

Assembly Bill No. 988

CHAPTER 747

An act to add Article 6.3 (commencing with Section 53123.1) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to add Section 1374.724 to the Health and Safety Code, to add Section 10144.57 to the Insurance Code, and to amend Sections 41007.2, 41007.3, 41013, 41020, 41021, 41022, 41023, 41024, 41028, 41030, 41031, 41032, 41046, 41050, 41052, 41053, 41056, 41070, 41080, 41095.5, 41098, 41100, 41101.3, 41105, 41118, 41128, 41135, 41136, 41143.4, and 41150 of, to amend the headings of Article 1 (commencing with Section 41020) and Article 2 (commencing with Section 41030) of Chapter 2 of Part 20 of Division 2 of, and to amend the heading of Chapter 2 (commencing with Section 41020) of Part 20 of Division 2 of, the Revenue and Taxation Code, relating to emergency services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2022. Filed with
Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 988, Bauer-Kahan. Mental health: 988 Suicide and Crisis Lifeline.

(1) Existing law, the Warren-911-Emergency Assistance Act, requires every local public agency, as defined, to have an emergency communication system and requires the digits "911" to be the primary emergency telephone number within the system.

Existing law specifies provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law specifies that county mental health services should be organized to provide immediate response to individuals in precrisis and crisis and to members of the individual's support system on a 24-hour, 7-day-per-week basis and authorizes provision of crisis services offsite as mobile services.

Existing federal law, the National Suicide Hotline Designation Act, designates the 3-digit telephone number "988" as the universal number within the United States for the purpose of the national suicide prevention and mental health crisis hotline system operating through the 988 Suicide and Crisis Lifeline maintained by the Assistant Secretary for Mental Health and Substance Abuse and the Veterans Crisis Line maintained by the Secretary of Veterans Affairs.

This bill would enact the Miles Hall Lifeline and Suicide Prevention Act. The bill would require the Office of Emergency Services to verify, no later than July 16, 2022, that technology that allows for transfers between 988

centers as well as between 988 centers and 911 public safety answering points, is available to 988 centers and 911 public safety answering points throughout the state. The bill would require, no later than 90 days after passage of the act, the office to appoint a 988 system director, among other things. The bill would require, no later than July 1, 2024, the office to verify interoperability between and across 911 and 988. The bill would require the office to consult with specified entities on any technology requirements for 988 centers.

This bill would require the California Health and Human Services Agency to create, no later than December 31, 2023, a set of recommendations to support a 5-year implementation plan for a comprehensive 988 system. The bill would require that agency to convene a state 988 advisory group, as described, for purposes of advising the agency on the set of recommendations. The bill would require the agency to report annually, on or before December 31, beginning December 31, 2024, and until December 31, 2029, to the Legislature on the status of 988 implementation in the state, as described.

The Administrative Procedure Act generally governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

The bill would provide that regulations and other similar instruments made pursuant to these provisions by the Office of Emergency Services and the California Health and Human Services Agency are not subject to the rulemaking provisions of the Administrative Procedure Act.

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or disability insurance policy issued, amended, or renewed on or after January 1, 2021, to provide coverage for medically necessary treatment of mental health and substance use disorders, as defined, under the same terms and conditions applied to other medical conditions.

This bill would require health care service plans and insurers to cover medically necessary treatment of a mental health or substance use disorder, including behavioral health crisis services, provided by a 988 center or mobile crisis team, regardless of whether the service is provided by an in-network or out-of-network provider, at the in-network cost-sharing amount, as defined. By creating a new crime under the Knox-Keene Act, this bill would impose a state-mandated local program.

(3) Existing law, the Emergency Telephone Users Surcharges Act, generally imposes a surcharge on each access line for each month or part thereof for which a service user subscribes with a service supplier, at an amount no greater than \$0.80, based on the Office of Emergency Services' estimate of the number of access lines to which the surcharge will be applied per month for a calendar year period that it estimates, pursuant to a specified

formula, will produce sufficient revenue to fund the current fiscal year's 911 costs.

Existing law imposes a surcharge on the purchase of prepaid mobile telephony services at the time of each retail transaction in this state, at the rate equal to the monthly surcharge amount per access line, to be paid by prepaid consumers and collected by sellers, as defined. Existing law exempts certain lines from the surcharge, including lines supplying lifeline service. Existing law requires the surcharge to be remitted to, and administered by, the California Department of Tax and Fee Administration, in accordance with specified provisions. Existing law makes certain violations of the Emergency Telephone Users Surcharge Act a crime.

Existing law requires amounts to be paid to the state pursuant to the Emergency Telephone Users Surcharge Act to be deposited into the State Emergency Telephone Number Account and that the amounts deposited, upon appropriation by the Legislature, be spent solely for specified purposes, including payment for the installation of, and ongoing expenses for, a basic system.

This bill would create a separate surcharge, beginning January 1, 2023, on each access line for each month or part thereof for which a service user subscribes with a service supplier. The bill would set the 988 surcharge for the 2023 and 2024 calendar years at \$0.08 per access line per month and, for years beginning January 1, 2025, at an amount based on a specified formula, but no greater than \$0.30 per access line per month. This bill would make applicable relevant provisions of the Emergency Telephone Users Surcharge Act to the 988 surcharge, as provided, including existing surcharge exemptions. The bill would authorize the 911 and 988 surcharges to be combined into a single-line item, as described. The bill would provide for specified costs to be paid by the fees prior to distribution to the Office of Emergency Services. The bill would make conforming changes in regard to the 988 surcharge.

This bill would create the 988 State Suicide and Behavioral Health Crisis Services Fund and would require the fees to be deposited along with other specified moneys into the fund. The bill would provide that the funds be used, upon appropriation by the Legislature, for specified purposes and in accordance with specified priorities. The bill would require the Office of Emergency Services to require an entity seeking moneys available through the fund to annually file an expenditure and outcomes report containing specified information.

(4) This bill would appropriate \$300,000 from the General Fund to the 988 State Suicide and Behavioral Health Crisis Services Fund for expenditure by the California Department of Tax and Fee Administration in the 2022–23 fiscal year for purposes of implementing the amendments to the Emergency Telephone Users Surcharge Act.

(5) This bill would incorporate additional changes to Section 41100 of the Revenue and Taxation Code proposed by SB 1496 to be operative only if this bill and SB 1496 are enacted and this bill is enacted last.

