# SAMPLE

HOUSE BILL 16-1414

BY REPRESENTATIVE(S) Rankin, Hamner, Young, Kraft-Tharp, Lontine, Mitsch Bush, Pettersen, Ryden, Williams;

also SENATOR(S) Steadman, Grantham, Lambert, Aguilar, Carroll, Garcia, Guzman, Heath, Jahn, Johnston, Jones, Kefalas, Kerr, Menifield, Newell, Todd, Ulibani.

CONCERNING THE ASSESSMENT OF AMONTI{LY SURCHARGE ON CUSTOMERS OF VOICE TELECOMMUNICATIONS PROVIDERS TO FUND TELECOMMUNICATIONS RELAY SERVICES FOR TELEPHONE USERS WITH DISABILITIES, 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** 29-11-102.7 as follows:

**29-11-102.7. Imposition of telecommunications relay service surcharge on prepaid wireless- rules** - **definitions.** (1) As USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER" MEANS A PERSON WHO PURCHASES PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IN A RETAIL TRANSACTION.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

1. "DEPAR1MENT" MEANS THE DEPAR1MENTOF REVENUE.
2. "PREPAID WIRELESS TRS CHARGE" MEANS THE CHARGE THATIS REQUIRED TO BE COLLECTED BY A SELLER FROM A CONSUMER UNDER SUBSECTION (2) OF THIS SECTION.
3. "PROVIDER" MEANS A PERSON THAT PROVIDES PREPAID WIRELESS TELECOMMUNJCA TIONS SERVICE.
4. "RETAIL TRANSACTION" MEANS THE PURCHASE OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE FROM A SELLER FOR ANY PURPOSE OTHER THAN RESALE.
5. "SELLER" MEANS A PERSON WHO SELLS PREPAID WIRELESS TELECOMMUNICATIONS SERVICE TO ANOTHER PERSON.
6. "TRS CHARGE" MEANS A TELECOMMUNJCA TIONSRELA Y SERVICE SURCHARGE IMPOSED PURSUANT TO SECTION 40-17-103 (3) (b.5), C.R.S.

(2) (a) A PREPAID WIRELESS TRS CHARGE OF ONE-TENTH OF ONE PERCENTOFTHEPRICEOFTHERETAIL TRANSACTIONISHEREBYIMPOSEDON EACH RETAIL TRANSACTION.

1. (I) ALONG WITH THE PREPAID WIRELESS E91 **l** CHARGE, AS DEFINED IN SECTION 29-11-102.5 (1) (c) AND COLLECTED UNDER SECTION 29-11-102.5 (2), THE SELLER SHALL COLLECT THE PREPAID WIRELESS TRS CHARGE FROM THE CONSUMER ON EACH RETAIL TRANSACTION OCCURRING IN THIS STATE. THE AMOUNT OF THE PREPAID WIRELESS TRS CHARGE SHALL

BE EITHER DISCLOSED TO THE CONSUMER OR SEPARATELY STATED ON AN INVOICE, RECEIPT, OR OTHER SIMILAR DOCUMENT THE SELLER PROVIDES TO THE CONSUMER. THE AMOUNT OFTHE PREPAID WIRELESS TRS CHARGE AND THE AMOUNT OF THE PREPAID WIRELESS E9**l l** CHARGE MAY BE STATED ON AN INVOICE, RECEIPT, OR OTHER DOCUMENTATION TOGETHER AS A SINGLE

LINE ITEM AND AS A SINGLE CHARGE. A SELLER SHALL ELECT TO EITHER

DISCLOSEORSEPARATELYSTATETHECHARGEANDSHALLNOTCHANGETHE ELECTION WITHOUT THE WRITTEN CONSENT OF THE DEPAR1MENT.

(II) FORPURPOSESOFTHISPARAGRAPH (b), A RETAIL TRANSACTION OCCURS IN COLORADO IF ONE OF THE CIRCUMSTANCES SET FORTH IN

SECTION 29-11-102.5 (2) (b) (II) IS MET.

