

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 57-40.7 of the
2 North Dakota Century Code, relating to the creation of the 988 crisis hotline program and the
3 988 crisis stabilization fund and the imposition of a 988 access fee; to provide a continuing
4 appropriation; to provide for a legislative management report; to provide an appropriation; and
5 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 is created
8 and enacted as follows:

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

- 11 1. There is created in the state treasury a special fund known as the 988 crisis
12 stabilization fund. The fund consists of all moneys deposited in the fund pursuant to
13 chapter 57-40.7 and through legislative appropriation. All moneys deposited in the
14 fund is appropriated as a continuing appropriation to the department for the purposes
15 under this section. The first fifty thousand dollars deposited into the 988 crisis
16 stabilization fund must be used to reimburse the funds appropriated from the general
17 fund for the establishment and implementation of the 988 crisis hotline.
- 18 2. The department shall establish and implement a 988 crisis hotline program to provide
19 crisis outreach, stabilization, and acute care to individuals calling the 988 crisis hotline.
20 The department may adopt rules in accordance with chapter 28-32 for the purpose of
21 implementing this section.
- 22 3. In developing the program, the department shall:
 - 23 a. Determine the rate of a 988 surcharge to be collected by providers of assessed
24 communications services in an amount to be established annually by the

1 department, but not to exceed thirty cents per month per communication
2 connection. On or before October 1, 2023, and on or before October first of each
3 year thereafter, the department shall notify the tax commissioner of the amount of
4 the surcharge for the next calendar year. The amount of the surcharge must be
5 calculated reasonably based on the cost of the services received by a service
6 user. The amount of the surcharge imposed per 988 communication connection
7 must be uniform, regardless of the technology used to provide the
8 988 communication connection.

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

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

13 d. Contract with a nonprofit organization to operate the 988 crisis hotline and
14 provide intervention services and crisis care coordination to individuals calling the
15 988 crisis hotline from any jurisdiction within the state, twenty-four hours a day,
16 seven days a week. The nonprofit organization must:

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

19 (2) Meet the national suicide prevention lifeline requirements for serving
20 high-risk and specialized populations; and

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

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

25 4. For purposes of this section:

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

29 b. "Communication connection" means a telephone access line, wireless access
30 line, unique voice over internet protocol service connection, or functional
31 equivalent uniquely identifiable by a number, internet address, or other

1 designation in which connections are enabled, configured, or capable of making
2 988 calls.

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

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

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

12 5. Except for action or inaction that constitutes gross negligence or willful and wanton
13 misconduct, each provider of a communications service and their employees, agents,
14 suppliers, and subcontractors are not liable for the payment of damages resulting
15 directly or indirectly from the total or partial failure of any transmission to an
16 emergency communication service or for damages resulting from the performance of
17 installing, maintaining, or providing 988 service.

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

20 **57-40.7-01. Definitions.**

21 In this chapter, unless the context otherwise requires:

22 1. "Assessed communications service" means a software service, communication
23 connection, cable or broadband transport facilities, or a combination of these facilities,
24 between a billed retail end user and a service provider's network that provides the end
25 user, upon contacting 988, access to the dedicated 988 network. The term includes
26 telephone exchange access service, wireless service, and voice over internet protocol
27 service.

28 2. "Assessed communications service provider" means any person that provides
29 telecommunications services pursuant to a license issued by the federal
30 communications commission.

31 3. "Commissioner" means the state tax commissioner.