(6) By expanding the scope of crimes imposed by the Emergency Telephone Users Surcharge Act, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to implement the National Suicide Hotline Designation Act of 2020, in compliance with the Federal Communication Commission's rules designating "988" as a three-digit number for the National Suicide Prevention Hotline, now known as the 988 Suicide and Crisis Lifeline, to assure all persons residing in and visiting the State of California have access to the "988" suicide prevention and other behavioral health crisis hotline and care 24 hours per day, seven days per week.

(b) It is the intent of the Legislature that the 988 system in California operate as an emergency suicidal, mental health, and substance use disorder crisis system that provides compassionate, appropriate, and easily accessible care to save lives and reduce law enforcement engagement, arrests, hospitalizations, and deaths.

(c) It is the intent of the Legislature that:

(1) By July 16, 2022, the federally established go-live date for the 988 number will be prepared to receive and respond to the anticipated call volume in the first year of operation of 988.

(2) By June 30, 2024, the California Health and Human Services Agency and the Office of Emergency Services will develop a plan for the statewide coordination of 988, 911, and behavioral health crisis services. The plan will be based on a five-year implementation plan that includes a landscape analysis of existing services and describes how to expand, improve, and link services with the goal of fully implementing the 988 system by January 1, 2030.

SEC. 2. Article 6.3 (commencing with Section 53123.1) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 6.3. Miles Hall Lifeline and Suicide Prevention Act

53123.1. This article shall be known, and may be cited, as the "Miles Hall Lifeline and Suicide Prevention Act."

53123.1.5. For purposes of this article, the following definitions shall apply:

(a) “988” means the three-digit telephone number designated by the Federal Communications Commission for the purpose of connecting individuals experiencing a behavioral health crisis with counselors trained in suicide prevention and behavioral health crisis and with the capacity to connect callers to behavioral health crisis services through the National Suicide Prevention Lifeline network.

(b) “988 center” means a center operating on a county or regional basis in California and participating in the National Suicide Prevention Lifeline network to respond to statewide or regional 988 calls.

(c) “Agency” means the California Health and Human Services Agency.

(d) “Behavioral health crisis services” means the continuum of services to address crisis intervention, crisis stabilization, and crisis residential treatment needs of those with a mental health or substance use disorder crisis that are wellness, resiliency, and recovery oriented. These include, but are not limited to, crisis intervention, including counseling provided by 988 centers, mobile crisis teams, and crisis receiving and stabilization services.

(e) “National Suicide Prevention Lifeline” or “988 Suicide and Crisis Lifeline” means the national network of local crisis hotline centers that provide free and confidential support to people in suicidal crisis or other behavioral health crisis 24 hours per day, seven days per week via a toll-free telephone hotline number that receives calls made through the 988 system. The toll-free telephone number is maintained by the Assistant Secretary for Mental Health and Substance Use under Section 520E-3 of the Public Health Service Act, Section 290bb-36c of Title 42 of the United States Code.

(f) “Office” means the Office of Emergency Services.

(g) “Substance Abuse and Mental Health Services Administration” means that agency of the United States Department of Health and Human Services.

53123.2. (a) No later than July 16, 2022, the Office of Emergency Services shall verify that technology that allows for transfers between 988 centers, as well as between 988 centers and 911 public safety answering points, is available to 988 centers and 911 public safety answering points throughout California.

(b) No later than 90 days after the passage of this act, the office shall do both of the following:

(1) Appoint a 988 system director to implement and oversee the policy and regulatory framework for the technology infrastructure, coordination, and transfer of calls between 988, 911, and behavioral health crisis services.

(2) (A) Establish and convene the State 988 Technical Advisory Board for purposes of advising the office on the following:

(i) Recommendations on the feasibility and plan for sustainable interoperability between 988, 911, and behavioral health crisis services, including the identification of any legal or regulatory barriers to the transfer of 911 calls.

(ii) The development of technical and operational standards for the 988 system that allow for coordination with California's 911 system.

(iii) The creation of standards and protocols for when 988 centers will transfer 988 calls into the "911" public safety answering points or points (PSAP), and vice versa.

(B) The board shall meet no less than quarterly until December 31, 2028. Following that date, the board may be disbanded at the discretion of the office.

(C) The board shall consist of a representative from the California Health and Human Services Agency and expert representatives, including, but not limited to, those from 988 centers, 911, and behavioral health crisis service providers.

(c) No later than July 1, 2024, the office shall verify interoperability between and across 911 and 988. This shall include verifying interoperability of telephone calls, texts, chats, and other similar capabilities consistent with the implementation of Next Generation 911.

(d) The office shall consult with the National Suicide Prevention Lifeline and the Substance Abuse and Mental Health Services Administration on any technology requirements for 988 centers.

53123.3. (a) (1) No later than December 31, 2023, the California Health and Human Services Agency shall create a set of recommendations to support a five-year implementation plan for a comprehensive 988 system.

(2) The California Health and Human Services Agency shall convene a state 988 advisory group for purposes of advising the California Health and Human Services Agency on the set of recommendations to support the five-year implementation plan. The recommendations shall specify what can be accomplished pursuant to existing administrative authority and what will require additional regulations or legislation for implementation.

(3) The advisory group shall include, but is not limited to, the State Department of Health Care Services, the Office of Emergency Services, the State Department of Public Health, representatives of counties, representatives of employees working for county behavioral health agencies and agencies who subcontract with county behavioral health agencies who provide these services, health plans, emergency medical services, law enforcement, consumers, families, peers, and other local and statewide public agencies.

(4) The advisory group shall meet at least once per quarter until December 31, 2023.

(5) The advisory group may be disbanded at the discretion of the California Health and Human Services Agency, but shall not be disbanded before January 1, 2024.

(b) The California Health and Human Services Agency and the advisory group shall make recommendations on all of the following:

(1) Federal Substance Abuse and Mental Health Services Administration requirements and national best practices guidelines for operational and clinical standards, including training requirements and policies for

transferring callers to an appropriate specialized center, or subnetworks, within or external to, the National Suicide Prevention Lifeline network.

(2) Maintenance of an active agreement with the administrator of the National Suicide Prevention Lifeline for participation within the network.

(3) Compliance with state technology requirements or guidelines for the operation of 988.

(4) A state governance structure to support the implementation and administration of behavioral health crisis services accessed through 988.

(5) 988 infrastructure, staffing, and training standards that will support statewide access to crisis counselors through telephone call, text, and chat, 24 hours per day, seven days per week.

(6) Access to crisis receiving and stabilization services and triage and response to warm handoffs from 911 and 988 call centers.

(7) Resources and policy changes to address statewide and regional needs in order to meet population needs for behavioral health crisis services.