1. THE PREPAID WIRELESS TRS CHAR.GE IS THE LIABILllY OF THE CONSUMER AND NOT OF THE SELLER OR OF ANY PROVIDER; EXCEPT IBA T THE SELLER SHALL BE LIABLE TO REMIT ALL PREPAID WIRELESS TRS CHARGES TIIAT THE SELLER COLLECTS FROM CONSUMERS AS PROVIDED IN SUBSECTION (3) OF THJS SECTION. THE SELLER IS DEEMED TO HAVE COLLECTED THE CHAR.GE NOTWITHSTANDING IBAT THE AMOUNT OF THE CHARGE HAS NEITHER BEEN SEPARATELY DISCLOSED NOR STATED ON AN INVOICE, RECEIPT, OR OTHER SIMILAR DOCUMENT THE SELLER PROVIDES TO THE CONSUMER.
2. THE AMOUNT OF THE PREPAID WIRELESS TRS CHARGE IBAT IS COLLECTED BY A SELLER FROM A CONSUMER SHALL NOT BE INCLUDED IN THE BASE FOR MEASURING ANY TAX, FEE, SURCHARGE, OR OTHER CHARGE THAT IS IMPOSED BY THJS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE, OR ANY INTERGOVERNMENTAL AGENCY.

(3)(a) THE SELLER SHALL REMIT ANY COLLECTED PREPAID WIRELESS TRS CHARGES TO THE DEPARTMENT AT THE TIMES AND IN THE MANNER PROVIDED IN PART **1** OF ARTICLE 26 OF TITLE 39, C.R.S. THE DEPARTMENT SHALL ESTABLISH, BY RULE, REGISTRATION AND PAYMENT PROCEDURES THAT SUBSTANTIALLY COINCIDE WITH THE REGISTRATION AND PAYMENT PROCEDURESIBATAPPLY UNDERPART **1** OFARTICLE260FTITLE39,C.R.S.

A SELLER MAY REMIT PREPAID WIRELESS TRS CHARGES AND PREPAID

WIRELESS E91 **l** CHARGES, AS DEFINED IN SECTION 29-11-102.5 (1) (c), TOGETHER TO THE DEPARTMENT OF REVENUE AS A SINGLE REMITTANCE. A SELLERISSUBJECTTOTHEPENALTIES UNDERPART **1** OF ARTICLE260FTITLE 39, C.R.S., FOR FAILURE TO COLLECT OR REMIT A PREPAID WIRELESS TRS CHAR.GE IN ACCORDANCE WITH THIS SECTION.

1. EFFECTIVE SEPTEMBER **1,** 2016, A SELLER MAY DEDUCT AND RETAIN THREE AND THREE-TENTHS PERCENT OFTHE PREPAID WIRELESS TRS CHARGES THAT ARE COLLECTED BY THE SELLER FROM CONSUMERS.
2. THE AUDIT AND APPEAL PROCEDURES APPLICABLE TO THE STATE SALES TAX UNDERPART 1 OF ARTICLE260FTITLE39,C.R.S.,SHALLAPPLY TO PREPAID WIRELESS TRS CHARGES.
3. THE DEPARTMENT SHALL ESTABLISH PROCEDURES BY WHICH A

SELLER MAY DOCUMENT 11-IAT A TRANSACTION IS NOT A RETAIL TRANSACTION, WHICH PROCEDURES SHALL SUBSTANTIALLY COINCIDE WITH THE PROCEDURES FOR DOCUMENTING 11-IAT A SALE WAS WHOLESALE FOR PURPOSES OF THE SALES TAX UNDER PART 1 OF ARTICLE 26 OF TITLE 39, C.R.S.

1. THE DEPARTMENT SHALL TRANSMIT THE MONEY COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER WHO SHALL CREDIT THE MONEY TO THE COLORADO TELEPHONE USERS WITH DISABILITIES FUND CREATED IN SECTION 40-17-104 (1), C.R.S.
2. THE PREPAID WIRELESS TRS CHARGE IMPOSED BY THIS SECTION IS THE ONLY DIRECT TELECOMMUNICATIONS RELAY SERVICE FUNDING OBLIGATION IMPOSED WITH RESPECT TO PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IN THIS STATE. NO TAX, FEE, SURCHARGE, OR OTHER CHARGE TO FUND TELECOMMUNICATIONS RELAY SERVICE SHALL BE IMPOSED BY THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE, OR ANY INTERGOVERNMENTAL AGENCY UPON A PROVIDER, SELLER, OR CONSUMER WITH RESPECT TO THE SALE, PURCHASE, USE, OR PROVISION OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE.

