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Sixty-eighth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2149

Introduced by

Senators Hogan, Cleary, Dever, Lee
Representatives O'Brien, Swiontek

1 A BILL for an Act to create and enact a new section to chapter 50-06 and chapter 57-
2 40.7 of the North Dakota Century Code, relating to the creation of the 988 crisis hotline
3 program and the 988 crisis stabilization fund and the imposition of a 988 access fee; to
4 provide a continuing appropriation; to provide for a legislative management report; to
5 provide an appropriation; and to provide an effective date.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 SECTION 1. A new section to chapter 50-06 of the North Dakota Century Code
8 is created and enacted as follows:

9 988 crisis stabilization fund - 988 crisis hotline program - Establishment –
10 Continuing appropriation.

11 1. There is created in the state treasury a special fund known as the 988
12 crisis stabilization fund. The fund consists of all moneys deposited in the
13 fund pursuant to chapter 57-40.7 and through legislative appropriation. All
14 moneys deposited in the fund is appropriated as a continuing
15 appropriation to the department for the purposes under this section. The
16 first fifty thousand dollars deposited into the 988 crisis stabilization fund
17 must be used to reimburse the funds appropriated from the general fund
18 for the establishment and implementation of the 988 crisis hotline fee.

19 2. The department shall establish and implement a 988 crisis hotline
20 program to provide crisis outreach, stabilization, and acute care to
21 individuals calling the 988 crisis hotline. The department may adopt rules

1 in accordance with chapter 28 - 32 for the purpose of implementing this
2 section.

3 3. In developing the program, the department shall:

4 a. Determine the rate of a 988 surcharge to be collected by providers
5 of assessed communications services in an amount to be
6 established annually by the department, but not to exceed thirty
7 cents per month per communication connection. On or before
8 October 1, 2023, and on or before October first of each year
9 thereafter, the department shall notify the tax commissioner of the
10 amount of the surcharge for the next calendar year. The amount of
11 the surcharge must be calculated reasonably based on the cost of
12 the services received by a service user. The amount of the
13 surcharge imposed per 988 communication connection must be
14 uniform, regardless of the technology used to provide the 988
15 communication connection.

16 b. Fund the 988 crisis hotline to provide intervention services and
17 crisis care coordination to individuals calling the 988 crisis hotline.

18 c. Contract with crisis vendors to provide or administer crisis outreach,
19 stabilization, acute care, and marketing for the 988 crisis hotline.

20 d. Contract with a nonprofit organization to operate the 988 crisis
21 hotline and provide intervention services and crisis care
22 coordination to individuals calling the 988 crisis hotline from any
23 jurisdiction within the state, twenty-four hours a day, seven days a
24 week. The nonprofit organization must:

25 (1) Have an active agreement with the administrator of the
26 national suicide prevention lifeline for participation within the
27 network;

28 (2) Meet the national suicide prevention lifeline requirements for
29 servicing high - risk and specialized populations; and

30 (3) Provide followup services to individuals accessing the 988
31 crisis hotline.

1 e. Collaborate with the national suicide prevention lifeline and the
2 veterans crisis line for purposes of ensuring consistent public
3 messaging about the 988 crisis hotline and available services.

4 4. For purposes of this section:

5 a. "988 crisis hotline" means a state-identified hotline participating in
6 the national suicide prevention lifeline network to respond to
7 statewide or regional behavior health crisis calls.

8 b. "Communication connection" means a telephone access line,
9 wireless access line, unique voice over internet protocol service
10 connection, or functional equivalent uniquely identifiable by a
11 number, internet address, or other designation in which
12 connections are enabled, configured, or capable of making 988
13 calls.

14 c. "National suicide prevention lifeline" means a national network of
15 local crisis centers maintained by the federal substance abuse and
16 mental health services administration which provides free and
17 confidential emotional support to people in suicidal crisis or
18 emotional distress, twenty - four hours a day, seven days a week.

19 d. "Service user" means a person that is provided a 988
20 communication connection in the state.

21 e. "Veterans crisis line" means the veterans crisis line maintained by
22 the United States department of veterans affairs.

23 5. Except for action or inaction that constitutes gross negligence or willful
24 and wanton misconduct, each provider of a communications service and
25 their employees, agents, suppliers, and subcontractors are not liable for
26 the payment of damages resulting directly or indirectly from the total or
27 partial failure of any transmission to an emergency communication service
28 or for damages resulting from the performance of installing, maintaining,
29 or providing 988 service.

