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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1050

Introduced by Assembly Member Ma

February 18, 2011

An act to amend, repeal, and add Section 17538.9 of the Business and Professions Code, to amend Section 224.4 of, to amend, repeal, and add Section 431 of, and to add and repeal Section 316-~~to~~ of, the Public Utilities Code, and to amend Sections 41020 and 41030 of, to add and repeal Section 41030.1 of, and to add and repeal Part 21 (commencing with Section 42000)-~~to~~ of Division 2 of, the Revenue and Taxation Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1050, as amended, Ma. Telecommunications: prepaid mobile telephony services: ~~taxes and fees~~. *state surcharge.*

(1) The existing Emergency Telephone Users Surcharge Act generally imposes a surcharge on amounts paid by every person in the state for

intrastate telephone service to provide revenues sufficient to fund “911” emergency telephone system costs. ~~Surcharge~~ *Before July 1, 2013, amounts are determined annually by the California Technology Agency, and on and after that date, by the Department of Technology, and upon collection* are paid to the State Board of Equalization on a monthly basis by the telephone service supplier and are deposited into the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund, to be expended for limited purposes, including to pay the Department of General Services for its costs in administration of the “911” emergency telephone number system.

Under existing law, the Public Utilities Commission (*PUC*) has regulatory authority over public utilities, including telephone corporations, and is authorized to fix just and reasonable rates and charges for services provided by those public utilities. Existing law establishes the Public Utilities Commission Utilities Reimbursement Account and authorizes the ~~commission~~ *PUC* to annually determine a fee to be paid by every public utility providing service directly to customers or subscribers and subject to the jurisdiction of the ~~commission~~ *PUC*, except for a railroad corporation. The ~~commission~~ *PUC* is required to establish the fee, with the approval of the Department of Finance, to produce a total amount equal to that amount established in the authorized ~~commission~~ *PUC* budget for the same year, and an appropriate reserve to regulate public utilities, less specified sources of funding. Existing law establishes the state’s telecommunications universal service programs and authorizes the ~~commission~~ *PUC* to impose charges for the purpose of funding those programs. *Pursuant to this authority, the PUC has established 6 end-user surcharges to fund 6 universal service programs.*

This bill would enact the Prepaid ~~Wireless Mobile Telephony Services~~ *Surcharge and Collection Act*. The bill would establish a prepaid ~~communications charge~~ *MTS surcharge*, as defined, based upon a percentage of the sales price of each retail transaction that occurs in this state for prepaid mobile telephony services, as defined. The prepaid ~~communications charge~~ *MTS surcharge* would include ~~a state component, as defined, and if a local government has adopted utility user taxes or other specified charges that are otherwise applicable to prepaid mobile telephony services and the retail transaction occurs within that jurisdiction, a local component.~~ The bill would state the intent of the Legislature to develop a method whereby a seller is required to collect the local component *the emergency telephone users surcharge,*

as defined, and PUC surcharges, as defined. The bill would require a seller, as defined, to collect the prepaid-communications charge MTS surcharge, as provided, from a prepaid consumer, as defined, and remit the amounts collected to the State Board of Equalization pursuant to the Fee Collection Procedures Law. ~~The bill would require the board, after deducting its administrative expenses, to remit that portion of the state component collected pursuant to the Emergency Telephone Users Surcharge Act to the California Technology Agency and remit the balance of the state component to the Public Utilities Commission. The bill would require the State Board of Equalization to remit the local component, if applicable, to the local government. The bill would require the board, after deducting its administrative expenses, to deposit the amounts collected in the Prepaid Mobile Telephony Services Surcharge Fund, which the bill would establish in the State Treasury, as provided. The bill would require the Public Utilities Commission PUC to annually compute the commission's PUC's reimbursement fee and specified telecommunications 6 universal service program fees, to post notice of those fees on its Internet Web site, and to notify the State Board of Equalization of the amounts, which would be adjusted, as specified, and which together would be the PUC surcharges. The bill would require the California Technology Agency to annually compute, as specified, the intrastate portion of the 911 surcharge to be collected on prepaid mobile telephony services to post notice of those charges and to notify the State Board of Equalization of the amount, which would be the emergency telephone users surcharge.~~

Existing law defines mobile telephony services for purposes of the Public Utilities Code.

This bill would revise that definition and incorporate that definition for purposes of the Prepaid Mobile Telephony Services Surcharge and Collection Act.

(2) Existing law establishes requirements for consumer disclosure and service that are applicable to the advertising and sale of prepaid calling cards, as defined, and prepaid calling services, as defined, including the disclosure of ancillary services, as defined.

This bill would except the prepaid MTS surcharge from the definition of ancillary services if the surcharge is disclosed, collected, and remitted pursuant to the Prepaid Mobile Telephony Services Surcharge and Collection Act.

(2)

(3) The Fee Collection Procedures Law makes a violation of any provision of the law, or of certain requirements imposed by the board pursuant to the law, a crime.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, 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.

(4) This bill would state that changes made by this bill to amend and add specified code sections are not intended to supersede changes made by Section 310 of the Governor’s Reorganization Plan No. 2 of 2012, which took effect on July 3, 2012, and will become fully operative on July 1, 2013.

(5) Provisions of this bill would become inoperative on January 1, 2017, and the Prepaid Mobile Telephony Services and Collection Act would be repealed on that date. The bill would further state the intent of the Legislature to develop and implement means to collect local utility user taxes and local communications related-charges on the purchase of prepaid mobile telephony services with the intent that the state MTS surcharge and those local charges would be in a uniform manner consistent with this bill collection procedures by that date.

~~(3)~~

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 *SECTION 1. Section 17538.9 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 *17538.9. (a) For the purposes of this section:*
- 4 *(1) “Ancillary charges” means all surcharges, taxes, fees,*
- 5 *connection charges, maintenance fees, monthly or other periodic*
- 6 *fees, per-call access fees, or other assessments or charges of any*
- 7 *kind, however denominated, that may be imposed in connection*
- 8 *with the use of a card or services, other than the per unit or per*

1 minute rate charged. “Ancillary charges” do not include charges
2 disclosed, collected, and remitted pursuant to the Prepaid Mobile
3 Telephony Services Surcharge and Collection Act (Part 21
4 (commencing with Section 42000) of Division 2 of the Revenue
5 and Taxation Code).

6 (2) “Cellular telephone services” means ~~facilities-based,~~
7 ~~commercial mobile telephone services~~ commercially available
8 interconnected mobile phone services that provide voice
9 communication access to the public switched telephone network
10 (PSTN) by way of mobile communication devices employing
11 radiowave technology, also known as cellular technology, to
12 transmit calls, including cellular radiotelephone, broadband
13 Personal Communications Services (PCS), digital Specialized
14 Mobile Radio (SMR), or another radio band licensed by the
15 Federal Communications Commission. For these purposes,
16 “cellular telephone services” has the same meaning as “mobile
17 telephony services” as defined in Section 224.4 of the Public
18 Utilities Code.

19 (3) “Company” refers to any entity providing prepaid calling
20 services to the public using its own or a resold telecommunications
21 network.

22 (4) “Distributor” means any person who offers or sells a card
23 or services to a retail vendor or to any other person for ultimate
24 resale to a retail vendor.

25 (5) “Prepaid calling card” or “card” means any object containing
26 an access number and authorization code that enables a consumer
27 to use prepaid calling services. It does not include any object of
28 that type used for promotional purposes.

29 (6) “Prepaid calling services” or “services” refers to any prepaid
30 telecommunications service that allows consumers to originate
31 calls through an access number and authorization code, whether
32 manually or electronically dialed.

33 (7) “Retail vendor” means any person who sells a card or service
34 to a consumer for use in making telephone calls.

35 (b) The following standards and requirements for consumer
36 disclosure and services shall apply to the advertising and sale of
37 prepaid calling cards and prepaid calling services:

38 (1) Any advertisement of the price, rate, or unit value in
39 connection with the sale of prepaid calling cards or services shall
40 clearly and conspicuously disclose all of the following:

- 1 (A) Any geographic limitation to the advertised price, rate, or
- 2 unit value.
- 3 (B) All ancillary charges and the conditions under which each
- 4 applies. This disclosure shall be made prominently near the
- 5 beginning of the advertisement. In a written advertisement this
- 6 disclosure shall appear in table form in a box with the bold label,
- 7 “Other Charges.” The amount of each ancillary charge shall be
- 8 identified in one column and the conditions under which each
- 9 applies shall be stated on the same line in the column immediately
- 10 to the right of the charge.
- 11 (2) The following information shall be legibly printed on the
- 12 card:
 - 13 (A) The name of the company.
 - 14 (B) A toll-free customer service number.
 - 15 (C) A toll-free network access number, if required to access
 - 16 service.
 - 17 (D) The authorization code, if required to access service.
 - 18 (E) The expiration date or policy, if applicable, except where
 - 19 paragraph (11) applies.
- 20 (3) The company shall print legibly on the card or packaging,
- 21 so that it may be read without having to open any packaging, and
- 22 the retail vendor shall make available clearly and conspicuously
- 23 in a prominent area immediately proximate to the point of sale of
- 24 the prepaid calling card or prepaid calling services the following
- 25 information, which shall be current at the time of printing and for
- 26 as long as it is displayed:
 - 27 (A) The value of the card and all ancillary charges.
 - 28 (B) Ancillary charges for international calls to each country for
 - 29 which the card may be used or, in lieu of disclosing ancillary
 - 30 charges for each country, the highest ancillary charges for any
 - 31 international calls applicable on that card and any additional or
 - 32 different prices, rates, or unit values applicable to international
 - 33 usage of the prepaid calling card or prepaid calling services.
 - 34 (C) The minimum charge per call, such as a three-minute
 - 35 minimum charge, if any.
 - 36 (D) The definition of the term “unit,” if applicable.
 - 37 (E) The billing decrement.
 - 38 (F) The name of the company.
 - 39 (G) The recharge policy, if any.
 - 40 (H) The refund policy, if any.