**SECTION 2.** In Colorado Revised Statutes, **amend** 40-17-101 as follows:

**40-17-101. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that many of Colorado's residents are unable to utilize telecommunications facilities without assistance and are therefore ~~disabled~~ telephone users ~~Disabled~~ WITH DISABILITIES. Telephone users WITH DISABILITIES include ~~but are not limited to, the~~ PEOPLE WHO ARE deaf, the hard of hearing, the speech-impaired, the deaf-blind, BLIND AND VISUALLY IMPAIRED, and those with central nervous system disabilities. ~~Disabled~~ Telephone users WITH DISABILITIES constitute a substantial and valuable resource within the United States and the state of Colorado, and this segment of our population needs access to telecommunications facilities in order to be contributing and productive members of our society. The role of telecommunications in our world today is inestimable. Telecommunications is the primary vehicle of commerce and industry, the means to convey and receive information and knowledge, and is one of the ways we communicate with others on a personal as well as business level. Telecommunications results in greater independence and self-sufficiency

by expanding the channels for employment opportunities, the market for goods and services, human contact, and fellowship. ~~Disabled~~ Telephone users WJTI-1 DISABILITIES should have equal access to this critical tool, not only for their own sake, but for the benefit of society at large. The ability to use telecommunications will enhance the business and personal lives of ~~disabled~~ telephone users WITI-1 DISABILITIES while stimulating and promoting economic development in Colorado. The general assembly recognizes the vitality and potential of Colorado's ~~disabled~~ Individuals WITI-1 DISABILITIES, including ~~disabled~~ telephone users WITI-1 DISABILITIES. Telecommunications is vital to our society, and SUPPORTING its availability to ~~disabled~~ telephone users WJTI-1 DISABILITIES is an A BENEFICIAL investment ~~of benefit to~~ FOR all of Colorado.

(2) The general assembly therefore concludes that it is appropriate to provide access to telecommunications for, ~~disabled~~ telephone users WJTI-1 DISABILITIES by establishing telecommunications relay services that replace and expand the dual party relay system required pursuant to this article as said THE article existed prior to July 1, 1992.

**SECTION** 3. In Colorado Revised Statutes, 40-17-102, **amend** (4);

**repeal** (2); and **add** (5) as follows:

**40-17-102. Definitions.** As used in this article, unless the context otherwise requires:

(2) ~~"Local exchange co1npany" 1ncans a telecommunications company that provides telephone access lines to 111c1nbc1s of the general public who arc its customers.~~

1. "Telephone access line" means ~~the access to the local exchange network from the premises of an end user customer of a local exchange company to the telecommunications network to effect the transfer of information~~ EACH VOICE GRADE CHANNEL OR ITS EQUIVALENT ASSIGNED TO A RESIDENTIAL OR COMMERCIAL END USER CUSTOMER BY A VOICE SERVICE PROVIDER, REGARDLESS OF THE TECHNOLOGY USED TO PROVIDE THE SERVICE.
2. "VOICE SERVICE PROVIDER "MEANS A COMPANY THAT PROVIDES TELEPHONE ACCESS LINES TO MEMBERS OF TI-IE GENERAL PUBLIC WHO ARE ITS CUSTOMERS FOR VOICE SERVICE.

**SECTION 4.** In Colorado Revised Statutes, 40-17-103, **amend** (3)

introductory portion, (3) (a), (3) (b), (3) (c), (3) (e), and (3) (f); and **add** (3)

(b.5) and (3) (g) as follows:

**40-17-103. Commission** - **powers and duties** - **rules.** (3) The commission shall, through the promulgation of rules, develop and implement a mechanism to recover its costs and the cost to ~~local exchange~~ **~~companies~~** VOICE SERVICE PROVIDERS in implementing and administering telecommunications relay services required by this article. The mechanism shaft MUST, at a minimum, provide for the following:

1. (I) The assessment of a monthly surcharge NOT TO EXCEED FJFfEEN CENTS on each telephone access line, ~~which~~ WHEREBY EACH VOICE GRADE CHANNEL OF A MULTILINE VOICE COMMUNJCA TIONS SERVICE TI-IAT IS CAPABLE OF SIMULTANEOUS OUTBOUND CALLING CONSTITUTES A SEPARATE TELEPHONE ACCESS LINE; HOWEVER, THE NUMBER OFTELEPHONE ACCESS LINES FOR WHICH A CUSTOMER MAY BE ASSESSED A MONTHLY SURCHARGE CANNOT EXCEED THE NUMBER OF OUTBOUND VOICE CALLS TI-IAT THE VOICE SERVICE PROVIDER HAS ENABLED AND ACTIVATED TO BE MADE SIMULTANEOUSLY.

