

SENATE BILL NO. 353

INTRODUCED BY E. BUTTREY

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN AMBULANCE EXCISE TAX FOR ALL AMBULANCE SERVICES ABOVE A CERTAIN PERCENTAGE OF ALLOWABLE MEDICARE COSTS; DEFINING AMBULANCE SERVICES; PROVIDING FOR A TAX BASED UPON THE RECEIPTS; PROVIDING FOR AUDITS OF AMBULANCE PROVIDERS SUBJECT TO THE TAX; PROVIDING FOR DISTRIBUTION OF THE TAX; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 6], the following definitions apply:

- (1) "Ambulance" has the meaning provided in 50-6-302.
- (2) "Ambulance provider" means the owner or operator of an ambulance.
- (3) "Ambulance services" means the emergency medical or nursing services for acute emergencies that are provided by an ambulance and for which medicare pays allowable amounts.
- (4) "Patient" means an individual obtaining skilled ambulance services immediately prior to and during transport. The term includes newborn infants.

NEW SECTION. **Section 2. Excise tax for certain ambulance services -- disposition.** (1) Each ambulance provider in the state shall pay to the department of administration an excise tax of 12% on all ambulance services charged to a patient for any charges in excess of 300% of allowable medicare charges.

(2) The excise tax is imposed on the ambulance provider for any ambulance service that picks up a patient inside the state and is based on mileage in the state and ambulance services provided in the state, including the lift-off charges for an air ambulance picking up a patient in the state.

(3) An ambulance provider that fails to file the tax imposed in subsection (1) is subject to the penalty and interest provisions in 15-1-216. The department of administration shall notify the department of revenue of the ambulance provider's failure to file.

(4) All revenue generated from the excise tax, including penalty and interest if imposed by the



1 department of revenue under subsection (3), must be deposited in the state special revenue fund for use of the  
2 health care and benefits division of the department of administration. The money is subject to appropriation by  
3 the legislature only for the purposes of subsection (5).

4 (5) Money generated by the excise tax must be used for:

5 (a) grants to establish low-cost air ambulance alternatives in high-cost areas, as determined by the  
6 department of administration; and

7 (b) grants to citizens of this state who have been impacted by large balance bills resulting from  
8 ambulance services not covered by insurance regulated under Title 33 or by health plans covered under Title 2  
9 or 20.

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11 **NEW SECTION. Section 3. Reporting of ambulance services.** (1) An ambulance provider shall file  
12 with the department of administration on a quarterly basis:

13 (a) the number of ambulance transports completed by the ambulance in the quarter for which the  
14 charges exceeded 300% of the allowable medicare rate; and

15 (b) the total medical and operational charges imposed for each ambulance transport, including mileage  
16 in the state if mileage is part of the charge. For air ambulances the operational charges also include the lift-off  
17 rate.

18 (2) The report in subsection (1) must be in the form prescribed by the department of administration and  
19 accompanied by a payment of the tax required under [section 2].

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21 **NEW SECTION. Section 4. Audit authority -- records.** (1) The department of administration may audit  
22 the records and other documents of any ambulance provider to ensure that the proper tax has been collected as  
23 provided under [section 2].

24 (2) The department may:

25 (a) require the ambulance provider to provide records and other documentation, including books,  
26 ledgers, and registers, necessary for the department to verify the proper amount of the tax.

27 (b) examine or cause to have examined by a designated agent or representative any books, papers,  
28 records, or memoranda bearing on the matters required to be included in the report required under [section 3];

29 (c) require the attendance of any officer or employee of the entity rendering the report under [section 3]  
30 or the attendance of any other person assigned to developing the report and having relevant knowledge of the

1 report; and

2 (d) take testimony and require production of any other material necessary to determine the amount of  
3 tax due.

4 (3) An ambulance provider shall maintain and make available for inspection by the department of  
5 administration sufficient records and other documentation to demonstrate the ambulance charges subject to the  
6 tax imposed under [section 2]. The ambulance provider shall maintain the records for at least 5 years from the  
7 date the report is due.

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9 **NEW SECTION. Section 5. Deficiency assessment -- hearing -- penalty and interest.** (1) If the  
10 department of administration determines that the amount of tax due under [section 2] is greater than the amount  
11 disclosed by the report provided under [section 3], the department of administration shall mail to the ambulance  
12 provider a notice of the additional amount of expected assessment.

13 (2) Within 30 days of the mailing of the notice, the ambulance provider may file with the department of  
14 administration a written protest against the proposed additional tax. The protest must set forth the grounds for  
15 the protest and may request an oral hearing or an opportunity to present additional evidence relating to its tax  
16 liability.

17 (3) If a protest is not filed, the amount of the additional tax that is proposed to be assessed becomes final  
18 upon expiration of the 30-day period.

19 (4) If a protest is filed, the department of administration shall reconsider the proposed assessment and,  
20 upon the ambulance provider's request, shall grant the ambulance provider an oral hearing. After consideration  
21 of the protest and the evidence presented at an oral hearing, the department of administration's action on the  
22 protest is final upon the mailing of notice of its action to the ambulance provider.

23 (5) If a deficiency is detected and a final tax determined, the department of administration shall mail  
24 notice and demand for payment to the ambulance provider. Penalty and interest must be added to any deficiency  
25 assessment in the manner provided in 15-1-216 from the date specified in the deficiency letter for payment of the  
26 tax.

27 (6) A certificate of mailing of the notice by the department of administration is prima facie evidence of  
28 notice and of the date to be used for computation and levy of the deficiency amount.

29 (7) An ambulance provider may appeal a determination by the department of administration under this  
30 section to the first judicial district court.

