.

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

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

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

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

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

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

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

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

40-17.5-105. Immunity of providers. NO SERVICE PROVIDER OR SERVICE SUPPLIER, OR ANY EMPLOYEE OR AGENT THEREOF, SHALL BE LIABLE FOR ANY DAMAGES IN A CIVIL ACTION FOR INJURIES, DEATH, OR LOSS TO PERSON OR PROPERTY INCURRED AS A RESULT OF ANY ACT OR OMISSION OF SUCH SERVICE PROVIDER, SERVICE SUPPLIER, EMPLOYEE, OR AGENT IN CONNECTION WITH DEVELOPING, ADOPTING, IMPLEMENTING, MAINTAINING, ENHANCING, OR PROVIDING 988 ACCESS CONNECTION OR SERVICE, UNLESS SUCH DAMAGE OR INJURY WAS INTENTIONALLY CAUSED BY OR RESULTED FROM GROSS NEGLIGENCE OF THE PROVIDER, SUPPLIER, EMPLOYEE, OR AGENT.

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

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

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

SECTION 4. Appropriation. (1) For the 2021-22 state fiscal year, \$5,687,692 is appropriated to the department of human services for use by the office of behavioral health. This appropriation is from the 988 crisis hotline cash fund created in section 27-64-104 (1), C.R.S., and is based on an assumption that the office will require an additional 1.9 FTE. To implement this act, the office may use this appropriation for the 988 crisis hotline.

(2) For the 2021-22 state fiscal year, \$74,566 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$1,600 for use by the executive director's office for personal services related to administration and support;

(b) \$45,000 for tax administration IT system (GenTax) support;

(c) \$1,966 for IDS print production; and

(d) \$26,000 for use by the taxation business group for operating expenses related to taxation services.

(3) For the 2021-22 state fiscal year, \$1,966 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (2)(c) of this section. To implement this act, the department of personnel may use this appropriation to provide document management services for the department of revenue.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO