

1 HOUSE BILL NO. 315

2 INTRODUCED BY M. DUNWELL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO IMPLEMENTING
5 THE NATIONAL SUICIDE HOTLINE DESIGNATION ACT OF 2020; PROVIDING REQUIREMENTS FOR
6 CRISIS CENTERS; REQUIRING TELEPHONE SERVICE PROVIDERS AND PREPAID WIRELESS SELLERS
7 TO COLLECT A 9-8-8 FEE; PROVIDING DEADLINES AND PENALTIES; PROVIDING RULEMAKING
8 AUTHORITY; PROVIDING DEFINITIONS; PROVIDING A STATUTORY APPROPRIATION; AMENDING
9 SECTION 17-7-502, MCA; AND PROVIDING EFFECTIVE DATES."

10

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

12

13 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 15] is to implement the
14 National Suicide Hotline Designation Act of 2020, increase the quality of and access to behavioral health crisis
15 services, reduce stigma surrounding suicide, mental health, and substance use conditions, and ensure that all
16 citizens and visitors of the state receive a consistent level of 9-8-8 and behavioral health crisis services no
17 matter where they live, work, or travel in the state.

18

19 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 15], unless the context
20 clearly indicates otherwise, the following definitions apply:

21 (1) "9-8-8" means the abbreviated dialing code assigned by the federal communications commission
22 on July 16, 2020.

23 (2) "9-8-8 services" means suicide prevention and behavioral health crisis resources accessed by
24 calling 9-8-8 and provided by crisis centers.

25 (3) "Access line" means a voice service of a provider of exchange access services, a wireless
26 provider, or a provider of interconnected voice over IP service that has enabled and activated service for its
27 subscriber to access 9-8-8 services by entering or dialing the digits 9-8-8. When the service has the capacity,
28 as enabled and activated by a provider, to make more than one simultaneous outbound 9-8-8 call, then each

1 separate simultaneous outbound call, voice channel, or other capacity constitutes a separate access line.

2 (4) (a) "Crisis center" means a state-identified center that is a member of the lifeline network certified
3 to respond to statewide or regional 9-8-8 calls by providing free and confidential emotional support to people in
4 suicidal crisis or emotional distress 24 hours a day, 7 days a week.

5 (b) Services provided by a crisis center may include but are not limited to telephonic counseling,
6 follow-up services, coordination with crisis receiving and stabilization services, and dispatch of a mobile crisis
7 team.

8 (5) "Department" means the department of public health and human services provided for in 2-15-
9 2201.

10 (6) "Lifeline administrator" means the office of the federal assistant secretary for mental health and
11 substance use.

12 (7) "Lifeline network" means the national system of crisis centers known as the national suicide
13 prevention lifeline authorized under the provisions of section 520E-3 of the Public Health Service Act.

14 (8) "Mobile crisis team" means a group of behavioral health professionals and peers that provide
15 professional onsite community-based intervention services designed to deescalate mental health emergencies
16 and stabilize individuals experiencing a behavioral health crisis. The term includes but is not limited to crisis
17 intervention teams as described in 44-7-110 and mobile crisis units as defined in 53-21-1208.

18 (9) "Prepaid wireless service" means a commercial mobile radio service that:

19 (a) allows a subscriber to use 9-8-8 services; and

20 (b) is paid for in advance and sold in predetermined units or dollars of which the number declines with
21 use in a known amount, including prepaid wireless phone cards, recharge or refill authorization codes, and
22 prepaid cell phones or other prepaid wireless devices preloaded with airtime minutes.

23 (10) "Provider" means a public utility, a cooperative telephone company, a wireless provider, a provider
24 of interconnected voice over IP service, a provider of exchange access services, or any other entity that
25 provides access lines.

26 (11) "Seller" means a person who owns or operates a business that sells prepaid wireless services
27 directly to a subscriber.

28 (12) "Subscriber" means an end user who has an access line or who contracts with a wireless provider

1 for commercial mobile radio services.

2 (13) "Suicide prevention officer" means the administrator of the suicide prevention program described
3 in 53-21-1101.