(8) Statewide and regional public communications strategies informed by the National Suicide Prevention Lifeline and the Substance Abuse and Mental Health Services Administration to support public awareness and consistent messaging regarding 988 and behavioral health crisis services.

(9) Recommendations to achieve statewide provision of mobile crisis team services that meet all of the following criteria:

(A) Are offered 24 hours per day, seven days per week.

(B) Can respond to individuals in crisis in a timely manner.

(C) Are able to respond to clearly articulated suicidal or behavioral health contacts made or routed to 988 as an alternative law enforcement, except in as needed high-risk situations that cannot be managed without law enforcement.

(10) Quantifiable goals for the provision of statewide and regional behavioral health crisis services, which consider factors such as reported rates of suicide attempts and deaths.

(11) A process for establishing outcome measures, benchmarks, and improvement targets for 988 centers and the behavioral health crisis services system.

(12) Findings from a comprehensive assessment of the behavioral health crisis services system that takes into account infrastructure projects that are planned and funded. These findings shall include an inventory of the infrastructure, capacity, and needs for all of the following:

(A) Statewide and regional 988 centers.

(B) Mobile crisis team services, including mobile crisis access and dispatch call centers.

(C) Other existing behavioral health crisis services and warm lines.

(D) Crisis receiving and stabilization services.

(13) Procedures for determining the annual operating budget for the purposes of establishing the rate of the 988 surcharge and how revenue will be dispersed to fund the 988 system consistent with Section 53123.4 and Section 251a of Title 47 of the United States Code.

(14) Strategies to support the behavioral health crisis service system is adequately funded, including mechanisms for reimbursement of behavioral health crisis response pursuant to Sections 1374.72 and 1374.721 of the Health and Safety Code, including, but not limited to:

(A) To the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized, seeking to maximize all available federal funding sources for the purposes of behavioral health crisis services and administrative activities related to 988 implementation, including federal Medicaid reimbursement for services; federal Medicaid reimbursement for administrative expenses, including the development and maintenance of information technology; and federal grants.

(B) Coordinating with the Department of Insurance and Department of Managed Health Care to verify reimbursement to 988 centers for medically necessary behavioral health crisis services by health care service plans and disability insurers, pursuant to Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code and consistent with the requirements of the federal Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. Sec. 1185a).

(c) Commencing December 31, 2024, and until December 31, 2029, the California Health and Human Services Agency shall report annually, on or before December 31 and in compliance with Section 9795, to the Legislature on the status of 988 implementation in California, including any actions taken in that calendar year, planned actions for the future calendar year, barriers to implementation, need for additional funding, and any legislative action required to support implementation.

53123.4. (a) The 988 State Suicide and Behavioral Health Crisis Services Fund is hereby established in the State Treasury.

(b) (1) The fund shall consist of the revenue generated by the 988 surcharge assessed on users under Section 41020 of the Revenue and Taxation Code, which revenue shall be used solely for the operations of the 988 center and mobile crisis teams, as defined in the American Rescue Plan Act of 2021 (Section 1947(b)(2) of Public Law 117-2). The fund shall also consist of any other appropriations made to it by the Legislature.

(2) The revenue generated by the 988 surcharge shall be prioritized to fund the following:

(A) First, the 988 centers, including the efficient and effective routing of telephone calls, personnel, and the provision of acute mental health services through telephone call, text, and chat to the 988 number.

(B) Second, the operation of mobile crisis teams accessed via telephone calls, texts, or chats made to or routed through 988, as specified under Section 4(a)(2)(B) of Public Law 116-172.

(3) Money in the fund shall not be subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose outside of those specified in this article.

(4) 988 surcharge revenue in the fund shall be available, upon appropriation by the Legislature, for the purposes specified in this article.

(5) The revenue generated by the 988 surcharge shall be used to supplement and not supplant federal, state, and local funding for 988 centers and mobile crisis services.

(6) The revenue generated by the 988 surcharge may only be used to fund service and operation expenses that are not reimbursable through Medicaid federal financial participation, Medicare, health care service plans, or disability insurers.

(c) The Office of Emergency Services, in consultation with the State Department of Health Care Services, may adopt regulations regarding how funds received shall be disseminated to support the operations of the 988 system and related behavioral health crisis services.

(d) The office shall require an entity seeking funds available through the 988 Suicide and Behavioral Health Crisis Services Fund to annually file an expenditure and outcomes report in a form and manner as determined by the office and the State Department of Health Care Services. The expenditure and outcomes report shall include, but is not limited to, the following:

- (1) The total budget.
- (2) Number and job classification of personnel.
- (3) The number of individuals served.
- (4) The outcomes for individuals served, if known.
- (5) The health coverage status of individuals served, if known.
- (6) The amount billed to and reimbursed by Medi-Cal or other public and private health care service plans or insurers.
- (7) Measures of system performance, including capacity, wait time, and the ability to meet demand for services.

(e) The State Treasurer shall report annually to the office on fund deposits and expenditures.

53123.5. The office and the State Department of Health Care Services may implement, interpret, or make specific this article, in whole or in part, by means of all-county letters, plan letters, provider bulletins, information notices, regulations, or other similar instructions, without complying with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

SEC. 3. Section 1374.724 is added to the Health and Safety Code, to read:

1374.724. (a) Coverage of mental health and substance use disorder treatment pursuant to Section 1374.72 includes medically necessary treatment of a mental health or substance use disorder, including, but not limited to, behavioral health crisis services, provided to an enrollee by a 988 center or mobile crisis team, as set forth in Chapter 1 (commencing with Section 53000) of Part 1 of Division 2 of Title 5 of the Government Code, regardless of whether the service is provided by an in-network or out-of-network provider.

(b) A health care service plan shall not require prior authorization for medically necessary treatment of a mental health or substance use disorder provided by a 988 center, mobile crisis team, or other provider of behavioral health crisis services to an enrollee pursuant to Chapter 1 (commencing

with Section 53000) of Part 1 of Division 2 of Title 5 of the Government Code.

(c) (1) Notwithstanding subdivision (f) of Section 1371.4, a health care service plan shall reimburse a 988 center, mobile crisis team, or other provider of behavioral health crisis services for medically necessary treatment of a mental health or substance use disorder consistent with the requirements of Section 1371.4 and any other applicable requirement of this chapter.