1 (I) The expiration policy, if any.

2 (J) The 24-hour customer service toll-free telephone number
3 required in paragraph (9).

4 (4) Before a customer has recharged a card or service, no
5 company shall provide fewer minutes than those stated, charge
6 more than the rate stated, or charge more for ancillary services
7 than stated on the card or packaging, or in an advertisement
8 available to the public at the time the card or service is purchased.

9 (5) Service may be recharged by the customer at a rate higher
10 than the rate at initial purchase or last recharge. However, the
11 customer shall be informed of any increased rates or charges prior
12 to the customer agreeing to pay for the recharge.

13 (6) If a language other than English is used on the card or
14 packaging to provide dialing instructions to place a call or to
15 contact customer service, the information required by paragraph
16 (3) shall also be disclosed in that language in the point of sale
17 disclosure in the manner described in paragraph (3).

18 (7) If a language other than English is used in the advertising
19 or promotion of the card or prepaid calling services or is used on
20 the card or packaging other than for dialing instructions, the
21 information required by paragraph (3) shall also be disclosed in
22 that language on the card or packaging and in the point of sale
23 disclosure in the manner described in paragraph (3).

24 (8) A company shall provide a voice prompt, immediately after
25 a caller enters a personal identification number and destination
26 number, that states the number of minutes for that call if the entire
27 remaining value of the card or service were consumed in one
28 continuous call to the dialed destination, substantially in the
29 following form:

30 “You have [insert number] minutes if used up in this call.”

31 (9) A company shall establish and maintain a toll-free customer
32 service telephone number that shall meet the following
33 requirements:

34 (A) A live operator shall answer incoming calls to the telephone
35 number 24 hours a day, seven days a week.

36 (B) The telephone number shall have sufficient capacity and
37 staffing to accommodate a reasonably anticipated number of calls
38 without incurring a busy signal or undue wait. The company shall
39 provide customer service in each language used on a prepaid calling

1 card or its packaging and in the advertising or promotion of the
2 prepaid calling card or prepaid calling services.

3 (C) The telephone number shall allow consumers to lodge
4 complaints and obtain information on all of the following:

- 5 (i) All rates and ancillary charges.
- 6 (ii) The company's recharge, refund, and expiration policies.
- 7 (iii) The balance of use available in the consumer's account, if
8 applicable.

9 (D) A company shall not impose any ancillary charge related
10 to obtaining customer service, including any charge related to
11 connecting with the customer service number or waiting to speak
12 to a live operator.

13 A company offering prepaid cellular telephone services shall be
14 deemed to be in compliance with the requirements of this paragraph
15 if, when a request for information is made outside of normal
16 business hours, that company provides the information requested
17 on the next business day.

18 (10) A company that issues prepaid calling cards or prepaid
19 calling services shall provide a refund to any purchaser of a prepaid
20 calling card or prepaid calling services if the network services
21 associated with that card or services fail to operate in a
22 commercially reasonable manner. The refund shall be in an amount
23 not less than the value remaining on the card or in the form of a
24 replacement card, and shall be provided to the consumer within
25 30 days from the date of receipt of notification from the consumer
26 that the card has failed to operate in a commercially reasonable
27 manner.

28 (11) Cards without a specific expiration date or policy printed
29 on the card, and with a balance of service remaining, shall be
30 considered active for a minimum of one year from the date of
31 purchase, or if recharged, from the date of the last recharge.

32 (12) In the case of prepaid calling cards or services utilized at
33 a pay telephone, the company may provide voice prompt
34 notification of any ancillary charges related to pay telephone usage,
35 in lieu of providing notice of those ancillary charges as required
36 by paragraph (1) and by subparagraph (A) of paragraph (3),
37 provided that the company provides users of prepaid calling cards
38 or services with reasonable time to terminate the call after
39 notification of the ancillary charges related to pay telephone usage
40 without incurring any charge for the call.

1 (13) A company shall maintain access numbers with sufficient
2 capacity to accommodate a reasonably anticipated number of calls
3 without incurring a busy signal or undue delay.

4 (14) A company may not impose any ancillary charges that are
5 not disclosed as required by this section or that exceed the amount
6 disclosed by the company.

7 (15) A company may not impose any charges if the consumer
8 is not connected to the number called. For the purpose of this
9 paragraph, the customer shall not be considered connected to the
10 number called if the customer receives a busy signal or the call is
11 unanswered.

12 (16) The value of the card and the amount of any ancillary
13 charges, that are required to be disclosed by paragraph (3), shall
14 be expressed in the same format. If the value of a card is expressed
15 in minutes, the minutes shall be identified as domestic or
16 international and the identification shall be printed on the same
17 line or next line as the value of the card in minutes.

18 (17) No person shall offer or sell any prepaid calling card or
19 prepaid calling services that do not contain the information required
20 to be disclosed on the card or packaging as provided in paragraph
21 (3).

22 (18) A distributor that sells directly to a retail vendor shall
23 provide the retail vendor with the current information required by
24 paragraph (3) in a form that may be displayed by the retail vendor
25 as provided in paragraph (3).

26 *(c) (1) This section shall remain in effect only until January 1,*
27 *2017, and as of that date is repealed, unless a later enacted statute,*
28 *that is chaptered before January 1, 2017, deletes or extends that*
29 *date.*

30 *(2) The Legislature finds and declares that it is the intent of the*
31 *Legislature to develop and implement a reasonable and equitable*
32 *means to collect local utility user taxes and local communications*
33 *related charges on prepaid mobile telephony services in addition*
34 *to the state charges collected through the Prepaid Mobile*
35 *Telephony Services Surcharge and Collection Act (Part 21*
36 *commencing with Section 42000) of Division 2 of the Revenue*
37 *and Taxation Code) and that if the Legislature is unable to develop*
38 *and implement a reasonable and equitable means to collect local*
39 *charges before January 1, 2017, that collection of the state charges*
40 *pursuant to the act will terminate.*

1 SEC. 2. Section 17538.9 is added to the Business and
 2 Professions Code, to read:
 3 17538.9. (a) For the purposes of this section:
 4 (1) "Ancillary charges" means all surcharges, taxes, fees,
 5 connection charges, maintenance fees, monthly or other periodic
 6 fees, per-call access fees, or other assessments or charges of any
 7 kind, however denominated, that may be imposed in connection
 8 with the use of a card or services, other than the per unit or per
 9 minute rate charged.
 10 (2) "Cellular telephone services" means commercially available
 11 interconnected mobile phone services that provide voice
 12 communication access to the public switched telephone network
 13 (PSTN) by way of mobile communication devices employing
 14 radiowave technology, also known as cellular technology, to
 15 transmit calls, including cellular radiotelephone, broadband
 16 Personal Communications Services (PCS), digital Specialized
 17 Mobile Radio (SMR), or another radio band licensed by the
 18 Federal Communications Commission. For these purposes,
 19 "cellular telephone services" has the same meaning as "mobile
 20 telephony services" as defined in Section 224.4 of the Public
 21 Utilities Code.
 22 (3) "Company" refers to any entity providing prepaid calling
 23 services to the public using its own or a resold telecommunications
 24 network.
 25 (4) "Distributor" means any person who offers or sells a card
 26 or services to a retail vendor or to any other person for ultimate
 27 resale to a retail vendor.
 28 (5) "Prepaid calling card" or "card" means any object
 29 containing an access number and authorization code that enables
 30 a consumer to use prepaid calling services. It does not include any
 31 object of that type used for promotional purposes.
 32 (6) "Prepaid calling services" or "services" refers to any
 33 prepaid telecommunications service that allows consumers to
 34 originate calls through an access number and authorization code,
 35 whether manually or electronically dialed.
 36 (7) "Retail vendor" means any person who sells a card or
 37 service to a consumer for use in making telephone calls.
 38 (b) The following standards and requirements for consumer
 39 disclosure and services shall apply to the advertising and sale of
 40 prepaid calling cards and prepaid calling services:

1 (1) Any advertisement of the price, rate, or unit value in
2 connection with the sale of prepaid calling cards or services shall
3 clearly and conspicuously disclose all of the following:

4 (A) Any geographic limitation to the advertised price, rate, or
5 unit value.

6 (B) All ancillary charges and the conditions under which each
7 applies. This disclosure shall be made prominently near the
8 beginning of the advertisement. In a written advertisement this
9 disclosure shall appear in table form in a box with the bold label,
10 "Other Charges." The amount of each ancillary charge shall be
11 identified in one column and the conditions under which each
12 applies shall be stated on the same line in the column immediately
13 to the right of the charge.

14 (2) The following information shall be legibly printed on the
15 card:

16 (A) The name of the company.