4
5 **NEW SECTION. Section 3. Crisis centers -- designation -- technological requirements.** On or
6 before the date of the nationwide activation of 9-8-8 as the universal dialing code for accessing behavioral
7 health crisis services, the suicide prevention officer shall designate a crisis center or centers to provide crisis
8 intervention services and crisis care coordination to individuals accessing the 9-8-8 lifeline network. In order to
9 be designated, a crisis center must:

10 (1) have an active agreement with the lifeline administrator for participation within the lifeline network;

11 (2) meet the requirements and best practice guidelines for operational and clinical standards set by
12 the lifeline administrator;

13 (3) provide data and reports and participate in evaluations and related quality improvement activities
14 as required by the lifeline administrator and the department;

15 (4) have the capacity to provide follow-up services to individuals accessing 9-8-8 services consistent
16 with guidance and policies established by the lifeline administrator;

17 (5) utilize geolocation technology that automatically identifies and displays the location of the calling
18 telephone at the crisis center; and

19 (6) meet other requirements set forth by the suicide prevention officer.

20
21 **NEW SECTION. Section 4. Fees imposed for 9-8-8 services.** (1) Except as provided in [section 5],
22 the following fees are imposed for the administration of 9-8-8 services in accordance with [section 14]:

23 (a) for 9-8-8 services that do not include prepaid wireless services as provided in subsection (1)(b), a
24 fee of 10 cents a month for each access line on each subscriber in the state; and

25 (b) for prepaid wireless 9-8-8 services, a fee of 10 cents per transaction in the state on charges for
26 prepaid wireless services.

27 (2) The subscriber paying for an access line or prepaid wireless service is liable for the fee imposed
28 by this section.

1 (3) (a) Except as provided in subsection (3)(b), the provider shall collect the fee. The amount of the
2 fee collected by the provider is considered payment by the subscriber for that amount of fee.

3 (b) For the purposes of collecting the fee imposed by subsection (1)(b), the seller shall collect the fee
4 in accordance with this chapter. The amount of the fee collected by the seller is considered payment by the
5 subscriber for that amount of fee.

6 (4) Any return made by the provider or seller collecting the fee is prima facie evidence of payments by
7 the subscriber of the amount of the fee indicated on the return.

8

9 NEW SECTION. Section 5. Exemptions from fees imposed. The fee imposed by [section 4] does
10 not apply to:

11 (1) services that the state is prohibited from taxing under the constitution or laws of the United States
12 or the constitution or laws of the state of Montana; or

13 (2) amounts paid by depositing coins in a public telephone.

14

15 NEW SECTION. Section 6. Provider and seller required to maintain record of collections. A
16 provider or seller responsible for the collection of the fee imposed by [section 4] shall keep records, render
17 statements, make returns, and comply with rules adopted by the department of revenue with respect to the fee.
18 Whenever necessary in the judgment of the department of revenue, it may require the provider, seller, or
19 subscriber, as defined in [section 2], to make returns, render statements, or keep records sufficient to show
20 whether there is liability for the fee.

21

22 NEW SECTION. Section 7. Deadlines for filing returns. (1) The provider or seller collecting the fee
23 under [section 4] shall file a return with the department of revenue on or before the last day of the month
24 following the end of each calendar quarter, reporting the amount of the fee due on access lines or the amount
25 charged for the prepaid wireless fee during the quarter. Returns are subject to the penalty for false swearing
26 provided in 45-7-202.

27 (2) When a return of the fee is required, the provider or seller required to make the return shall pay
28 the fee due the department of revenue at the time fixed for filing the return.

1 (3) The provider or seller shall pay the fee based on the net amount billed for the access line fee or
2 the amount charged for the prepaid wireless fee during the quarter.

3 (4) As used in this section, the "net amount billed for the access line fee" and the "amount charged for
4 the prepaid wireless fee" equals the gross amount billed or charged for the service, less adjustments for
5 uncollectible accounts, refunds, incorrect billings, and other appropriate adjustments.

6
7 **NEW SECTION. Section 8. Refund to provider or seller for excess payment of fee.** If the amount
8 paid by a provider or seller to the department of revenue exceeds the amount of fee owed, the department of
9 revenue shall refund the amount of the excess payment with interest on the excess payment from the date of
10 payment of the excess until the date of the refund at the rate provided in 15-1-216. A refund may not be made
11 to a provider or seller who fails to claim the refund within 5 years after the due date for filing of the return with
12 respect to which the claim for refund relates.