(2) If an enrollee receives medically necessary treatment for a mental health or substance use disorder from a 988 center, mobile crisis team, or other provider of behavioral health crisis services outside the plan network, the enrollee shall pay no more than the same cost sharing that the enrollee would pay for the same covered services received from an in-network provider. This amount shall be referred to as the “in-network cost-sharing amount.” An out-of-network 988 center, mobile crisis team, or other provider of behavioral health crisis services shall not bill or collect an amount from the enrollee for services subject to this section except for the in-network cost-sharing amount.

(d) The definition of “behavioral health crisis services” set forth in Section 53123.1.5 of the Government Code shall apply for purposes of this section.

(e) This section does not excuse a health care service plan from complying with Section 1374.72 or any other requirement of this chapter.

(f) This section does not apply to Medi-Cal managed care contracts entered pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and a health care service plan for enrolled Medi-Cal beneficiaries.

SEC. 4. Section 10144.57 is added to the Insurance Code, to read:

10144.57. (a) Coverage of mental health and substance use disorder treatment pursuant to Section 10144.5 includes medically necessary treatment of a mental health or substance use disorder, including, but not limited to, behavioral health crisis services, provided to an insured by a 988 center or mobile crisis team, as set forth in Chapter 1 (commencing with Section 53123.1) of Part 1 of Division 2 of Title 5 of the Government Code, regardless of whether the service is provided by an in-network or out-of-network provider.

(b) An insurer shall not require prior authorization for medically necessary treatment of a mental health or substance use disorder provided by a 988 center, mobile crisis team, or other provider of behavioral health crisis services to an insured pursuant to Chapter 1 (commencing with Section 53123.1) of Part 1 of Division 2 of Title 5 of the Government Code.

(c) (1) An insurer shall reimburse a 988 center, mobile crisis team, or other provider of behavioral health crisis services for medically necessary treatment of a mental health or substance use disorder consistent with the requirements of Sections 10123.13, 10123.147, and any other applicable requirement of this part.

(2) If an insured receives medically necessary treatment for a mental health or substance use disorder from a 988 center, mobile crisis team, or other provider of behavioral health crisis services that is an out-of-network provider, the insured shall pay no more than the same cost sharing that the insured would pay for the same covered services received from an in-network provider. This amount shall be referred to as the “in-network cost-sharing amount.” An out-of-network 988 center, mobile crisis team, or other provider of behavioral health crisis services shall not bill or collect an amount from the insured for services subject to this section except for the in-network cost-sharing amount.

(d) The definition of “behavioral health crisis services” in Section 53123.1.5 of the Government Code shall apply for purposes of this section.

(e) This section does not excuse a disability insurer from complying with Section 10144.5 or any other requirement of this part.

(f) This section does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only, or vision-only insurance policies.

(g) The commissioner may promulgate regulations subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement this section, and Section 10144.4, 10144.5, 10144.51, or 10144.52 of this code. This subdivision shall not be construed to impair or restrict the commissioner’s rulemaking authority pursuant to another provision of this code or the Administrative Procedure Act.

SEC. 5. Section 41007.2 of the Revenue and Taxation Code is amended to read:

41007.2. (a) “Wireline communications service” shall mean a local exchange service provided at a physical location in this state that allows the user to make an outbound communication to the 911 emergency communications or 988 Suicide and Crisis Lifeline.

(b) For the purposes of the surcharge imposed by Chapter 2 (commencing with Section 41020):

(1) A wireline communications service access line does not include a direct inward dialing number, extension, or other similar feature that routes an inbound call and cannot provide access to the 911 emergency communications system.

(2) The number of surcharges imposed shall not exceed the total number of concurrent outbound calls that can be placed to the emergency communications system at a single point of time.

(c) This definition shall apply only to this part.

(d) Commencing January 1, 2023, a “wireless communications service” shall include a local exchange service provided at a physical location in this state that allows the user to make an outbound communication to the 988 Suicide and Crisis Lifeline, as defined in the Miles Hall Lifeline and Suicide Prevention Act (Article 6.3 (commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 6. Section 41007.3 of the Revenue and Taxation Code is amended to read:

41007.3. (a) (1) (A) “Wireless communications service line” shall mean a telecommunications service provided to an end user with a place of primary use in this state that allows the end user to make an outbound communication to the 911 emergency communications system.

(B) Commencing January 1, 2023, a “wireless communications service line” shall include a telecommunications service provided to an end user with a place of primary use in this state that allows the user to make an outbound communication to the 988 Suicide and Crisis Lifeline, as defined in the Miles Hall Lifeline and Suicide Prevention Act (Article 6.3 (commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code).

(2) A wireless communications service line shall not include prepaid mobile telephony service.

(b) For the purposes of the surcharge imposed by Chapter 2 (commencing with Section 41020), not more than one 911 surcharge and one 988 surcharge may be imposed per wireless communications service line number assigned to an end user of mobile telecommunications service.

(c) The definition of “wireless communication services line” shall apply only to this part.

SEC. 7. Section 41013 of the Revenue and Taxation Code is amended to read:

41013. “Surcharge” means a tax or taxes levied by this state. Commencing January 1, 2023, “surcharge,” or “surcharges” as used in this part, refers to two separate charges, one related to 911 service and one related to 988 service.

SEC. 8. The heading of Chapter 2 (commencing with Section 41020) of Part 20 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 2. THE SURCHARGES

SEC. 9. The heading of Article 1 (commencing with Section 41020) of Chapter 2 of Part 20 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 1. Imposition of the Surcharges

SEC. 10. Section 41020 of the Revenue and Taxation Code is amended to read:

41020. (a) (1) (A) On and after January 1, 2020, a 911 surcharge is hereby imposed on each access line for each month or part thereof for which a service user subscribes with a service supplier, at an amount determined under Article 2 (commencing with Section 41030). Beginning January 1, 2023, a separate 988 surcharge is hereby imposed on each access line for

each month or part thereof for which a service user subscribes with a service supplier, at an amount determined under Article 2 (commencing with Section 41030).

(B) The surcharges shall be paid by the service user as hereinafter provided.

(2) On and after January 1, 2020, the purchase of prepaid mobile telephony services in this state shall be subject to the 911 surcharge set forth under Article 2 (commencing with Section 41030). The surcharge shall be paid by the prepaid consumer in accordance with Section 41028 and remitted and administered in accordance with this part. Beginning January 1, 2023, a separate 988 surcharge is hereby imposed on the purchase of prepaid mobile telephony services, at an amount determined under Article 2 (commencing with Section 41030).

(b) The surcharges imposed shall not apply to either of the following:

(1) In accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252), which is incorporated herein by reference, to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(2) To any charges for VoIP service billed to a customer where those services are provided to a customer whose place of primary use of VoIP service is outside this state.

