

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1178**

Introduced by

Representatives Porter, Heinert, Nathe, Owens

Senators D. Larson, G. Lee, Wardner

1 A BILL for an Act to create and enact a new section to chapter 37-17.3 of the North Dakota
2 Century Code, relating to the creation of a statewide interoperable radio network fund, to amend
3 and reenact subsection 1 of section 37-17.3-02.2, subsection 4 of section 54-59-05, section
4 57-40.6-02 and subsection 1 of section 57-40.6-14 of the North Dakota Century Code, relating
5 to the statewide interoperability executive committee, the powers and duties of the information
6 technology department, the assessed communications service fee, and the prepaid wireless
7 emergency 911 fee; to authorize borrowing authority; to provide an appropriation; to provide
8 statements of legislative intent; to provide for a budget section report; and to provide an
9 expiration date.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1.** A new section to chapter 37-17.3 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Statewide interoperable radio network fund.**

- 14 1. A fund known as the statewide interoperable radio network fund must be maintained in
15 the state treasury. Subject to legislative approval and statewide interoperability
16 executive committee approval, moneys in the fund must be used for providing the
17 required state share of funding for expenses associated with the purchase, installation,
18 operation, and maintenance of a statewide interoperable radio network. The fund
19 consists of all moneys transferred into the fund, interest earned on moneys in the fund,
20 payments to the fund, and other fund earnings.
- 21 2. The chief information officer of the information technology department may apply for
22 and accept funds, grants, gifts, or services made available for the statewide
23 interoperable radio network by an agency or department of the federal government or
24 any other person. Any funds, grants, or gifts, or moneys received from services

1 received under this section must be deposited in the statewide interoperable radio
2 network fund.

3 3. Revenue received by a political subdivision in accordance with subsection 2 of section
4 57-40.6-02 must be remitted to the state treasurer for deposit in the statewide
5 interoperable radio network fund.

6 **SECTION 2. AMENDMENT.** Subsection 1 of section 37-17.3-02.2 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. The statewide interoperability executive committee consists of:

- 9 a. The director of state radio or a designee;
10 b. The director of the division of homeland security or a designee;
11 c. The superintendent of the highway patrol or a designee;
12 d. The adjutant general or a designee;
13 e. The director of the department of transportation or a designee;
14 f. A representative of the North Dakota sheriff's and deputies association;
15 g. A representative of the North Dakota emergency managers association;
16 h. A representative of the North Dakota fire chiefs association;
17 i. A representative of the North Dakota emergency medical services association;
18 j. A representative of the North Dakota police chiefs association;
19 k. A representative of the North Dakota peace officers association;
20 l. A representative of the North Dakota 911 association; ~~and~~
21 m. The North Dakota chief information officer or a designee;
22 n. The North Dakota Indian affairs commission executive director or a designee;
23 and
24 o. One member of the North Dakota house of representatives and one member of
25 the North Dakota senate appointed by the legislative management.

26 **SECTION 3. AMENDMENT.** Subsection 4 of section 54-59-05 of the North Dakota Century
27 Code is amended and reenacted as follows:

- 28 4. May purchase, finance the purchase, or lease equipment, software, or implementation
29 services or replace, including by trade or resale, equipment or software as may be
30 necessary to carry out this chapter. ~~And~~With the exception of agreements entered
31 related to the statewide interoperable radio network, an agreement to finance the

1 purchase of software, equipment, or implementation services may not exceed a period
2 of five years. The department shall submit any intended financing proposal for the
3 purchase of software, equipment, or implementation services under this subsection,
4 which is in excess of one million dollars, to the budget section of the legislative
5 management or the legislative assembly before executing a financing agreement. If
6 the budget section or the legislative assembly does not approve the execution of a
7 financing agreement, the department may not proceed with the proposed financing
8 arrangement. ~~The~~With the exception of financing for the statewide interoperable radio
9 network, the department may finance the purchase of software, equipment, or
10 implementation services only to the extent the purchase amount does not exceed
11 seven and one-half percent of the amount appropriated to the department during that
12 biennium.

13 **SECTION 4. AMENDMENT.** Section 57-40.6-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **57-40.6-02. Authority of counties or cities to impose fee on assessed**
16 **communications service - Procedure.**

17 The governing body of a county or city may impose a fee on all assessed communications
18 services in accordance with the following requirements:

- 19 1. The governing body shall adopt a resolution that proposes the adoption of the fee
20 permitted under this section. The resolution must specify an effective date for the fee
21 which is no more than two years before the expected implementation date of the
22 emergency services communication system to be funded by the fee. The resolution
23 must include a provision for submitting the proposed fee to the electors of the county
24 or city before the imposition of the fee is effective. The resolution must specify a fee
25 that does not exceed one dollar and fifty cents per month per communication
26 connection and must be applied equally upon all assessed communications services.
27 Prepaid wireless service is not subject to the fee imposed under this section.
- 28 2. A political subdivision shall add a fee of fifty cents to the fee imposed on assessed
29 communications services established under subsection 1. The additional fifty cents per
30 communication connection must be remitted to the state treasurer for deposit in the
31 statewide interoperable radio network fund in accordance with section 1 of this Act for

1 implementing a statewide interoperable radio network. The funds collected under this
2 subsection must be expended in a manner consistent with the recommendations of
3 the statewide interoperability executive committee.