17 (B) A toll-free customer service number.

18 (C) A toll-free network access number, if required to access
19 service.

20 (D) The authorization code, if required to access service.

21 (E) The expiration date or policy, if applicable, except where
22 paragraph (11) applies.

23 (3) The company shall print legibly on the card or packaging,
24 so that it may be read without having to open any packaging, and
25 the retail vendor shall make available clearly and conspicuously
26 in a prominent area immediately proximate to the point of sale of
27 the prepaid calling card or prepaid calling services the following
28 information, which shall be current at the time of printing and for
29 as long as it is displayed:

30 (A) The value of the card and all ancillary charges.

31 (B) Ancillary charges for international calls to each country
32 for which the card may be used or, in lieu of disclosing ancillary
33 charges for each country, the highest ancillary charges for any
34 international calls applicable on that card and any additional or
35 different prices, rates, or unit values applicable to international
36 usage of the prepaid calling card or prepaid calling services.

37 (C) The minimum charge per call, such as a three-minute
38 minimum charge, if any.

39 (D) The definition of the term "unit," if applicable.

40 (E) The billing decrement.

1 (F) *The name of the company.*

2 (G) *The recharge policy, if any.*

3 (H) *The refund policy, if any.*

4 (I) *The expiration policy, if any.*

5 (J) *The 24-hour customer service toll-free telephone number*
6 *required in paragraph (9).*

7 (4) *Before a customer has recharged a card or service, no*
8 *company shall provide fewer minutes than those stated, charge*
9 *more than the rate stated, or charge more for ancillary services*
10 *than stated on the card or packaging, or in an advertisement*
11 *available to the public at the time the card or service is purchased.*

12 (5) *Service may be recharged by the customer at a rate higher*
13 *than the rate at initial purchase or last recharge. However, the*
14 *customer shall be informed of any increased rates or charges prior*
15 *to the customer agreeing to pay for the recharge.*

16 (6) *If a language other than English is used on the card or*
17 *packaging to provide dialing instructions to place a call or to*
18 *contact customer service, the information required by paragraph*
19 *(3) shall also be disclosed in that language in the point of sale*
20 *disclosure in the manner described in paragraph (3).*

21 (7) *If a language other than English is used in the advertising*
22 *or promotion of the card or prepaid calling services or is used on*
23 *the card or packaging other than for dialing instructions, the*
24 *information required by paragraph (3) shall also be disclosed in*
25 *that language on the card or packaging and in the point of sale*
26 *disclosure in the manner described in paragraph (3).*

27 (8) *A company shall provide a voice prompt, immediately after*
28 *a caller enters a personal identification number and destination*
29 *number, that states the number of minutes for that call if the entire*
30 *remaining value of the card or service were consumed in one*
31 *continuous call to the dialed destination, substantially in the*
32 *following form:*

33 *“You have [insert number] minutes if used up in this call.”*

34 (9) *A company shall establish and maintain a toll-free customer*
35 *service telephone number that shall meet the following*
36 *requirements:*

37 (A) *A live operator shall answer incoming calls to the telephone*
38 *number 24 hours a day, seven days a week.*

39 (B) *The telephone number shall have sufficient capacity and*
40 *staffing to accommodate a reasonably anticipated number of calls*

1 *without incurring a busy signal or undue wait. The company shall*
2 *provide customer service in each language used on a prepaid*
3 *calling card or its packaging and in the advertising or promotion*
4 *of the prepaid calling card or prepaid calling services.*

5 *(C) The telephone number shall allow consumers to lodge*
6 *complaints and obtain information on all of the following:*

7 *(i) All rates and ancillary charges.*

8 *(ii) The company's recharge, refund, and expiration policies.*

9 *(iii) The balance of use available in the consumer's account, if*
10 *applicable.*

11 *(D) A company shall not impose any ancillary charge related*
12 *to obtaining customer service, including any charge related to*
13 *connecting with the customer service number or waiting to speak*
14 *to a live operator.*

15 *A company offering prepaid cellular telephone services shall be*
16 *deemed to be in compliance with the requirements of this*
17 *paragraph if, when a request for information is made outside of*
18 *normal business hours, that company provides the information*
19 *requested on the next business day.*

20 *(10) A company that issues prepaid calling cards or prepaid*
21 *calling services shall provide a refund to any purchaser of a*
22 *prepaid calling card or prepaid calling services if the network*
23 *services associated with that card or services fail to operate in a*
24 *commercially reasonable manner. The refund shall be in an amount*
25 *not less than the value remaining on the card or in the form of a*
26 *replacement card, and shall be provided to the consumer within*
27 *30 days from the date of receipt of notification from the consumer*
28 *that the card has failed to operate in a commercially reasonable*
29 *manner.*

30 *(11) Cards without a specific expiration date or policy printed*
31 *on the card, and with a balance of service remaining, shall be*
32 *considered active for a minimum of one year from the date of*
33 *purchase, or if recharged, from the date of the last recharge.*

34 *(12) In the case of prepaid calling cards or services utilized at*
35 *a pay telephone, the company may provide voice prompt*
36 *notification of any ancillary charges related to pay telephone*
37 *usage, in lieu of providing notice of those ancillary charges as*
38 *required by paragraph (1) and by subparagraph (A) of paragraph*
39 *(3), provided that the company provides users of prepaid calling*
40 *cards or services with reasonable time to terminate the call after*

1 notification of the ancillary charges related to pay telephone usage
 2 without incurring any charge for the call.

3 (13) A company shall maintain access numbers with sufficient
 4 capacity to accommodate a reasonably anticipated number of calls
 5 without incurring a busy signal or undue delay.

6 (14) A company may not impose any ancillary charges that are
 7 not disclosed as required by this section or that exceed the amount
 8 disclosed by the company.

9 (15) A company may not impose any charges if the consumer
 10 is not connected to the number called. For the purpose of this
 11 paragraph, the customer shall not be considered connected to the
 12 number called if the customer receives a busy signal or the call is
 13 unanswered.

14 (16) The value of the card and the amount of any ancillary
 15 charges, that are required to be disclosed by paragraph (3), shall
 16 be expressed in the same format. If the value of a card is expressed
 17 in minutes, the minutes shall be identified as domestic or
 18 international and the identification shall be printed on the same
 19 line or next line as the value of the card in minutes.

20 (17) No person shall offer or sell any prepaid calling card or
 21 prepaid calling services that do not contain the information
 22 required to be disclosed on the card or packaging as provided in
 23 paragraph (3).

24 (18) A distributor that sells directly to a retail vendor shall
 25 provide the retail vendor with the current information required by
 26 paragraph (3) in a form that may be displayed by the retail vendor
 27 as provided in paragraph (3).

28 (c) This section shall become operative on January 1, 2017.

29 SEC. 3. Section 224.4 of the Public Utilities Code is amended
 30 to read:

31 224.4. (a) “Mobile data service” means the delivery of
 32 nonvoice information over a radio band licensed by the Federal
 33 Communications Commission, to a mobile device and includes
 34 nonvoice information communicated to a mobile telephony services
 35 handset, nonvoice information communicated to handheld personal
 36 digital assistant (PDA) devices and laptop computers, and mobile
 37 paging service carriers offering services on pagers and two-way
 38 messaging devices. “Mobile data service” includes mobile
 39 broadband service offering connectivity over a radio band licensed
 40 by the Federal Communications Commission. Unless specified to

1 *the contrary*, “mobile data service” does not include nonvoice
2 information communicated through a wireless local area network
3 operating in the unlicensed radio bands, commonly known as a
4 “Wi-Fi” network.

5 (b) “Mobile paging service” means the transmission of coded
6 radio signals *over a radio band licensed by the Federal*
7 *Communications Commission*, for the purpose of activating specific
8 small radio receivers designed to be carried by a person and to
9 give an aural, visual, or tactile indication when activated.

10 (c) “Mobile satellite telephone service” means voice
11 communication to end users over a mobile satellite service
12 involving the provision of commercial mobile radio service,
13 pursuant to Parts 20 and 25 of Title 47 of the Code of Federal
14 Regulations.

15 (d) “Mobile telephony service” means commercially available
16 interconnected mobile phone services that provide *voice*
17 *communication* access to the public switched telephone network
18 (PSTN) ~~via~~ *by way of* mobile communication devices employing
19 radiowave technology to transmit calls, including cellular
20 radiotelephone, broadband Personal Communications Services
21 (PCS), ~~and~~ digital Specialized Mobile Radio (SMR), *or another*
22 *radio band licensed by the Federal Communications Commission*.
23 “Mobile telephony services” does not include mobile satellite
24 telephone services or mobile data services used exclusively for
25 the delivery of nonvoice information to a mobile device.