(c) For purposes of this section:

(1) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider, regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(2) "Customer" means (A) the person or entity that contracts with the home service provider for mobile telecommunications services, or with a VoIP service provider for VoIP service, or (B) if the end user of mobile telecommunications services or VoIP service is not the contracting party, the end user of the mobile telecommunications service or VoIP service. This paragraph applies only for the purpose of determining the place of primary use. The term "customer" does not include (A) a reseller of mobile telecommunications service or VoIP communication service, or (B) a serving carrier under an arrangement to serve the mobile customer outside the home service provider's licensed service area.

(3) “Home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(4) “Licensed service area” means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(5) “Mobile telecommunications service” means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999.

(6) “Place of primary use” means the street address representative of where the customer’s use of the mobile telecommunications service or VoIP service primarily occurs, that must be:

(A) The residential street address or the primary business street address of the customer.

(B) With respect to mobile telecommunications service, within the licensed service area of the home service provider.

(7) (A) “Reseller” means a provider who purchases telecommunications services or VoIP service from another telecommunications service provider or VoIP service and then resells the services, or uses the services as a component part of, or integrates the purchased services into, a mobile telecommunications service or VoIP service.

(B) “Reseller” does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider’s licensed service area.

(8) “Serving carrier” means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider’s or reseller’s licensed area.

(9) “Taxing jurisdiction” means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(10) “VoIP service provider” means that provider of VoIP service with whom the end user customer contracts for the provision of VoIP services for the customer’s own use and not for resale.

SEC. 11. Section 41021 of the Revenue and Taxation Code is amended to read:

41021. (a) A service supplier shall collect the surcharges from each service user at the time it collects its billings from the service user. The duty to collect the surcharges from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of the surcharge imposed by this part. If the stations or lines of more than one service supplier are utilized in furnishing the telephone communication services to the service user, the service supplier that bills the customer shall collect the surcharge from the customer.

(b) Only one payment per month under this part shall be required with respect to the surcharges on an access line.

SEC. 12. Section 41022 of the Revenue and Taxation Code is amended to read:

41022. (a) The surcharges required to be collected by the service supplier shall each be added to and stated separately in its billings to the service user.

(b) Notwithstanding subdivision (a), a service supplier may elect to combine the 911 and 988 surcharges into a single-line item on the service user billing. If the service supplier elects to combine the surcharges, the combined surcharge shall be labeled as the “911/988 Surcharge” on the service user’s bill. The service supplier shall remit the combined surcharges to the department in separate amounts for each surcharge on forms prescribed by the department.

SEC. 13. Section 41023 of the Revenue and Taxation Code is amended to read:

41023. The surcharges required to be collected by the service supplier, and any amount unreturned to the service user that is not owed as part of the surcharges but was collected from the service user under the representation by the service supplier that it was owed as part of the surcharges, constitute debts owed by the service supplier to this state.

A service supplier that has collected any amount of surcharges in excess of the amount of surcharges imposed by this part and actually due from a service user, may refund that amount to the service user, even though the surcharge amounts have already been paid over to the department and a corresponding credit or refund has not yet been secured. The service supplier may claim credit for that overpayment refund against the amount of surcharges imposed by this part that is due upon any other return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

SEC. 14. Section 41024 of the Revenue and Taxation Code is amended to read:

41024. Every service user in this state is liable for the surcharges until they have been paid to this state, except that payment to a service supplier registered under this part is sufficient to relieve the service user from further liability for the surcharges.

Any surcharge collected from a service user that has not been remitted to the department shall be deemed a debt owed to the state by the person required to collect and remit that surcharge. Nothing in this part shall impose any obligation upon a service supplier to take any legal action to enforce the collection of the surcharges imposed by this part. The service supplier shall provide the department with amounts uncollected which total three dollars (\$3) or more on a cumulative basis with respect to a single service user along with the names, addresses, and reasons of the service users refusing to pay the surcharges imposed by this part.

SEC. 15. Section 41028 of the Revenue and Taxation Code is amended to read:

41028. (a) (1) On and after January 1, 2020, the surcharge amounts imposed by Section 41020 on the purchase of prepaid mobile telephony services in this state shall be collected by a seller from each prepaid consumer at the time of each retail transaction in this state. The surcharges shall be imposed at an amount as determined under Article 2 (commencing with Section 41030) on each retail transaction that occurs in this state.

(2) (A) The amount of the surcharges shall be separately stated on an invoice, receipt, or other similar document that is provided to the prepaid consumer of mobile telephony services by the seller, or otherwise disclosed electronically to the prepaid consumer, at the time of the retail transaction.

(B) Notwithstanding subparagraph (A), a seller may elect to combine the 911 and 988 surcharges into a single-line item. If the seller elects to combine the surcharges, the combined surcharge shall be labeled as the “911/988 Surcharge” on the invoice, receipt, or other similar document that is provided to the prepaid consumer of mobile telephony services by the seller, or otherwise disclosed electronically to the prepaid consumer, at the time of the retail transaction. The seller shall remit the combined surcharges to the department in separate amounts for each surcharge on forms prescribed by the department.

(b) (1) The surcharges that are required to be collected by a seller and any amount unreturned to the prepaid consumer of mobile telephony services that is not owed as part of the surcharge, but was collected from the prepaid consumer under the representation by the seller that it was owed as part of the surcharge, constitutes debts owed by the seller to this state.

(2) A seller that has collected any amount of surcharge in excess of the amount of the surcharges imposed by this part and actually due from a prepaid consumer may refund that amount to the prepaid consumer, even though the surcharge amounts have already been paid over to the department and a corresponding credit or refund has not yet been secured. The seller may claim credit for that overpayment refund against the amount of surcharges imposed by this part that is due upon any other return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) (1) Every prepaid consumer of prepaid mobile telephony services in this state is liable for the surcharges until they have been paid to this state, except that payment to a seller registered under this part relieves the prepaid consumer from further liability for the surcharges. Any surcharge collected from a prepaid consumer that has not been remitted to the department shall be a debt owed to the state by the person required to collect and remit the surcharge. Nothing in this part shall impose any obligation upon a seller to take any legal action to enforce the collection of the surcharge imposed by this section.

(2) A credit shall be allowed against, but shall not exceed, the surcharge amounts imposed on any prepaid consumer of mobile telephony services by this part to the extent that the prepaid consumer has paid surcharges on the purchase to any other state, political subdivision thereof, or the District

of Columbia. The credit shall be apportioned to the charges against which it is allowed in proportion to the amounts of those charges.