- 1 3.4. "Communication connection" means a telephone access line, wireless access line,
2 unique voice over internet protocol service connection, or functional equivalent
3 uniquely identifiable by a number, internet address, or other designation in which
4 connections are enabled, configured, or capable of making 988 calls.
- 5 4.5. "Telephone access line" means the principal access to the telephone company's
6 switched network, including an outward dialed trunk or access register.
- 7 5.6. "Voice over internet protocol service" means a service that enables real-time two-way
8 voice communications, requires a broadband connection from the user's location,
9 requires internet protocol-compatible customer premises equipment, and permits
10 users generally to receive calls that originate on the public switched telephone network
11 and to terminate calls to the public switched telephone network.
- 12 6.7. "Wireless access line" means each active wireless and prepaid wireless telephone
13 number assigned to a commercial mobile radio service subscriber, including end users
14 of resellers, billed in the state.
- 15 7.8. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C.
16 332(d)(1) and includes:
- 17 a. Services commonly referred to as wireless; and
- 18 b. Services provided by any wireless real-time two-way voice communication
19 device, including radio-telephone communications used in:
- 20 (1) Cellular telephone service;
- 21 (2) Personal communications service; or
- 22 (3) The functional or competitive equivalent of a radio-telephone
23 communications line used in cellular telephone service, personal
24 communications service, or a network radio access line.

25 **57-40.7-02. 988 fee imposed - Assessed communications services.**

- 26 1. There is imposed a fee in the amount determined annually under section 1 of this Act
27 per month per communication connection which must be applied equally upon all
28 assessed communications services.
- 29 2. ~~The assessed communications service provider shall collect the fee from the~~
30 ~~subscriber or customer of the service~~The commissioner shall provide notice of the 988
31 surcharge fee for the calendar year, as determined under section 1 of this Act, to

1 assessed communication service providers on or before November first by posting the
2 notice on the commissioner's website.

3 3. If the amount of the prepaid wireless emergency 988 fee imposed by this section is
4 separately stated on an invoice, receipt, or other similar document provided to the
5 consumer, the 988 fee may not be included in the base for measuring any other tax,
6 fee, surcharge, or other charge that is imposed by this state, any political subdivision
7 of the state, or any intergovernmental agency.

8 4. Prepaid wireless services are not subject to the fee imposed by this section.

9 5. The assessed communications service provider shall collect the fee from the
10 subscriber or customer of the service.

11 ~~3.6.~~ For assessed communications service that involves a monthly billing, in the billing
12 statement or invoice to the subscriber, the provider shall state the amount of the fee
13 separately.

14 ~~4.7.~~ An assessed communications service provider is required to collect, report, and remit
15 the 988 fee imposed under this section ~~may retain one percent of the fee.~~ An
16 assessed communication service provider must complete a monthly 988 surcharge fee
17 return reporting the amount of the 988 fee for the period covered by the return, and
18 any other information the commissioner may require. Under this chapter:

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

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

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

25
26 ~~5. The remaining fee proceeds must be remitted by the assessed communications~~
27 ~~service provider to the commissioner within thirty days after the fee is collected from~~
28 ~~the subscriber or customer unless the provider has fewer than ten subscribers or~~
29 ~~customers in a jurisdiction, in which case the provider may remit the proceeds~~
30 ~~quarterly.~~

1 ~~6. Prepaid wireless services are not subject to the fee imposed by this section.~~ 9.
2 Chapter 57-39.2, pertaining to the administration of sales tax, not inconsistent
3 with the provisions of this chapter, govern the administration of the 988 surcharge fee
4 imposed in this chapter.

5 **57-40.7-03. 988 fee fund collections - Deposit.**

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

8 **SECTION 3. LEGISLATIVE MANAGEMENT REPORT - CRISIS STABILIZATION FUND.**

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

14 **SECTION 4. APPROPRIATION. DEPARTMENT OF HEALTH AND HUMAN SERVICES -**

15 **988 ESTABLISHMENT COSTS.** There is appropriated out of any moneys in the general fund in
16 the state treasury, not otherwise appropriated, the sum of fifty thousand dollars, or so much of
17 the sum as may be necessary, to the department of health and human services for the purpose
18 of establishing and implementing a 988 crisis hotline program, for the biennium beginning
19 July 1, 2023, and ending June 30, 2025.

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