26 **SECTION 4.**

27 *SEC. 4.* Section 316 is added to the Public Utilities Code, to
28 read:

29 316. (a) The commission shall annually, on or before
30 ~~December 31~~ *October 1 of each year, commencing October 1,*
31 *2013*, compute a reimbursement fee *as a percentage of the sales*
32 *price for prepaid mobile telephony services, to be effective on*
33 *January 1 of the following year and to be collected and remitted*
34 ~~to the commission~~ pursuant to the Prepaid ~~Wireless Mobile~~
35 *Telephony Services Surcharge and Collection Act (Part 21*
36 *commencing with Section 42000) of Division 2 of the Revenue*
37 *and Taxation Code*. On or before ~~January 15 of the following~~
38 *October 15 of each year, commencing October 15, 2013*, the
39 commission shall post notice of the *reimbursement* fee on its

1 Internet Web site and notify the State Board of Equalization of
2 this information.

3 (b) The commission shall annually, on or before ~~December 31~~
4 *October 1 of each year, commencing October 1, 2013*, compute
5 the *cumulative of the telecommunications universal service fees*
6 *surcharges as a percentage of the sales price for prepaid mobile*
7 *telephony services, to be effective on January 1 of the following*
8 *year and to be collected and remitted to the commission* pursuant
9 to the ~~Prepaid Wireless Mobile Telephony Services Surcharge and~~
10 ~~Collection Act (Part 21 (commencing with Section 42000) of~~
11 ~~Division 2 of the Revenue and Taxation Code). On or before~~
12 ~~January 15 of the following~~ *October 15 of each year, commencing*
13 *October 15, 2013*, the commission shall post notice of the ~~fee~~
14 *cumulative surcharge* on its Internet Web site and notify the State
15 Board of Equalization of this information.

16 (c) (1) Nothing in this section restricts the commission's
17 authority to adjust reimbursement fees or universal service fees or
18 requires that they only be adjusted once annually.

19 (2) In annually computing reimbursement fees and universal
20 service fees to be collected and remitted to the commission
21 pursuant to this section, the commission shall adjust the fees to
22 account for any past overcollection of fees from prepaid mobile
23 telephony service customers resulting from a reduction in fees
24 made subsequent to December 31 of the previous year.

25 (3) In annually computing reimbursement fees and universal
26 service fees to be collected and remitted to the commission
27 pursuant to this section, the commission may adjust the fees to
28 account for any past undercollection of fees from prepaid mobile
29 telephony service customers resulting from an increase in fees
30 made subsequent to December 31 of the previous year.

31 (4) If both upward and downward adjustments are made to
32 reimbursement fees and universal service fees subsequent to
33 December 31, the commission may adjust how collections are
34 deposited into the reimbursement and universal service accounts
35 so that overcollections or undercollections are minimized.

36 (5) It is the intent of the Legislature that reimbursement fees
37 and universal service fees be applied, as much as possible, in a
38 competitively neutral manner that does not favor either prepaid or
39 postpaid payment for mobile telephony services, and that, over
40 time, collections of state charges from prepaid and postpaid mobile

1 telephony service customers balance out so that neither pay a
2 disproportionate amount.

3 *(d) (1) This section shall remain in effect only until January 1,*
4 *2017, and as of that date is repealed, unless a later enacted statute,*
5 *that is chaptered before January 1, 2017, deletes or extends that*
6 *date.*

7 *(2) The Legislature finds and declares that it is the intent of the*
8 *Legislature to develop and implement a reasonable and equitable*
9 *means to collect local utility user taxes and local communications*
10 *related charges on prepaid mobile telephony services in addition*
11 *to the state charges collected through the Prepaid Mobile*
12 *Telephony Services Surcharge and Collection Act (Part 21*
13 *(commencing with Section 42000) of Division 2 of the Revenue*
14 *and Taxation Code) and that if the Legislature is unable to develop*
15 *and implement a reasonable and equitable means to collect local*
16 *charges, that collection of the state charges pursuant to the act*
17 *will terminate. The Legislature further finds and declares that this*
18 *section implements collection of the state charges pursuant to the*
19 *act and if the Legislature is unable to develop and implement a*
20 *reasonable and equitable means to collect local charges before*
21 *January 1, 2017, that this section should be repealed.*

22 *SEC. 5. Section 431 of the Public Utilities Code is amended*
23 *to read:*

24 431. *(a) The commission shall annually determine a fee to be*
25 *paid by every electrical, gas, telephone, telegraph, water, sewer*
26 *system, and heat corporation and every other public utility*
27 *providing service directly to customers or subscribers and subject*
28 *to the jurisdiction of the commission other than a railroad, except*
29 *as otherwise provided in Article 2 (commencing with Section 421),*
30 *for common carriers and related businesses, and as otherwise*
31 *provided in Section 316, for prepaid mobile telephony service*
32 *providers.*

33 ~~The~~

34 *(b) The annual fee shall be established to produce a total amount*
35 *equal to that amount established in the authorized commission*
36 *budget for the same year, including adjustments for increases in*
37 *employee compensation, other increases appropriated by the*
38 *Legislature, and an appropriate reserve to regulate public utilities*
39 *less the amount to be paid from special accounts or funds pursuant*
40 *to Section 402, reimbursements, federal funds, and any other*

1 revenues, and the amount of unencumbered funds from the
2 preceding year.

3 ~~This~~

4 *(c) This article shall not apply to any electrical cooperative as*
5 *defined in Chapter 5 (commencing with Section 2776) of Part 2.*

6 ~~On and after January 1, 1985, this article shall apply to~~
7 ~~radiotelephone utilities as defined in Section 4902 as those~~
8 ~~provisions read on December 31, 1984.~~

9 *(d) (1) This section shall remain in effect only until January 1,*
10 *2017, and as of that date is repealed, unless a later enacted statute,*
11 *that is chaptered before January 1, 2017, deletes or extends that*
12 *date.*

13 *(2) The Legislature finds and declares that it is the intent of the*
14 *Legislature to develop and implement a reasonable and equitable*
15 *means to collect local utility user taxes and local communications*
16 *related charges on prepaid mobile telephony services in addition*
17 *to the state charges collected through the Prepaid Mobile*
18 *Telephony Services Surcharge and Collection Act (Part 21*
19 *(commencing with Section 42000) of Division 2 of the Revenue*
20 *and Taxation Code) and that if the Legislature is unable to develop*
21 *and implement a reasonable and equitable means to collect local*
22 *charges, that collection of the state charges pursuant to the act*
23 *will terminate. The Legislature further finds and declares that the*
24 *changes made to this section by Assembly Bill No. 1050 of the*
25 *2011-12 Regular Session, implement collection of the state charges*
26 *pursuant to the act and if the Legislature is unable to develop and*
27 *implement a reasonable and equitable means to collect local*
28 *charges before January 1, 2017, that the content of this section*
29 *should revert back to what it was prior to its amendment by A.B.*
30 *1050.*

31 *SEC. 6. Section 431 is added to the Public Utilities Code, to*
32 *read:*

33 *431. (a) The commission shall annually determine a fee to be*
34 *paid by every electrical, gas, telephone, telegraph, water, sewer*
35 *system, and heat corporation and every other public utility*
36 *providing service directly to customers or subscribers and subject*
37 *to the jurisdiction of the commission other than a railroad, except*
38 *as otherwise provided in Article 2 (commencing with Section 421).*

39 *(b) The annual fee shall be established to produce a total amount*
40 *equal to that amount established in the authorized commission*

1 *budget for the same year, including adjustments for increases in*
2 *employee compensation, other increases appropriated by the*
3 *Legislature, and an appropriate reserve to regulate public utilities*
4 *less the amount to be paid from special accounts or funds pursuant*
5 *to Section 402, reimbursements, federal funds, and any other*
6 *revenues, and the amount of unencumbered funds from the*
7 *preceding year.*

8 *(c) This article shall not apply to any electrical cooperative as*
9 *defined in Chapter 5 (commencing with Section 2776) of Part 2.*

10 *(d) This section shall become operative on January 1, 2017.*

11 *SEC. 7. Section 41020 of the Revenue and Taxation Code is*
12 *amended to read:*

13 41020. (a) A surcharge is hereby imposed on amounts paid
14 by every person in the state for both of the following:

15 (1) (A) Intrastate telephone communication service in this state
16 ~~commencing on July 1, 1977.~~

17 *(B) The surcharge shall be applied to prepaid mobile*
18 *telecommunications services pursuant to the Prepaid Mobile*
19 *Telephony Services Surcharge and Collection Act (Part 21*
20 *(commencing with Section 42000)), and the calculation of the*
21 *intrastate portion of charges for prepaid mobile*
22 *telecommunications services shall be made pursuant to paragraph*
23 *(1) of subdivision (b) of Section 42010. This subparagraph shall*
24 *become inoperative on January 1, 2017. The Legislature finds and*
25 *declares that it is the intent of the Legislature to develop and*
26 *implement a reasonable and equitable means to collect local utility*
27 *user taxes and local communications related charges on prepaid*
28 *mobile telephony services in addition to the state charges collected*
29 *through the Prepaid Mobile Telephony Services Surcharge and*
30 *Collection Act (Part 21 (commencing with Section 42000)) and*
31 *that if the Legislature is unable to develop and implement a*
32 *reasonable and equitable means to collect local charges, that*
33 *collection of the state charges pursuant to the act will terminate.*
34 *The Legislature further finds and declares that this subparagraph*
35 *implements collection of the state charges pursuant to the act and*
36 *if the Legislature is unable to develop and implement a reasonable*
37 *and equitable means to collect local charges before January 1,*
38 *2017, that this subparagraph is to become inoperative.*

39 (2) VoIP service that provides access to the “911” emergency
40 system by utilizing the digits 9-1-1 by any service user in this state

1 commencing on January 1, 2009. The surcharge shall not apply to
2 charges for VoIP service where any point of origin or destination
3 is outside of this state.

