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Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2149

Introduced by

Senators Hogan, Cleary, Dever, Lee

Representatives O'Brien, Swiontek

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

988 crisis stabilization fund - 988 crisis hotline program - Establishment - Continuing appropriation.

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

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

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

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

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

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

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

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

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

4. For purposes of this section:

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

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

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

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

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

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

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

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

57-40.7-01. Definitions.

In this chapter, unless the context otherwise requires:

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

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

3. "Commissioner" means the state tax commissioner.

~~3.~~4. "Communication connection" means a telephone access line, wireless access line, unique voice over internet protocol service connection, or functional equivalent uniquely identifiable by a number, internet address, or other designation in which connections are enabled, configured, or capable of making 988 calls.

~~4.~~5. "Telephone access line" means the principal access to the telephone company's switched network, including an outward dialed trunk or access register.

~~5.~~6. "Voice over internet protocol service" means a service that enables real-time two-way voice communications, requires a broadband connection from the user's location, requires internet protocol-compatible customer premises equipment, and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

~~6.~~7. "Wireless access line" means each active wireless and prepaid wireless telephone number assigned to a commercial mobile radio service subscriber, including end users of resellers, billed in the state.

~~7.~~8. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C. 332(d)(1) and includes:

a. Services commonly referred to as wireless; and

b. Services provided by any wireless real-time two-way voice communication device, including radio-telephone communications used in:

(1) Cellular telephone service;

(2) Personal communications service; or

(3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.

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

1. There is imposed a fee in the amount determined annually under section 1 of this Act per month per communication connection which must be applied equally upon all assessed communications services.

2. ~~The assessed communications service provider shall collect the fee from the subscriber or customer of the service~~The commissioner shall provide notice of the 988 surcharge fee for the calendar year, as determined under section 1 of this Act, to

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. LEGISLATIVE MANAGEMENT REPORT - CRISIS STABILIZATION FUND. During the 2023-24 interim, the tax department shall provide an annual report to the legislative management on the balance of the 988 crisis stabilization fund. The report must include information regarding the growth and balance of the fund; recommendations, if any, for adjusting the fee rate; and any other findings, recommendations, or conclusions the tax department deems necessary.

SECTION 4. APPROPRIATION. DEPARTMENT OF HEALTH AND HUMAN SERVICES - 988 ESTABLISHMENT COSTS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of fifty thousand dollars, or so much of the sum as may be necessary, to the department of health and human services for the purpose of establishing and implementing a 988 crisis hotline program, for the biennium beginning July 1, 2023, and ending June 30, 2025.

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