(d) A seller is relieved from liability to collect the surcharge imposed by this part that became due and payable, insofar as the base upon which the surcharges are imposed is represented by accounts that have been found to be worthless and charged off for income tax purposes by the seller or, if the seller is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A seller that has previously paid the surcharge may, under rules and regulations prescribed by the department take as a deduction on its return the amount found worthless and charged off by the seller. If any such accounts are thereafter in whole or in part collected by the seller, the amount so collected shall be included in the first return filed after such collection and the surcharge shall be paid with the return.

(e) For purposes of this section, a retail transaction occurs in the state under any of the following circumstances:

(1) The prepaid consumer makes the retail transaction in person at a business location in the state (point-of-sale transaction).

(2) If paragraph (1) is not applicable, the prepaid consumer's address is in the state (known-address transaction). A known-address transaction occurs in the state under any of the following circumstances:

(A) The retail sale involves shipping of an item to be delivered to, or picked up by, the prepaid consumer at a location in the state.

(B) If the prepaid consumer's address is known by the seller to be in the state, including if the seller's records maintained in the ordinary course of business indicate that the prepaid consumer's address is in the state and the records are not made or kept in bad faith.

(C) The prepaid consumer provides an address during consummation of the retail transaction that is in the state, including an address provided with respect to the payment instrument if no other address is available and the address is not given in bad faith.

(3) If an address is not available to the seller to determine whether any of the circumstances in paragraph (2) exist, the transaction will be deemed to be a known-address transaction occurring in this state if the mobile telephone number is associated with a location in this state.

(f) The surcharge amounts imposed under this section shall be remitted by every seller, except a service supplier, as prescribed under Part 1 (commencing with Section 6001), along with a return filed using electronic media. The department shall administer such remittance and returns as prescribed under Part 1 (commencing with Section 6001).

(g) Notwithstanding Article 1.1 (commencing with Section 41060) of Chapter 4, any seller, except a service supplier, required, or that elects, to remit amounts due under Part 1 (commencing with Section 6001) by electronic funds transfer pursuant to Article 1.2 (commencing with Section 6479.3) of Chapter 5 of Part 1 shall remit the surcharge upon prepaid mobile telephony service amounts due under this section by electronic funds transfer.

(h) The purchase in a retail transaction in this state of prepaid mobile telephony services, either alone or in combination with mobile data or other services, by a prepaid consumer is exempt from the surcharges if all of the following apply:

(1) The prepaid consumer is certified as eligible for the state lifeline program or federal lifeline program.

(2) The seller is authorized to provide lifeline service under the state lifeline program or federal lifeline program.

SEC. 16. The heading of Article 2 (commencing with Section 41030) of Chapter 2 of Part 20 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 2. Adjustment of Surcharge Amounts

SEC. 17. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. (a) The Office of Emergency Services shall determine annually, on or before October 1, to be effective on January 1 of the following year, surcharge amounts pursuant to subdivision (b) that it estimates will produce sufficient revenue to fund the current fiscal year's 911 and 988 costs.

(b) The surcharge amounts shall be determined annually by dividing the costs, including incremental costs, the Office of Emergency Services estimates for the current fiscal year of the following:

(1) The 911 costs approved pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the number of access lines to which the surcharge will apply per month for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall the surcharge amount in any month be greater than eighty cents (\$0.80) per access line per month.

(2) For the 2023 and 2024 calendar years, the 988 surcharge shall be set at eight cents (\$0.08) per access line per month.

(3) For determinations that are made applicable to the calendar year beginning on January 1, 2025, and each calendar year thereafter, the 988 surcharge shall be determined by dividing the 988 costs approved pursuant to Article 6.3 (commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, less the available balance in the 988 State Suicide and Behavioral Health Crisis Services Fund, by the Office of Emergency Services' estimate of the number of access lines to which the surcharge will apply per month for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall the surcharge amount in any month be greater than thirty cents (\$0.30) per access line per month.

(c) When determining the 911 surcharge amount pursuant to this section, the office shall include the costs it expects to incur to plan, test, implement,

and operate Next Generation 911 technology and services, including text to 911 service, and alerts and warnings, consistent with the plan and timeline required by Section 53121 of the Government Code.

(d) (1) Service suppliers shall report the total number of access lines to the Office of Emergency Services, on or before August 1, for the previous period of January 1 to December 31, inclusive.

(2) The total number of access lines required to be reported in paragraph (1) shall include all lines from the categories of wireline communication service line, wireless communication service line, prepaid mobile telephony service line, and VoIP service line. The number of access line figures shall be reported individually for these categories.

(3) Notwithstanding any other law, the Office of Emergency Services, within 45 days of receiving a request from the department, shall provide the department the name and address of each service supplier, each service supplier's total number of access lines, as provided in paragraph (2) for the prior calendar year, and any other information the department deems necessary to conduct its responsibilities under this part.

(e) The office shall perform a validation of the number of access lines using subscription data or other comparable data collected by appropriate federal or state agencies. This subscription data or other comparable data shall be used to validate the access line data required to be reported by service suppliers in subdivision (d).

(f) (1) The office shall notify the department of the surcharge amount imposed under this part, determined pursuant to this section on or before October 1 of each year.

(2) The surcharge imposed on the purchase of prepaid mobile telephony services shall be equal to the amount set forth in subdivision (b) for each retail transaction in this state.

(g) (1) At least 30 days prior to determining the surcharge pursuant to subdivision (a), the Office of Emergency Services shall prepare a summary of the calculation of the proposed surcharge and make it available to the public, the Legislature, the California Health and Human Services Agency and relevant departments, and on its internet website.

(2) For determinations made on or before October 1, 2019, the summary shall contain all of the following:

(A) The prior year revenues to fund 911 costs, including, but not limited to, revenues from prepaid service.

(B) Projected expenses and revenues from all sources, including, but not limited to, prepaid service to fund 911 costs.

(C) The rationale for adjustment to the surcharges determined pursuant to subdivision (b).

(h) For purposes of this section, for the determination made by the office on or before October 1, 2019, that is applicable for the calendar year beginning on January 1, 2020, and ending on December 31, 2020, the following definitions shall apply:

(1) "Service supplier" shall mean a person supplying an access line to a service user in this state.

(2) “Service user” means any person that subscribes for the right to utilize an access line in this state who is required to pay a surcharge under the provisions of this part.