4 (b) (1) Notwithstanding Section 41025, charges not subject to
5 the surcharge may be calculated by a service supplier based upon
6 books and records kept in the regular course of business, and, for
7 purposes of calculating the interstate revenue portion not subject
8 to the surcharge, a service supplier may also choose a reasonable
9 and verifiable method from the following:

10 (A) Books and records kept in the regular course of business.

11 (B) Traffic or call pattern studies representative of the service
12 supplier's business within California.

13 (C) For VoIP service only, the VoIP safe harbor factor
14 established by the FCC to be used to calculate the service supplier's
15 contribution to the federal Universal Service Fund. The FCC safe
16 harbor factor in effect for VoIP service on September 1 of each
17 year shall apply for the period of January 1 through December 31,
18 inclusive, of the next succeeding calendar year for purposes of this
19 method. At such time as the FCC establishes a safe harbor factor
20 for the federal Universal Service Fund for VoIP service that is
21 greater than 75 percent for interstate revenue or abolishes the safe
22 harbor factor applicable to VoIP service, this method shall become
23 void and of no effect, in which case a VoIP service supplier may
24 use an alternative method approved in advance by the board, which
25 shall be available to all VoIP service suppliers. The FCC safe
26 harbor factor applicable to VoIP service, as described in this
27 subparagraph, is used solely as a mechanism to calculate the
28 charges not subject to the surcharge for VoIP service and is not
29 necessarily reflective of the intrastate portion of VoIP service. The
30 use of the FCC safe harbor factor authorized by this subdivision
31 shall not be interpreted to permit application of any intrastate
32 requirement, other than the surcharge imposed under this part,
33 upon VoIP service suppliers.

34 (2) Any method chosen by a service supplier shall remain in
35 effect for at least one calendar year.

36 (3) If a service supplier reasonably relies upon books and
37 records kept in the regular course of business or any documentation
38 that satisfies the reasonable and verifiable method, then the service
39 supplier's determination of the portion of the billed amount
40 attributable to services not subject to the surcharge shall be

1 rebuttably presumed to be correct. The service supplier's choice
2 of books and records or other method and surcharge billing practice
3 shall also be rebuttably presumed to be fair and legal business
4 practices.

5 (4) It is the intent of the Legislature that the provisions of
6 subparagraph (C) shall not be considered to be a precedent for the
7 application of the surcharge or any other tax or fee where a person
8 is required to collect a tax or fee imposed upon another.

9 (c) The surcharge imposed shall be at the rate of one-half of 1
10 percent of the charges made for such services to and including
11 November 1, 1982, and thereafter at a rate fixed pursuant to Article
12 2 (commencing with Section 41030).

13 (d) The surcharge shall be paid by the service user as hereinafter
14 provided.

15 (e) The surcharge imposed shall not apply to either of the
16 following:

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

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

30 (f) For purposes of this section:

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

1 (2) “Customer” means (A) the person or entity that contracts
2 with the home service provider for mobile telecommunications
3 services, or with a VoIP service provider for VoIP service, or (B)
4 if the end user of mobile telecommunications services or VoIP
5 service is not the contracting party, the end user of the mobile
6 telecommunications service or VoIP service. This paragraph applies
7 only for the purpose of determining the place of primary use. The
8 term “customer” does not include (A) a reseller of mobile
9 telecommunications service or VoIP communication service, or
10 (B) a serving carrier under an arrangement to serve the mobile
11 customer outside the home service provider’s licensed service
12 area.

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

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

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

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

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

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

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

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

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

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

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

14 ~~(g) The amendments made to this section by the act that added
15 this subdivision shall become operative upon the enactment of that
16 act, except that subdivisions (a) and (b) of this section, as amended,
17 shall become operative on January 1, 2009.~~

18 *SEC. 8. Section 41030 of the Revenue and Taxation Code is*
19 *amended to read:*

20 41030. (a) The California Technology Agency shall determine
21 annually, on or before October 1, a surcharge rate that it estimates
22 will produce sufficient revenue to fund the current fiscal year’s
23 911 costs. The surcharge rate shall be determined by dividing the
24 costs (including incremental costs) the California Technology
25 Agency estimates for the current fiscal year of 911 plans approved
26 pursuant to Section 53115 of the Government Code, less the
27 available balance in the State Emergency Telephone Number
28 Account in the General Fund, by its estimate of the charges for
29 intrastate telephone communications services and VoIP service to
30 which the surcharge will apply for the period of January 1 to
31 December 31, inclusive, of the next succeeding calendar year, but
32 in no event shall such surcharge rate in any year be greater than
33 three-quarters of 1 percent nor less than one-half of 1 percent.

34 (b) (1) *This section shall become operative on January 1, 2017.*

35 (2) *The Legislature finds and declares that it is the intent of the*
36 *Legislature to develop and implement a reasonable and equitable*
37 *means to collect local utility user taxes and local communications*
38 *related charges on prepaid mobile telephony services in addition*
39 *to the state charges collected through the Prepaid Mobile*
40 *Telephony Services Surcharge and Collection Act (Part 21*

1 (commencing with Section 42000)) and that if the Legislature is
2 unable to develop and implement a reasonable and equitable means
3 to collect local charges, that collection of the state charges
4 pursuant to the act will terminate. The Legislature further finds
5 and declares that if the Legislature is unable to develop and
6 implement a reasonable and equitable means to collect local
7 charges by January 1, 2017, that this section shall become
8 operative.

9 SEC. 9. Section 41030.1 is added to the Revenue and Taxation
10 Code, to read:

11 41030.1. (a) The California Technology Agency shall
12 determine annually, on or before October 1, to be effective on
13 January 1 of the following year, a surcharge pursuant to
14 subdivision (b), that it estimates will produce sufficient revenue
15 to fund the current fiscal year's 911 costs.

16 (b) The surcharge shall be determined by dividing the costs
17 (including incremental costs) the California Technology Agency
18 estimates for the current fiscal year of 911 plans approved pursuant
19 to Section 53115 of the Government Code, less the available
20 balance in the State Emergency Telephone Number Account in the
21 General Fund, by its estimate of the charges for intrastate
22 telephone communications services, the intrastate portion of
23 prepaid mobile telecommunications services, and VoIP service to
24 which the surcharge will apply for the period of January 1 to
25 December 31, inclusive, of the next succeeding calendar year, but
26 in no event shall such surcharge in any year be greater than
27 three-quarters of 1 percent nor less than one-half of 1 percent. On
28 or before October 1, 2013, and annually on or before October 1
29 thereafter, in making its estimate of charges that are applicable
30 to the intrastate portion of prepaid mobile telecommunications
31 services, the California Technology Agency shall multiply the
32 surcharge by the inverse of the interstate safe harbor percentage
33 established by the Federal Communications Commission for
34 federal universal service contribution purposes, consistent with
35 the methodology to be used by the board to calculate the prepaid
36 MTS surcharge pursuant to paragraph (1) of subdivision (b) of
37 Section 42010.

38 (c) The California Technology Agency shall notify the board of
39 the surcharge amount by October 15 of each year, commencing
40 with October 15, 2013. The board shall utilize the surcharge

1 amount to calculate the emergency telephone users surcharge
2 component of the prepaid MTS surcharge pursuant to paragraph
3 (1) of subdivision (b) of Section 42010.

4 (d) (1) This section shall remain in effect only until January 1,
5 2017, and as of that date is repealed, unless a later enacted statute,
6 that is chaptered before January 1, 2017, deletes or extends that
7 date.

8 (2) The Legislature finds and declares that it is the intent of the
9 Legislature to develop and implement a reasonable and equitable
10 means to collect local utility user taxes and local communications
11 related charges on prepaid mobile telephony services in addition
12 to the state charges collected through the Prepaid Mobile
13 Telephony Services Surcharge and Collection Act (Part 21
14 (commencing with Section 42000)) and that if the Legislature is
15 unable to develop and implement a reasonable and equitable means
16 to collect local charges, that collection of the state charges
17 pursuant to the act will terminate. The Legislature further finds
18 and declares that this section implements collection of the state
19 charges pursuant to the act and if the Legislature is unable to
20 develop and implement a reasonable and equitable means to collect
21 local charges before January 1, 2017, that this section should be
22 repealed.

23 ~~SEC. 2.~~

24 SEC. 10. Part 21 (commencing with Section 42000) is added
25 to Division 2 of the Revenue and Taxation Code, to read:

26

27 PART 21. PREPAID-WIRELESS MOBILE TELEPHONY
28 SERVICES SURCHARGE AND COLLECTION ACT

29

30 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

31

32 42000. This part shall be known, and may be cited, as the
33 Prepaid-Wireless Mobile Telephony Services Surcharge and
34 Collection Act.

35 42002. The Legislature finds and declares all of the following:

- 36 (a) Maintaining effective and efficient-telecommunications
37 communications services, 911 emergency systems,
38 telecommunications-related communications-related public policy
39 programs to promote universal service, and various local programs

1 across the state benefits all persons with access to the
 2 telecommunications system.