4 3. The question of the adoption of the fee must be submitted on a petition on which the
5 petition title of the proposition includes the maximum monthly rate of the proposed fee
6 authorized under subsection 1. The question of the adoption of the fee may be
7 submitted to electors at a general, primary, or special election or at a school district
8 election if the boundaries of the school district are coterminous with the boundaries of
9 the governing body adopting the resolution proposing the adoption of the fee. The fee
10 is not effective unless it is approved by a majority of the electors voting on the
11 proposition. The ballot must be worded so that a "yes" vote authorizes imposition of
12 the fee.

13 ~~3.4.~~ Once established by this section, the maximum fee may be increased, decreased, or
14 eliminated by a majority vote of the electors. The question may be placed on the ballot
15 of any general, primary, or special election by a resolution of the governing body, or by
16 a petition signed by ten percent or more of the total number of qualified electors of the
17 political subdivision voting for governor at the most recent gubernatorial election and
18 submitted to the governing body. By action of the governing body, the fee amount
19 collected may be adjusted, subject to the maximum approved by the voters, to meet
20 the costs allowed by this chapter.

21 ~~4.5.~~ In any geographic area, only one political subdivision may impose the fee and
22 imposition must be based on the subscriber service address.

23 ~~5.6.~~ In the interest of public safety, where the subscriber's telephone exchange access
24 service boundary and the boundary of the political subdivision imposing the fee do not
25 coincide, and where all of the political subdivisions within the subscriber's telephone
26 exchange access service boundary have not complied with subsection 1, and where a
27 majority of the subscribers within the subscriber's telephone exchange access service
28 boundary have voted for the fee, a telephone exchange access service subscriber
29 whose subscriber service address is outside the political subdivision may receive 911
30 services by signing a contract agreement with the political subdivision providing the
31 emergency services communication system. The telephone exchange access service

1 provider may collect an additional fee, equal in amount to the basic fee on those
2 subscribers within the exchange boundary. The additional fee amounts collected must
3 be remitted as provided in this chapter.

4 ~~6-7.~~ A fee imposed under this section before August 1, 2007, on telephone exchange
5 access service is extended to all assessed communications services and will remain in
6 effect until changed pursuant to subsection ~~34~~.

7 **SECTION 5. AMENDMENT.** Subsection 1 of section 57-40.6-14 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. There is imposed a prepaid wireless emergency 911 fee of two and one-half percent
10 on the gross receipts of sellers from all sales at retail of prepaid wireless services in
11 this state.
 - 12 a. A retail transaction that is made, in person, by a consumer at a business location
13 of the seller shall be treated as occurring in this state if that business location is
14 in this state. Any other retail transaction shall be treated as occurring in this state
15 if the retail transaction is treated as occurring in this state under the provisions of
16 chapter 57-39.4 as those provisions apply to a prepaid wireless calling service.
 - 17 b. Prepaid wireless emergency 911 fees collected by sellers shall be remitted to the
18 commissioner.
 - 19 c. An entity required to collect and remit the prepaid wireless emergency 911 fee
20 shall register with the commissioner. The registration shall be made in the form
21 prescribed by the commissioner, in which the registrant shall identify the name
22 under which the registrant transacts or intends to transact business, the location
23 of the business, the federal identification number, and other information as the
24 commissioner may require.
 - 25 d. Gross receipts from sales at retail of prepaid wireless services are exempt from
26 the prepaid wireless emergency 911 fee imposed by this section when the sale is
27 made to a person entitled to a sales and use tax exemption under subsection 6
28 or 12 of section 57-39.2-04.

29 **SECTION 6. STATEWIDE INTEROPERABLE RADIO NETWORK IMPLEMENTATION -**
30 **FUTURE EXPENDITURES.** During the 2017-18 interim, the information technology department
31 shall begin implementation of a statewide interoperable radio network based on findings in the

1 North Dakota statewide interoperable network feasibility study and its recommendations as
2 adopted by the statewide interoperability executive committee. Current and future
3 appropriations and local government contributions for improvement or expansion of state or
4 local public safety land mobile radio systems must be expended in a manner consistent with the
5 recommendations of the statewide interoperability executive committee and only for solutions
6 that are determined by the committee to be interoperable and functional with the statewide
7 system.

8 **SECTION 7. LOAN AUTHORIZATION - APPROPRIATION - STATEWIDE**

9 **INTEROPERABLE RADIO NETWORK - BUDGET SECTION REPORTS.** The information
10 technology department may obtain a loan, subject to budget section approval, from the Bank of
11 North Dakota in an amount not to exceed \$15,000,000, the sum of which is appropriated to the
12 information technology department, for the purpose of defraying the expenses of the statewide
13 interoperable radio network for the biennium beginning July 1, 2017, and ending June 30, 2019.
14 The term of the loan may not exceed six years. The loan authorized in this section must be
15 repaid from funds available in the statewide interoperable radio network fund. During the
16 2017-18 interim, the information technology department shall provide status reports to the
17 budget section regarding the implementation and progress of the statewide interoperable radio
18 network.

19 **SECTION 8. LEGISLATIVE INTENT - RADIO FREQUENCIES.** By September 30, 2018, all
20 North Dakota entities operating a public-safety answering point shall relinquish legal rights to
21 any radio frequency required for the statewide interoperable radio network trunk system,
22 allowing these frequencies to be utilized by the state of North Dakota for the use of this network.

23 **SECTION 9. LEGISLATIVE INTENT - STATEWIDE INTEROPERABLE RADIO NETWORK**

24 **CONSOLIDATION.** It is the intent of the sixty-fifth legislative assembly that during the 2017-18
25 interim, the information technology department and statewide interoperability executive
26 committee make efforts to consolidate certain functions within the statewide interoperable radio
27 network.

28 **SECTION 10. EXPIRATION DATE.** This Act is effective through July 31, 2023, and after
29 that date is ineffective.