(II) THE MONTHLY surcharge may be adjusted by the commission in accordance with paragraph (d) of this subsection (3).

(Il0 WITHOUT EXCEEDING THE MAXIMUM MONTHLY SURCHARGE SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), the monthly

surcharge shaft MUST be an amount sufficient to:

1. Reimburse the commission for its costs in developing, implementing, and administering telecommunications relay services; ~~which administrative costs shall not exceed three percent of the total costs,~~ *~~to~~*
2. Reimburse ~~local exchange companies~~ VOICE SERVICE PROVIDERS for their administrative costs in imposing and collecting the surcharge; ~~and to~~
3. Cover the costs of providers in rendering the service;
4. PURSUANT TO SECTION 40-17-104, COVER ANNUAL APPROPRJATIONSTOTHEREADINGSERVICESFORTHEBLINDCASHFUNDAND

THE COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING CASH FUND;AND

1. REIMBURSE THE DEPARTMENT OF REVENUE FOR ITS ADMINISTRATIVE COSTS IN COLLECTING PREPAID WIRELESS TRS CHARGES ON PREPAID WIRELESS PHONES PURSUANT TO SECTION 29-11-102.7, C.R.S.
2. A requirement that the monthly surcharge be imposed upon and collected from each individual telephone access line provided by a focal **exchange** com:pany VOICE SERVICE PROVIDER;

{b.5) WITH RESPECT TO PREPAID WIRELESS SERVICE, A REQUIREMENT THAT A SELLER COLLECT A PREPAID WIRELESS TRS CHARGE FROM A CONSUMER, AS TIIOSE TERMS ARE DEFINED IN SECTION 29-11-102.7, C.R.S., AND REMIT THE CHARGE TO THE DEPARTMENT OF REVENUE WHICH SHALL TRANSMIT THE MONEY TO THE STATE TREASURER FOR DEPOSIT INTO THE COLORADO TELEPHONE USERS WITH DISABILITIES FUND, CREATED IN SECTION 40-17-104 {l);

1. A requirement that the surcharge be listed OR INCLUDED as a separate item that appears on each customer's monthly billing statement;
2. The authority of a ~~local exchange company~~ VOICE SERVICE PROVIDER to deduct and retain as reimbursement for its administrative costs an amount not to exceed three-quarters of one percent of the amount of total monthly surcharges collected by ~~such local exchange company~~ A VOICE SERVICE PROVIDER. In addition, the mechanism shalt MUST include a requirement that any remaining amount of ~~moneys~~ MONEY be transmitted to the state treasurer who shall credit the ~~same~~ MONEY to the Colorado ~~disabled~~ telephone users WITH DISABILITIES fund created by section 40-17-104.
3. A requirement that each ~~local exchange company~~ VOICE SERVICE PROVIDER maintain a record of the monthly surcharge imposed on each customer and collected by the ~~local exchange company~~ VOICE SERVICE PROVIDER. The record of any monthly surcharge imposed and collected shall be maintained for three years from the date of billing. The commission may require an audit of a ~~local exchange company's~~ VOICE SERVICE PROVIDER'S records, which audit ~~shall~~ MUST be at the commission's expense.
4. THE SURCHARGE IMPOSED BY THIS SECTION SHALL NOT BE IMPOSED ON THE PROVIDER OR TI-IE CONSUMER WITI-1 RESPECT TO FEDERALLY SUPPORTED LIFELINE SERVICE.