3 ~~(b) Under existing law, end-use communications taxes, fees,~~
 4 ~~and surcharges, including the Emergency Telephone Users~~
 5 ~~Surcharge Act (Part 20 (commencing with Section 41001)),~~
 6 ~~telecommunications universal service surcharges, local 911~~
 7 ~~emergency system surcharges, and utility user taxes are important~~
 8 ~~funding mechanisms to assist state and local governments with~~
 9 ~~the deployment of a variety of important services and programs~~
 10 ~~to the citizens of this state.~~

11 ~~(e)~~
 12 *(b) Providers of end-use communications services, including*
 13 *providers of mobile voice telecommunications services, which the*
 14 *Federal Communications Commission terms mobile telephony*
 15 *services, are required to collect and remit communications taxes,*
 16 *fees, and surcharges on various types of communication service*
 17 *revenues, as provided by existing state or local law.*

18 ~~(d)~~
 19 *(c) Consumers purchase prepaid—communications mobile*
 20 *telephony services at a wide variety of retail locations and other*
 21 *distribution channels, as well as through service providers.*

22 ~~(e)~~
 23 *(d) Prepaid—communications mobile telephony services are an*
 24 *important and growing segment of the communications industry.*
 25 *Prepaid—communications mobile telephony services are often the*
 26 *only means by which persons with low incomes can obtain limited*
 27 *access to the telecommunications system.*

28 ~~(f)~~
 29 *(e) To ensure equitable contributions from end-use consumers*
 30 *of postpaid and prepaid—communications mobile telephony services*
 31 *in this state, there should be standardization with respect to the*
 32 *method used to collect communications taxes, fees, and surcharges*
 33 *from end-use consumers of prepaid—communications mobile*
 34 *telephony services.*

35 *(f) Prepaid mobile telephony services are frequently sold by a*
 36 *third-party retailer that is not the provider of mobile telephony*
 37 *services, and collecting taxes, fees, and surcharges from prepaid*
 38 *consumers of mobile telephony services at the time of the retail*
 39 *transaction is necessary and the most efficient and competitively*
 40 *neutral means of collection.*

1 42004. For purposes of this part, the following terms have the
2 following meanings:

3 (a) ~~“Communications charge” means any and all state and~~
4 ~~locally authorized taxes, fees, and surcharges that are applicable~~
5 ~~to mobile telephony services, including each of the following:~~

6 (1) ~~Surcharges authorized pursuant to the Emergency Telephone~~
7 ~~Users Surcharge Act (Part 20 (commencing with Section 41001))~~
8 ~~that are applicable to mobile telephony services.~~

9 (2) ~~Charges authorized by the Public Utilities Commission to~~
10 ~~be collected from end-use customers of mobile telephony services,~~
11 ~~including:~~

12 (A) ~~The California High-Cost Fund-A Administrative~~
13 ~~Committee Fund program surcharge (Section 275.6 of the Public~~
14 ~~Utilities Code).~~

15 (B) ~~The California High-Cost Fund-B Administrative Committee~~
16 ~~Fund program surcharge (Section 739.3 of the Public Utilities~~
17 ~~Code).~~

18 (C) ~~The Deaf and Disabled Telecommunications Program~~
19 ~~Administrative Committee Fund surcharge (Section 2881 of the~~
20 ~~Public Utilities Code).~~

21 (D) ~~The California Teleconnect Fund Administrative Committee~~
22 ~~Fund program surcharge (Section 280 of the Public Utilities Code).~~

23 (E) ~~The California Advanced Services Fund program surcharge~~
24 ~~(Section 281 of the Public Utilities Code).~~

25 (F) ~~The Moore Universal Telephone Service Act (Article 8~~
26 ~~(commencing with Section 871) of Chapter 4 of Part 1 of Division~~
27 ~~1 of the Public Utilities Code).~~

28 (G) ~~Public Utilities Commission reimbursement fees collected~~
29 ~~pursuant to Chapter 2.5 (commencing with Section 401) of Part 1~~
30 ~~of Division 1 of the Public Utilities Code.~~

31 (3) ~~Local 911 or access line taxes, fees, or surcharges that are~~
32 ~~applicable to mobile telephony services.~~

33 (4) ~~Local utility user taxes that are applicable to mobile~~
34 ~~telephony services.~~

35 (b) ~~“Consumer” means a person who purchases prepaid mobile~~
36 ~~telephony services in a retail transaction.~~

37 (c) ~~“Local component” means those items included in paragraphs~~
38 ~~(3) and (4) of subdivision (a), for a retail transaction, as defined~~
39 ~~in subdivision (h).~~

40 (a) *“Board” means the State Board of Equalization.*

1 (b) “Emergency telephone users surcharge” means surcharges
2 authorized pursuant to the Emergency Telephone Users Surcharge
3 Act (Part 20 (commencing with Section 41001)) to be billed and
4 collected from prepaid consumers of mobile telephony services.

5 (c) “In this state” means within the exterior limits of the State
6 of California and includes all territory within those limits owned
7 by or ceded to the United States of America.

8 (d) “Mobile telephony service” and “mobile data service” have
9 the same meanings as defined in Section 224.4 of the Public
10 Utilities Code.

11 ~~(e) “Prepaid communications charge” means a communications~~
12 ~~charge that is required to be collected by a seller from a consumer~~
13 ~~in the amount established pursuant to Chapter 2 (commencing with~~
14 ~~Section 42010).~~

15 ~~(f) “Prepaid mobile telephony services” means a purchase of~~
16 ~~the right to utilize mobile telephony services, either alone or in~~
17 ~~combination with mobile data services, that is paid for in advance~~
18 ~~and is sold in predetermined units or dollars of which the number~~
19 ~~declines with use in a known amount.~~

20 ~~(g) “Provider” means a person or corporation that provides~~
21 ~~prepaid mobile telephony services pursuant to a license issued by~~
22 ~~the Federal Communications Commission.~~

23 (e) “Person” includes any individual, firm, partnership, joint
24 venture, limited liability company, association, social club,
25 fraternal organization, corporation, estate, trust, business trust,
26 receiver, assignee for the benefit of creditors, trustee, trustee in
27 bankruptcy, syndicate, the United States, this state, any city, county,
28 city and county, municipality, district, or other political subdivision
29 of the state, or any other group or combination acting as a unit.

30 (f) “Prepaid consumer” means a person who purchases prepaid
31 mobile telephony services in a retail transaction.

32 (g) “Prepaid mobile telephony services” means the right to
33 utilize a mobile device authorized by the Federal Communications
34 Commission for mobile telecommunications services or information
35 services, including the download of digital products delivered
36 electronically, content, and ancillary services, or both
37 telecommunications services and information services, that is
38 purchased in advance of usage in predetermined units or dollars,
39 with the right of usage declining in a known amount upon being
40 used. For these purposes, “telecommunications service” and

1 “information service” have the same meanings as defined in
2 Section 153 of Title 47 of the United States Code.

3 (h) “Prepaid MTS provider” means a person that provides
4 prepaid mobile telephony services pursuant to a license issued by
5 the Federal Communications Commission.

6 (i) “Prepaid MTS surcharge” means a unitary surcharge that
7 consists of the emergency telephone users surcharge and the Public
8 Utilities Commission surcharges, as calculated pursuant to
9 subdivision (b) of Section 42010.

10 (j) “Public Utilities Commission surcharges” means surcharges
11 authorized by the Public Utilities Commission to be billed and
12 collected from end-use consumers of wireless communications
13 services, and of which the commission provides the board with
14 notice pursuant to Section 316 of the Public Utilities Code,
15 including:

16 (1) The California High-Cost Fund-A Administrative Committee
17 Fund program surcharge (Section 275.6 of the Public Utilities
18 Code).

19 (2) The California High-Cost Fund-B Administrative Committee
20 Fund program surcharge (Section 739.3 of the Public Utilities
21 Code).

22 (3) The Deaf and Disabled Telecommunications Program
23 Administrative Committee Fund surcharge (Section 2881 of the
24 Public Utilities Code).

25 (4) The California Teleconnect Fund Administrative Committee
26 Fund program surcharge (Section 280 of the Public Utilities Code).

27 (5) The California Advanced Services Fund program surcharge
28 (Section 281 of the Public Utilities Code).

29 (6) The Moore Universal Telephone Service Act (Article 8
30 (commencing with Section 871) of Chapter 4 of Part 1 of Division
31 1 of the Public Utilities Code).

32 (7) Public Utilities Commission reimbursement fees imposed
33 pursuant to Chapter 2.5 (commencing with Section 401) of Part
34 1 of Division 1 of the Public Utilities Code.

35 (~~h~~)

36 (k) “Retail transaction” means the purchase of prepaid mobile
37 telephony services, either alone or in combination with mobile
38 data services, from a seller for any purpose other than resale in the
39 regular course of business. For these purposes, a “purchase”

1 means any transfer of title or possession, exchange, or barter,
2 conditional or otherwise.

3 (i)
4 (l) "Seller" means a person or corporation that sells prepaid
5 mobile telephony service to a prepaid consumer.

6 (j) "State component" means those portions of the prepaid
7 communications charge that are collected and remitted for state
8 services, specifically those items included in paragraphs (1) and
9 (2) of subdivision (a).

10
11 CHAPTER 2. THE PREPAID COMMUNICATIONS CHARGE MOBILE
12 TELEPHONY SERVICES SURCHARGE
13

14 42010. (a) There is hereby imposed upon end-use consumers
15 a prepaid communications charge that consists of the state
16 component and the local component, if applicable, to be collected
17 at the time of the retail transaction based upon a percentage of the
18 sales price of each retail transaction that occurs in this state.