SEC. 18. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. The Office of Emergency Services shall make its determination of the surcharge amounts each year no later than October 1 and shall notify the department of the new amounts which shall be effective with respect to access lines and the purchase of prepaid mobile telephony services on or after January 1 of the next succeeding calendar year.

SEC. 19. Section 41032 of the Revenue and Taxation Code is amended to read:

41032. Immediately upon notification by the Office of Emergency Services, the department shall notify every service supplier and seller registered with it of the new amounts by a means determined by the department that may include, but is not limited to, mail, electronic mail, or internet website postings.

SEC. 20. Section 41046 of the Revenue and Taxation Code is amended to read:

41046. (a) There are exempt from the surcharges the following access lines and nonaccess line services:

- (1) Those lines supplying lifeline service.
- (2) Those lines connected to public telephones.
- (3) Those lines for which no charges are billed by a service supplier to a service user.

(b) This section shall become operative on January 1, 2020.

SEC. 21. Section 41050 of the Revenue and Taxation Code is amended to read:

41050. (a) The surcharges imposed by subparagraph (A) of paragraph (1) of subdivision (a) of Section 41020 are imposed to each access line for which a service user has subscribed in any calendar month, whether or not the subscription covered all or part of any month.

(b) If a service user subscribes for service with one service supplier for a portion of a month and then subscribes for service with another service supplier for the remainder of the same month, the service user is liable for the surcharge to each of the access lines for which the service user has subscribed with the service supplier.

SEC. 22. Section 41052 of the Revenue and Taxation Code is amended to read:

41052. (a) On or before the last day of the second month following each month in which the surcharges were collected, a return for that month shall be filed by a service supplier with the department using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(b) The service supplier shall include a list of any service users who have refused to pay a cumulative total of three dollars (\$3) or more of the surcharges imposed by this part with each return filing.

SEC. 23. Section 41053 of the Revenue and Taxation Code is amended to read:

41053. The person required to file the return shall deliver the return together with a remittance of the amount of the surcharges payable to the department.

SEC. 24. Section 41056 of the Revenue and Taxation Code is amended to read:

41056. The service supplier and seller shall maintain records as may be necessary to determine the amount of surcharges collected under provisions of this part. Those records shall be maintained for a period of four years from the time the surcharge is due.

SEC. 25. Section 41070 of the Revenue and Taxation Code is amended to read:

41070. If the department is not satisfied with return or returns of the surcharges or the amount of surcharges required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession, one or more deficiency determinations may be made of the amounts payable for one or for more than one period.

SEC. 26. Section 41080 of the Revenue and Taxation Code is amended to read:

41080. If any person fails to make a return, the department shall make an estimate of the number of access lines or purchases of prepaid mobile telephony services that are subject to the surcharges. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the department's possession or may come into its possession. Upon the basis of this estimate the department shall compute and determine the amounts required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period.

SEC. 27. Section 41095.5 of the Revenue and Taxation Code is amended to read:

41095.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the surcharges were due until the date of payment, if all of the following occur:

(1) The payment of the surcharges was made one business day after the date the surcharges were due.

(2) The person was granted relief from all penalties that applied to that payment of the surcharges.

(3) The person files a request for a one-day adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section

6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For the purposes of this section, “department” means the California Department of Tax and Fee Administration.

(d) For purposes of this section, “business day” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(e) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.

(f) This section shall only apply to electronic payments of surcharges.

SEC. 28. Section 41098 of the Revenue and Taxation Code is amended to read:

41098. (a) If the department finds that a person’s failure to make a timely return or payment is due to the person’s reasonable reliance on written advice from the department, the person may be relieved of the surcharges imposed by this part and any penalty or interest added thereto.

(b) For purposes of this section, a person’s failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the department, only if the department finds that all of the following conditions are satisfied:

(1) The person requested in writing that the department advise the person whether a particular activity or transaction is subject to the surcharge under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The department responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to the surcharges, or stating the conditions under which the activity or transaction is subject to the surcharges.

(3) The liability for surcharges applied to a particular activity or transaction which occurred before either of the following:

(A) Before the department rescinded or modified the advice so given, by sending written notice to the person of rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the department’s regulations, or a final decision of a court, which renders the department’s earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the department all of the following:

(1) A copy of the person’s written request to the department and a copy of the department’s written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the department may require.

(d) Only the person making the written request shall be entitled to rely on the department’s written advice to that person.

SEC. 29. Section 41100 of the Revenue and Taxation Code is amended to read:

41100. (a) If the department determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally

collected or computed, the department shall set forth that fact in the records of the department, certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid, and credit the excess amount collected or paid on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or their successors, administrators, or executors. Any proposed determination by the department pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(b) Any overpayment of a surcharge by a service user to a service supplier or by a prepaid consumer to a seller who is required to collect the surcharge shall be credited or refunded by the state to the service user. However, if the service supplier or seller has paid the amount to the department and establishes to the satisfaction of the department that it has not collected the amount from the service user or has refunded the amount to the service user, the overpayment may be credited or refunded by the state to the service supplier.

SEC. 29.5. Section 41100 of the Revenue and Taxation Code is amended to read:

41100. (a) If the department determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department, certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid, and credit the excess amount collected or paid on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or their successors, administrators, or executors. Any determination by the department pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days after the effective date of that determination.

(b) Any overpayment of a surcharge by a service user to a service supplier or by a prepaid consumer to a seller who is required to collect the surcharge shall be credited or refunded by the state to the service user. However, if the service supplier or seller has paid the amount to the department and establishes to the satisfaction of the department that it has not collected the amount from the service user or has refunded the amount to the service user, the overpayment may be credited or refunded by the state to the service supplier.

SEC. 30. Section 41101.3 of the Revenue and Taxation Code is amended to read:

41101.3. (a) A claim for refund that is otherwise valid under Sections 41101 and 41102 that is made in the case in which the amount of surcharges determined has not been paid in full shall be deemed to be a timely filed

claim for refund with respect to all subsequent payments applied to that determination.

(b) For purposes of this section, “amount of surcharges determined” means an amount of surcharges, interest, or penalty, with respect to a single determination made under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080) of Chapter 4.

(c) This section shall apply to all claims for refund on or after the effective date of the act adding this section.

SEC. 31. Section 41105 of the Revenue and Taxation Code is amended to read:

41105. Interest shall be paid upon any overpayment of any amount of surcharges at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the calendar month following the month during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the department that a claim may be filed or the date upon which the claim is approved by the department, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 32. Section 41118 of the Revenue and Taxation Code is amended to read:

41118. In the action, a certificate by the department showing the delinquency shall be prima facie evidence of the determination of the surcharges or the amount of surcharges, of the delinquency of the amounts set forth, and of the compliance by the department with all the provisions of this part in relation to the computation and determination of the amounts.