30 **SECTION 2.** Chapter 57-40.7 of the North Dakota Century Code is created and
1 enacted as follows:

1 **57-40.7-01. Definitions.**

2 In this chapter, unless the context otherwise requires:

- 3 1. "Assessed communications service" means a software service,
4 communication connection, cable or broadband transport facilities, or a
5 combination of these facilities, between a billed retail end user and a
6 service provider's network that provides the end user, upon contacting
7 988, access to the dedicated 988 network. The term includes telephone
8 exchange access service, wireless service, and voice over internet
9 protocol service.
- 10 2. "Assessed communications service provider" means any person that
11 provides telecommunications services pursuant to a license issued by the
12 federal communications commission.
- 13 3. "Commissioner" means the state tax commissioner.
- 14 4. "Communication connection" means a telephone access line, wireless
15 access line, unique voice over internet protocol service connection, or
16 functional equivalent uniquely identifiable by a number, internet address,
17 or other designation in which connections are enabled, configured, or
18 capable of making 988 calls.
- 19 5. "Telephone access line" means the principal access to the telephone
20 company's switched network, including an outward dialed trunk or access
21 register.
- 22 6. "Voice over internet protocol service" means a service that enables real-
23 time two-way voice communications, requires a broadband connection
24 from the user's location, requires internet protocol-compatible customer
25 premises equipment, and permits users generally to receive calls that
26 originate on the public switched telephone network and to terminate calls
27 to the public switched telephone network.
- 28 7. "Wireless access line" means each active wireless and prepaid wireless
29 telephone number assigned to a commercial mobile radio service
30 subscriber, including end users of resellers, billed in the state.

- 1 8. "Wireless service" means commercial mobile radio service as defined in
2 47 U.S.C. 332(d)(1) and includes:
3 a. Services commonly referred to as wireless; and
4 b. Services provided by any wireless real-time two-way voice
5 communication device, including radio-telephone communications
6 used in:
7 (1) Cellular telephone service;
8 (2) Personal communications service; or
9 (3) The functional or competitive equivalent of a radio-telephone
10 communications line used in cellular telephone service,
11 personal communications service, or a network radio access
12 line.

13 **57-40.7-02. 988 fee imposed - Assessed communications services.**

- 14 1. There is imposed a fee in the amount determined annually under section 1
15 of this Act per month per communication connection which must be
16 applied equally upon all assessed communications services.
17 2. The commissioner shall provide notice of the 988 surcharge fee for the
18 calendar year, as determined under section 1 of this Act, to assessed
19 communication service providers on or before November first by posting
20 the notice on the commissioner's website.
21 3. If the amount of the prepaid wireless emergency 988 fee imposed by this
22 section is separately stated on an invoice, receipt, or other similar
23 document provided to the consumer, the 988 fee may not be included in
24 the base for measuring any other tax, fee, surcharge, or other charge that
25 is imposed by this state, any political subdivision of the state, or any
26 intergovernmental agency.
27 4. Prepaid wireless services are not subject to the fee imposed by this
28 section.
29 5. The assessed communications service provider shall collect the fee from
30 the subscriber or customer of the service.

1 6. For assessed communications service that involves a monthly billing, in
2 the billing statement or invoice to the subscriber, the provider shall state
3 the amount of the fee separately.

4 7. An assessed communications service provider is required to collect,
5 report, and remit the 988 fee imposed under this section . An assessed
6 communication service provider must complete a monthly 988 surcharge
7 fee return reporting the amount of the 988 fee for the period covered by
8 the return, and any other information the commissioner may require.

9 Under this chapter:

10 a. The fee levied is due and payable on or before the last day of the
11 month succeeding each monthly period; and

12 b. An assessed communication service provider shall file the return by
13 electronic data interchange or other electronic media as determined
14 by the commissioner.

15 8. An assessed communication service provider may deduct and retain one
16 percent of the fee.

17 9. Chapter 57-39.2, pertaining to the administration of sales tax, not
18 inconsistent with the provisions of this chapter, govern the administration
19 of the 988 surcharge fee imposed in this chapter.

20 **57-40.7-03. 988 fee fund collections - Deposit.**

21 The commissioner shall remit quarterly the 988 fees collected under this chapter
22 to the state treasurer for deposit in the 988 crisis stabilization fund.

23 **SECTION 3. LEGISLATIVE MANAGEMENT REPORT - CRISIS**
24 **STABILIZATION FUND.**

25 During the 2023-24 interim, the ~~tax~~ department shall provide an annual report to the
26 legislative management on the balance of the 988 crisis stabilization fund. The report
27 must include information regarding the growth and balance of the fund;
28 recommendations, if any, for adjusting the fee rate; and any other findings,
29 recommendations, or conclusions the ~~tax~~ department deems necessary.

30 **SECTION 4. APPROPRIATION. ~~DEPARTMENT OF HEALTH AND HUMAN~~**
31 **~~SERVICES~~TAX COMMISSIONER - 988 ESTABLISHMENT COSTS.** There is

1 appropriated out of any moneys in the general fund in the state treasury, not otherwise
2 appropriated, the sum of fifty thousand dollars, or so much of the sum as may be
3 necessary, to the ~~department of health and human services~~tax commissioner for the
4 purpose of establishing and implementing ~~the 988 crisis hotline program~~fee, for the
5 biennium beginning July 1, 2023, and ending June 30, 2025.

6 **SECTION 5. EFFECTIVE DATE.** Section 2 of this Act is effective for taxable
7 periods beginning after December 31, 2023.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2149

Page 1, line 17, replace "crisis hotline" with "fee"

Page 6, line 2, remove "tax"

Page 6, line 5, remove "tax"

Page 6, line 7, replace "DEPARTMENT OF HEALTH AND HUMAN SERVICES" with
"TAX COMMISSIONER"

Page 6, line 10, replace "department of health and human services" with "tax
commissioner"

Page 6, line 11, replace "a" with "the"

Page 6, line 11, replace "crisis hotline program" with "fee"

Renumber accordingly