**SECTION 5.** In Colorado Revised Statutes, 40-17-104, **amend** (1) and (4) (a) *as* follows:

**40-17-104. Colorado telephone users with disabilities fund** - **creation** - **purpose.** (1) Except *as* otherwise authorized to be retained by section 40-17-103 (3) (e), all ~~moneys~~ MONEY collected by the local ~~exchange companies~~ VOICE SERVICE PROVIDERS in accordance with said section 40-17-103 shall be transmitted to the state treasurer, who shall credit the same MONEY to the Colorado ~~disabled~~ telephone users WITI-1

DISABILITIES fund, which fund is hereby created and is referred to in this **article as the "fund". ~~On July 1, 1992,~~ *~~m1y~~* ~~rnoncy s ht the Color ado disabled telephone users fund c1catcd~~ *~~by~~* ~~section 40-17-103, as said section existed~~** ~~p1io1 to July I, 1992, shall be c1cditcd to the fund as c1catcd~~ *~~by~~* ~~this section.~~ The general assembly shall make annual appropriations out of such TI-IE fund for the administration of the fund and shall make annual appropriations to the reading services for the blind cash fund, created in section 24-90-105.5 (5), C.R.S., for use by the state librarian in support of privately operated reading services for ~~the~~PEOPLE WHO ARE blind. The ~~moneys~~MONEY in such TI-IE fund not used for administration of ~~such~~THE fund, not used for the reading services for the blind cash fund, and not used

for the Colorado commission for the deaf and hard of hearing cash fund created in section 26-21-107, C.R.S., are IS hereby continuously appropriated to the public utilities commission for the reimbursement of providers who render telecommunications services authorized by this article.

(4) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, the general assembly shall make annual appropriations from the Colorado ~~disabled~~ telephone users WITI-1 DISABILITIES fund to the Colorado commission for the deaf and hard of hearing cash fund, created in section 26-21-107, C.R.S.

**SECTION 6.** In Colorado Revised Statutes, **add** 40-17-105 *as*

follows:

# 40-17-105. Noneffect of article on method of regulation.

1. NOTI-IING IN THIS ARTICLE:
	1. AFFECTS THE METHOD OF REGULATION OF PROVIDERS OF TELECOMMUNICATIONS OR VOICE-OVER-INTERNET-PROTOCOL SERVICE BY THE COMMISSION, AS SET FORTH IN ARTICLE 15 OF THIS TITLE; OR
	2. GRANTS TO THE COMMISSION ANY ABILITY TO ASSERT JURISDICTION REGARDING ANY TELECOMMUNICATIONS OR VOICE-OVER-INTERNET-PROTOCOL SERVICE PROVIDER FOR ANY PURPOSE OTHER THAN THE PURPOSES SPECIFICALLY DESCRIBED IN THIS ARTICLE.

**SECTION** 7. In Colorado Revised Statutes, 24-75-402, **amend** (5)

(s) as follows:

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

(s) The Colorado ~~disabled~~ telephone users WITH DISABILITIES fund created in section 40-17-104, C.R.S., until this paragraph (s) is repealed, effective July 1, 2017;

**SECTION 8.** In Colorado Revised Statutes, 26-21-106, **amend** (6) as follows:

**26-21-106. Powers, functions, and duties of the commission** - **equipment distribution program.** (6) The commission shall establish and maintain an active outreach consultant for technical assistance to improve and ensure equivalent access to auxiliary services by critical state and local government agencies, private agencies, and other entities and to increase awareness of the programs for and rights of INDIVIDUALS WHO ARE deaf and hard of hearing individuals from, ~~moneys~~ MONEY appropriated by the general assembly from the Colorado ~~disabled~~ telephone users WITH DISABILITIES fund established pursuant to section 40-17-104, C.R.S.

**SECTION 9. Appropriation.** (1) For the 2016-17 state fiscal year,

$172,778 is appropriated to the Colorado commission for the deaf and hard of hearing cash fund created in section 26-21-107 (1), C.R.S. This appropriation is from the Colorado telephone users with disabilities fund

created in section 40-17-104 (1), C.R.S. The department of regulatory agencies is responsible for the accounting related to this appropriation.

1. For the 2016-17 state fiscal year, $172,778 is appropriated to the department of human services. This appropriation is from reappropriated funds in the Colorado commission for the deaf and hard of hearing cash fund under subsection (I) of this section, and is based on an assumption that the department will require an additional 2.0 FTE. To implement this act, the department may use this appropriation for the Colorado commission for the deaf and hard of hearing.

**SECTION 10. Effective date- applicability.** This act talces effect September 1,2016, and applies to surcharges assessed on or after said date; except that section 9 of this act talces effect on July I, 2016.

**SECTION** I I. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Dickey Lee Hullinghorst Bill L. Cadman SPEAKER OF THE HOUSE PRESIDENT OF OF REPRESENTATIVES THE SENATE

Marilyn Eddins

CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

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