19 (b) Beginning _____, the state component of the prepaid
20 communications charge shall be collected by each seller from the
21 consumer for each retail transaction that occurs in the state. The
22 board shall annually post on its Internet Web site the amount of
23 the state component, to include those amounts determined by the
24 Public Utilities Commission pursuant to Section 316 of the Public
25 Utilities Code and those amounts to be collected pursuant to the
26 Emergency Telephone Users Surcharge Act (Part 20 (commencing
27 with Section 41001)). The board shall post those amounts on its
28 Internet Web site not less than _____ days prior to the date on which
29 those amounts shall go into effect as the new amount of the state
30 component.

31 (c) It is the intent of the Legislature to develop a method for
32 sellers to also collect a local component if the retail transaction
33 occurs within a local governmental jurisdiction that has elected to
34 impose such a charge, or more than one such charge.

35 (d) A seller collecting prepaid communications charges pursuant
36 to this part may rely upon the accuracy of the information posted
37 on the board's Internet Web site in collecting those charges.

38 (e) The amount of the prepaid communications charge shall be
39 separately stated on an invoice, receipt, or other similar document
40 that is provided to the consumer by the seller or otherwise disclosed

1 to the consumer. The seller may, but is not required to, separately
2 provide the state component and local component of the prepaid
3 communications charge.

4 ~~42012. For purposes of this chapter, a retail transaction occurs~~
5 ~~in this state, and within a local governmental jurisdiction of the~~
6 ~~state, under any of the following circumstances:~~

7 ~~(a) The consumer makes the retail transaction in person at a~~
8 ~~business location in the state or local jurisdiction.~~

9 ~~(b) If subdivision (a) is not applicable, the product is delivered~~
10 ~~to the consumer by mail or other form of shipping to an address~~
11 ~~in the state that the consumer supplies to the seller for purposes~~
12 ~~of mailing or shipping.~~

13 ~~(c) If neither subdivision (a) nor (b) is applicable, the seller's~~
14 ~~records, maintained in the ordinary course of business, indicate~~
15 ~~that the consumer's address is in the state and the records are not~~
16 ~~made or kept in bad faith.~~

17 ~~(d) If subdivisions (a), (b), and (c) are not applicable, the~~
18 ~~consumer gives an address in the state during consummation of~~
19 ~~the sale, including the consumer's payment instrument if no other~~
20 ~~address is available, and the address is not given in bad faith.~~

21 ~~(e) If subdivisions (a), (b), (c), and (d) are not applicable, the~~
22 ~~calling number for the mobile telephony service communications~~
23 ~~device is associated with an area code located in California.~~

24 *42010. (a) (1) On and after January 1, 2014, a prepaid MTS*
25 *surcharge shall be imposed on each prepaid consumer and shall*
26 *be collected by a seller from each prepaid consumer at the time*
27 *of each retail transaction for prepaid mobile telephony services*
28 *in the state. The prepaid MTS surcharge shall be collected as a*
29 *percentage of the amount of each retail transaction that occurs in*
30 *this state.*

31 *(2) The prepaid MTS surcharge shall be in lieu of any charges*
32 *imposed pursuant to the Emergency Telephone Users Surcharge*
33 *Act (Part 20 (commencing with Section 41001)) and the Public*
34 *Utilities Commission surcharges for prepaid mobile telephony*
35 *services.*

36 *(b) The prepaid MTS surcharge shall be annually calculated*
37 *by the board by no later than November 1 of each year commencing*
38 *November 1, 2013, by adding the following:*

39 *(1) The surcharge rate established pursuant to Section 41030*
40 *as of October 1 of each year, which shall be the surcharge rate*

1 established for intrastate telephone communication service in this
2 state multiplied by the inverse of the interstate safe harbor
3 percentage established by the Federal Communications
4 Commission for federal universal service contribution purposes,
5 as these percentages may be revised from time to time.

6 (2) The Public Utilities Commission surcharges, established by
7 the commission pursuant to Section 316 of the Public Utilities
8 Code, as of October 1 of each year, multiplied by the inverse of
9 the interstate safe harbor percentage established by the Federal
10 Communications Commission for federal universal service
11 contribution purposes, as these percentages may be revised from
12 time to time.

13 (c) A seller collecting prepaid MTS surcharges pursuant to this
14 part may rely upon the accuracy of the information posted on the
15 board's Internet Web site in collecting those surcharges.

16 (d) Except for amounts retained pursuant to subdivision (e), all
17 amounts of the prepaid MTS surcharge collected by sellers shall
18 be remitted to the board pursuant to Chapter 3 (commencing with
19 Section 42020).

20 (e) A seller shall be permitted to deduct and retain an amount
21 equal to ____ percent of the amounts that are collected by the
22 seller from prepaid consumers for the prepaid MTS surcharge.

23 (f) The amount of the prepaid MTS surcharge shall be separately
24 stated on an invoice, receipt, or other similar document that is
25 provided to the prepaid consumer of mobile telephony services by
26 the seller, or otherwise disclosed to the prepaid consumer, at the
27 time of the retail transaction.

28 (g) The prepaid MTS surcharge is required to be collected by
29 a seller and any amount unreturned to the prepaid consumer of
30 mobile telephony services that is not owed as part of the surcharge,
31 but was collected from the prepaid consumer under the
32 representation by the seller that it was owed as part of the
33 surcharge, constitute debts owed by the seller to this state.

34 (h) (1) Every prepaid consumer of mobile telephony services
35 in this state is liable for the prepaid MTS surcharge until they have
36 been paid to this state, except that payment to a seller registered
37 under this part relieves the prepaid consumer from further liability
38 for the surcharge. Any surcharge collected from a prepaid
39 consumer that has not been remitted to the board shall be a debt
40 owed to the state by the person required to collect and remit the

1 surcharge. Nothing in this part shall impose any obligation upon
2 a seller to take any legal action to enforce the collection of the
3 surcharge imposed by this section.

4 (2) A credit shall be allowed against, but shall not exceed, the
5 prepaid MTS surcharge imposed on any prepaid consumer of
6 mobile telephony services by this part to the extent that the prepaid
7 consumer has paid emergency telephone users charges, state utility
8 regulatory commission fees, or state universal service charges on
9 the purchase to any other state, political subdivision thereof, or
10 the District of Columbia. The credit shall be apportioned to the
11 charges against which it is allowed in proportion to the amounts
12 of those charges.

13 42012. (a) For purposes of this part, a retail transaction
14 occurs in the state under any of the following circumstances:

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

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

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

23 (B) The prepaid consumer is being billed for the retail
24 transaction at an address in the state.

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

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

35 (b) If the retail transaction is a point-of-sale transaction, the
36 consumption of the prepaid mobile telephony service shall be
37 presumed to be at that location. If the retail transaction is a
38 known-address transaction, the location shall be as determined
39 in descending order beginning with subparagraph (A) of paragraph
40 (2), if subparagraph (A) is inapplicable, then pursuant to

1 *subparagraph (B), if both subparagraph (A) and (B) are*
 2 *inapplicable, then subparagraph (C), and if subparagraphs (A),*
 3 *(B), and (C) are inapplicable, then subparagraph (D).*

4 *(c) A seller that relies in good faith on information provided by*
 5 *the board to match the location of a point-of-sale transaction to*
 6 *the applicable prepaid MTS surcharge amount, collects that*
 7 *amount from the prepaid consumer, and remits the amount to the*
 8 *board in compliance with this part, shall not be liable for any*
 9 *additional MTS surcharge and shall not be required to refund any*
 10 *amounts collected and paid to the board to the prepaid consumer.*

11 42014. ~~The prepaid communications charge is the liability of~~
 12 ~~the MTS surcharge is imposed on the prepaid consumer of mobile~~
 13 ~~telephony services and not of on the seller or of on any prepaid~~
 14 ~~MTS provider, except that the a seller engaged in business in this~~
 15 ~~state shall be liable to collect and remit all of the prepaid~~
 16 ~~communications charges that the seller collects from consumers~~
 17 ~~pursuant to Chapter 3 (commencing with Section 42020), including~~
 18 ~~all charges that the seller is deemed to collect where the amount~~
 19 ~~of the charge has not been separately stated on an invoice, receipt,~~
 20 ~~or other similar document provided to the consumer by the seller~~
 21 *MTS surcharges pursuant to this part.*

22 42016. (a) If prepaid mobile telephony services are sold with
 23 one or more other products for a single, nonitemized price, then
 24 ~~the prepaid communications charge~~ *MTS surcharge* shall apply to
 25 the entire nonitemized price unless the seller elects to apply the
 26 ~~charge surcharge~~ to either of the following:

27 (1) If the purchase price for the prepaid mobile telephony
 28 services component of the bundled charge is disclosed to the
 29 *prepaid consumer on a receipt, invoice, or other written*
 30 *documentation, the prepaid communications charge shall* *MTS*
 31 *surcharge may be calculated based upon that amount.*

32 (2) If the seller can identify the portion of the bundled price that
 33 is attributable to supplying prepaid mobile telephony services by
 34 reasonable and verifiable standards from its books and records that
 35 are kept in the regular course of business for other purposes,
 36 including nontax purposes, the prepaid communications charge
 37 ~~shall~~ *may* be calculated based upon that amount.