SEC. 33. Section 41128 of the Revenue and Taxation Code is amended to read:

41128. The department shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The department shall not prescribe, adopt, or enforce any rule or regulation that has the effect, directly or indirectly, of altering the terms and conditions of service of a service supplier serving the general public, other than the imposition of the surcharges.

SEC. 34. Section 41135 of the Revenue and Taxation Code is amended to read:

41135. (a) All amounts required to be paid to the state under this part shall be paid to the department in the form of remittances payable to the California Department of Tax and Fee Administration. The department shall transmit the revenues to the State Treasurer to be deposited in the State Treasury to either the credit of the State Emergency Telephone Number

Account in the General Fund, or the 988 State Suicide and Behavioral Health Crisis Services Fund, depending on the apportionment of the revenues arising from each surcharge.

(b) The department, in consultation with the Office of Emergency Services, may adopt regulations to implement the apportionment of the revenues from each surcharge.

(c) The department shall submit an annual report to the Office of Emergency Services on revenue generated by the 988 surcharge.

SEC. 35. Section 41136 of the Revenue and Taxation Code is amended to read:

41136. (a) From the funds in the State Emergency Telephone Number Account, all amounts of the 911 surcharge collected shall, when appropriated by the Legislature, be spent solely for the following purposes:

- (1) To pay refunds authorized by this part.
- (2) To pay the department for the cost of the administration of the 911 surcharge under this part.
- (3) To pay the Office of Emergency Services for its costs in administration of the “911” emergency telephone number system.
- (4) To pay bills submitted to the Office of Emergency Services by service suppliers or communications equipment companies for the installation of, and ongoing expenses for, the following communications services supplied to local agencies in connection with the “911” emergency phone number system:

(A) A basic system, defined as 911 systems, including, but not limited to, Next Generation 911, and the subsequent technologies, and interfaces needed to deliver 911 voice and data information from the 911 caller to the emergency responder and the subsequent technologies, and interfaces needed to send information, including, but not limited to, alerts and warnings, to potential 911 callers.

(B) A basic system with telephone central office identification.

(C) A system employing automatic call routing.

(D) Approved incremental costs.

(5) To pay claims of local agencies for approved incremental costs, not previously compensated for by another governmental agency.

(6) To pay claims of local agencies for incremental costs and amounts, not previously compensated for by another governmental agency, incurred prior to the effective date of this part, for the installation and ongoing expenses for the following communication services supplied in connection with the “911” emergency telephone number system:

(A) A basic system, defined as 911 systems, including, but not limited to, Next Generation 911, and the subsequent technologies, and interfaces needed to deliver 911 voice and data information from the 911 caller to the emergency responder and the subsequent technologies, and interfaces needed to send information, including, but not limited to, alerts and warnings, to potential 911 callers.

(B) A basic system with telephone central office identification.

(C) A system employing automatic call routing.

(D) Approved incremental costs. Incremental costs shall not be allowed unless the costs are concurred in by the Office of Emergency Services.

(b) (1) From the funds in the 988 State Suicide and Behavioral Health Crisis Services Fund, all amounts of the 988 surcharge collected shall be spent for purposes identified in Section 53123.4 of the Government Code. However, before funds are disbursed as provided in Section 53123.4 of the Government Code, funds shall be used for all of the following:

(A) To pay refunds authorized by this part.

(B) To pay the department for the cost of the administration of the 988 surcharge under this part.

(C) To pay the Office of Emergency Services for its costs in administration of the 988 Suicide and Crisis Lifeline.

(2) The remainder of the revenue shall be disbursed to the Office of Emergency Services for the purposes identified in Section 53123.4 of the Government Code.

SEC. 36. Section 41143.4 of the Revenue and Taxation Code is amended to read:

41143.4. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars (\$25,000) or more in any 12-consecutive-month period. The determination shall be approved by the director or their designee. Each offense shall be punished by a fine of not less than five thousand dollars (\$5,000) and not more than twenty thousand dollars (\$20,000), or imprisonment for 16 months, two years, or three years, or by both the fine and imprisonment in the discretion of the court.

SEC. 37. Section 41150 of the Revenue and Taxation Code is amended to read:

41150. (a) The Legislature hereby declares and finds that to enable public agencies to implement “911” emergency phone systems required by the provisions of Chapter 1005 of the 1972 Regular Session (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) it is necessary that a surcharge be imposed upon each access line in the state and upon the purchase of prepaid mobile telephony services in this state for access to the 911 emergency communication system. This act will provide funding for basic 911, as defined in Section 41136, and the technology and interfaces needed to deliver 911 voice and data information from the 911 caller to the emergency responder and the subsequent technologies, and interfaces needed to send information, including, but not limited to, alerts and warnings, to potential 911 callers. In addition, this part will provide funding for incremental costs.

(b) The Legislature hereby finds and declares that to enable public agencies to implement the 988 Suicide and Crisis Lifeline required by the provisions of the Miles Hall Lifeline and Suicide Prevention Act (Article 6.3 (commencing with Section 53123.1) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) it is necessary that a surcharge be

imposed upon access lines purchased by every person in the state for access to the 988 Suicide and Crisis Lifeline. This act, as amended by the act adding this subdivision, will provide funding, in part, for 988 centers and mobile crisis team operations and services.

SEC. 38. The sum of three hundred thousand dollars (\$300,000) is hereby appropriated from the General Fund to the 988 State Suicide and Behavioral Health Crisis Services Fund, as established in Section 2 of this act, for expenditure by the California Department of Tax and Fee Administration in the 2022–23 fiscal year for purposes of implementing the amendments to Part 20 (commencing with Section 41001) of Division 2 of the Revenue and Taxation Code, as made by this act.

SEC. 39. Section 29.5 of this bill incorporates amendments to Section 41100 of the Revenue and Taxation Code proposed by both this bill and Senate Bill 1496. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, but this bill becomes operative first, (2) each bill amends Section 41100 of the Revenue and Taxation Code, and (3) this bill is enacted after Senate Bill 1496, in which case Section 41100 of the Revenue and Taxation Code, as amended by Section 29 of this bill, shall remain operative only until the operative date of Senate Bill 1496, at which time Section 29.5 of this bill shall become operative.

SEC. 40. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide public safety resources as quickly as possible, it is necessary that this act take effect immediately.