38 (b) If a minimal amount of prepaid mobile telephony service is
 39 sold for a single, nonitemized price with a mobile telephony service
 40 communications device, commonly termed a cellular telephone,

1 the seller may elect not to apply the prepaid communications charge
2 *MTS surcharge* to the transaction. For these purposes, a service
3 allotment denominated as 10 minutes or less, or five dollars (\$5)
4 or less, is a minimal amount.

5
6 CHAPTER 3. ADMINISTRATION
7

8 ~~42020. (a) All prepaid communications charges collected by~~
9 ~~sellers shall be remitted to the board pursuant to the Fee Collection~~
10 ~~Procedures Law (Part 30 (commencing with Section 55001)). Not~~
11 ~~later than _____, the board shall establish registration and payment~~
12 ~~procedures for sellers consistent with the Fee Collection Procedures~~
13 ~~Law.~~

14 ~~(b) A seller shall be permitted to deduct and retain _____ percent~~
15 ~~of the prepaid communications charges that are collected by the~~
16 ~~seller from consumers.~~

17 ~~(c) The audit and appeal procedures of the Fee Collection~~
18 ~~Procedures Law (Part 30 (commencing with Section 55601)) shall~~
19 ~~apply to the collection and remittance of prepaid communications~~
20 ~~charges.~~

21 ~~(d) The board shall establish procedures to be utilized by a seller~~
22 ~~to document that a sale is not a retail transaction.~~

23 ~~(e) Within 30 days of receipt, and after deducting an amount~~
24 ~~not to exceed _____ percent of the collected prepaid~~
25 ~~communications charges retained by the board to reimburse its~~
26 ~~direct costs of administering the collection and remittance of~~
27 ~~prepaid communications charges, the board shall pay all remitted~~
28 ~~prepaid communications charges as follows:~~

29 ~~(1) The state component shall be remitted as follows:~~

30 ~~(A) To the California Technology Agency, that portion of the~~
31 ~~state component collected pursuant to the Emergency Telephone~~
32 ~~Users Surcharge Act (Part 20 (commencing with Section 41001)).~~

33 ~~(B) To the Public Utilities Commission, that portion of the state~~
34 ~~component collected for those charges authorized by the~~
35 ~~commission identified in paragraph (2) of subdivision (a) of Section~~
36 ~~42004.~~

37 ~~(2) The local component shall be remitted to the local~~
38 ~~government.~~

39 *42020. (a) The board shall administer the prepaid MTS*
40 *surcharge imposed by this part pursuant to the Fee Collection*

1 *Procedures Law (Part 30 (commencing with Section 55001)). For*
 2 *purposes of this part, the references in the Fee Collection*
 3 *Procedures Law to “fee” shall include the prepaid MTS surcharge*
 4 *imposed by this part, and references to “feepayer” shall include*
 5 *a person required to pay the surcharge imposed by this part, which*
 6 *includes the seller, who shall be required to register with the board.*
 7 *The audit, refund, and appeal procedures of the Fee Collection*
 8 *Procedures Law (Part 30 (commencing with Section 55601)) shall*
 9 *apply to the collection and remittance of the prepaid MTS*
 10 *surcharge.*

11 *(b) (1) The board may prescribe, adopt, and enforce regulations*
 12 *relating to the administration and enforcement of this part,*
 13 *including, but not limited to, collections, reporting, refunds, and*
 14 *appeals.*

15 *(2) The board may prescribe, adopt, and enforce any emergency*
 16 *regulations as necessary to implement this part. Any emergency*
 17 *regulation prescribed, adopted, or enforced pursuant to this section*
 18 *shall be adopted in accordance with Chapter 3.5 (commencing*
 19 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
 20 *Government Code, and, for purposes of that chapter, including*
 21 *Section 11349.6 of the Government Code, the adoption of the*
 22 *regulation is an emergency and shall be considered by the Office*
 23 *of Administrative Law as necessary for the immediate preservation*
 24 *of the public peace, health and safety, and general welfare.*

25 *(c) The board shall establish procedures to be utilized by a*
 26 *seller to document that a sale is not a retail transaction.*

27 *(d) The board shall establish procedures for sharing of*
 28 *information, other than information protected under Section 19542,*
 29 *related to the collection of the prepaid MTS surcharge upon the*
 30 *request of the Public Utilities Commission or the California*
 31 *Technology Agency.*

32 *42021. (a) The prepaid MTS surcharge, minus the amount*
 33 *retained by the seller pursuant to subdivision (e) of Section 42010,*
 34 *is due and payable to the board quarterly on or before the last day*
 35 *of the month next succeeding each quarterly period.*

36 *(b) On or before the last day of the month following each*
 37 *quarterly period of three months, a return for the preceding*
 38 *quarterly period shall be filed using electronic media with the*
 39 *board.*

1 (c) Returns shall be authenticated in a form or pursuant to
2 methods as may be prescribed by the board.

3 42022. Every seller shall register with the board. Every
4 application for registration shall be made upon a form prescribed
5 by the board and shall set forth the name under which the applicant
6 transacts or intends to transact business, the location of its place
7 or places of business, and such other information as the board
8 may require. An application for an registration shall be
9 authenticated in a form or pursuant to methods as may be
10 prescribed by the board.

11 42023. (a) The Prepaid Mobile Telephony Services Surcharge
12 Fund is hereby created in the State Treasury. The Prepaid MTS
13 911 Account and the Prepaid MTS PUC Account are hereby
14 created in the fund. The Prepaid Mobile Telephony Services
15 Surcharge Fund shall consist of all surcharges, interest, penalties,
16 and other amounts collected and paid to the board pursuant to
17 this part, less a deduction in an amount not to exceed 2 percent of
18 the collected amounts to refund and reimburse the board for
19 expenses incurred in the administration and collection of the
20 prepaid MTS surcharge.

21 (b) All moneys in the Prepaid Mobile Telephony Services
22 Surcharge Fund attributable to the prepaid MTS surcharge shall
23 be deposited as follows:

24 (1) That portion of the prepaid MTS surcharge that is for the
25 emergency telephone users surcharge shall be deposited into the
26 Prepaid MTS 911 Account.

27 (2) That portion of the prepaid MTS surcharge that is for the
28 Public Utilities Commission surcharges shall be deposited into
29 the Prepaid MTS PUC Account.

30 (c) Moneys in the Prepaid MTS 911 Account and the Prepaid
31 MTS PUC Account may be appropriated by the Legislature only
32 for the purposes for which the moneys were collected. All moneys
33 collected pursuant to this part shall be allocated only to the entities
34 specified in this section and shall not be used for any other
35 purpose, including, but not limited to, loans, transfers, or uses for
36 any other purpose, funds, or account.

37 42024. (a) This part shall remain in effect only until January
38 1, 2017, and as of that date is repealed, unless a later enacted
39 statute, that is chaptered before January 1, 2017, deletes or extends
40 that date.

1 (b) *The Legislature finds and declares that it is the intent of the*
 2 *Legislature to develop and implement a reasonable and equitable*
 3 *means to collect local utility user taxes and local communications*
 4 *related charges on prepaid mobile telephony services in addition*
 5 *to the state charges collected pursuant to this part and that if the*
 6 *Legislature is unable to develop and implement a reasonable and*
 7 *equitable means to collect local charges before January 1, 2017,*
 8 *that collection of the state charges pursuant to this part will*
 9 *terminate.*

10 *SEC. 11. (a) The amendments to Section 41030 of the Revenue*
 11 *and Taxation Code made by Section 8 of this act are not intended*
 12 *to supersede the amendments made to that code section by Section*
 13 *310 of the Governor’s Reorganization Plan No. 2 of 2012, which*
 14 *took effect on July 3, 2012, and will become fully operative on July*
 15 *1, 2013.*

16 (b) *The addition of Section 41030.1 of the Revenue and Taxation*
 17 *Code made by Section 9 of this act is not intended to supersede*
 18 *the amendments made to Section 41030 of the Revenue and*
 19 *Taxation Code by Section 310 of the Governor’s Reorganization*
 20 *Plan No. 2 of 2012, which took effect on July 3, 2012, and will*
 21 *become fully operative on July 1, 2013.*

22 ~~SEC. 3.~~

23 *SEC. 12. No reimbursement is required by this act pursuant to*
 24 *Section 6 of Article XIII B of the California Constitution because*
 25 *the only costs that may be incurred by a local agency or school*
 26 *district will be incurred because this act creates a new crime or*
 27 *infraction, eliminates a crime or infraction, or changes the penalty*
 28 *for a crime or infraction, within the meaning of Section 17556 of*
 29 *the Government Code, or changes the definition of a crime within*
 30 *the meaning of Section 6 of Article XIII B of the California*
 31 *Constitution.*

32 ~~SEC. 4.~~

33 *SEC. 13. This act is an urgency statute necessary for the*
 34 *immediate preservation of the public peace, health, or safety within*
 35 *the meaning of Article IV of the Constitution and shall go into*
 36 *immediate effect. The facts constituting the necessity are:*

37 *In order to provide a standardized collection mechanism as soon*
 38 *as possible by which state and local charges can be collected from*
 39 *end-users of prepaid mobile telephony services, thereby permitting*
 40 *needed financial support for programs necessary to serve the public*

- 1 or telecommunications users, it is necessary that this act take effect
- 2 immediately.

O