13
14 **NEW SECTION. Section 9. Credit for overpayment -- interest on overpayment.** (1) If the
15 department of revenue determines that the amount of fee, penalty, or interest paid for any year is more than the
16 amount due, the amount of the overpayment must be credited against any tax, penalty, or interest then due
17 from the taxpayer and the balance refunded to the taxpayer or the taxpayer's successor through reorganization,
18 merger, or consolidation or to the taxpayer's shareholders on dissolution.

19 (2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is
20 charged on deficiency assessments from the due date of the return or from the date of overpayment, whichever
21 date is later, to the date the department of revenue approves refunding or crediting of the overpayment.

22 (3) (a) Interest does not accrue during any period in which the processing of a claim for a refund is
23 delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the
24 department of revenue for the purpose of verifying the amount of the overpayment.

25 (b) Interest is not allowed:

26 (i) if the overpayment is refunded within 6 months from the date the return is due or from the date the
27 return is filed, whichever is later; or

28 (ii) if the amount of interest is less than \$1.

1 (c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one
2 reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest
3 is allowable.

4
5 **NEW SECTION. Section 10. Statute of limitations.** (1) Except as provided in subsection (3), a
6 deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice
7 of the additional fee proposed to be assessed is mailed within 5 years from the date the return was filed. For
8 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
9 day. If the taxpayer, before the expiration of the period prescribed for assessment of the fee, consents in writing
10 to an assessment after that time, the fee may be assessed at any time prior to the expiration of the period
11 agreed on.

12 (2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed
13 after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
14 whichever period expires later, unless before the expiration of the period the taxpayer files a claim or the
15 department of revenue determines the existence of the overpayment and approves the refund or credit. If the
16 taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the
17 department of revenue may propose an additional assessment, the period within which a claim for refund or
18 credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

19 (3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed
20 or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files
21 a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud
22 by the department of revenue.

23
24 **NEW SECTION. Section 11. Provider or seller to hold fee in trust for state -- penalty and**
25 **interest.** (1) A provider or seller required to collect the fee imposed by [section 4] holds it in trust for the state
26 and for the payment of the fee to the department of revenue in the manner and at the time provided by [section
27 7].

28 (2) (a) If a provider or seller required to collect the fee fails to remit any amount held in trust for the

1 state or if a subscriber as defined in [section 2] fails to pay the fee on or before the last day of the month
2 following the end of each calendar quarter, the penalty and interest provisions contained in 15-1-216 apply to
3 late payments of the fee.

4 (b) The department of revenue may waive the penalty if the provider or seller establishes that the
5 failure to pay on time was due to reasonable cause and was not due to neglect.

6 (3) When a deficiency is determined and the additional fee becomes final, the department of revenue
7 shall mail a notice and demand for payment to the provider or seller. The fee is due and payable at the
8 expiration of 10 days after the notice and demand were mailed. Failure to pay a deficiency assessment is
9 subject to the penalty and interest provisions contained in 15-1-216.

10 (4) The penalty provided for in 15-1-216 may be waived by the department of revenue if the provider
11 or seller establishes that the failure to pay the proper amount of the fee was due to reasonable cause and was
12 not due to neglect.

13 (5) The department of revenue may enforce collection by the issuance of a warrant for distraint for the
14 collection of the delinquent amount and all penalties, interest, and collection charges accrued on the delinquent
15 amount. The warrant is governed by the provisions of Title 15, chapter 1, part 7.

16
17 **NEW SECTION. Section 12. Provider or seller considered a taxpayer under provisions for fee.**

18 Unless the context requires otherwise, the provisions of Title 15 referring to the audit and examination of
19 reports and returns, determination of deficiency assessments, claims for refunds, penalties, interest, jeopardy
20 assessments, warrants, conferences, appeals to the department of revenue, appeals to the state tax appeal
21 board, and procedures relating to those provisions apply to this part as if the fee were a tax imposed on or
22 measured by net income. The provisions apply to the subscriber as defined in [section 2] liable for the fee and
23 to the provider or seller required to collect the fee. Any amount collected and required to be remitted to the
24 department of revenue is considered a tax on the provider or seller required to collect it, and that provider is
25 considered a taxpayer.

26
27 **NEW SECTION. Section 13. Statewide 9-8-8 account.** (1) There is established in the state special
28 revenue fund an account for the fee collected for 9-8-8 services pursuant to [section 4] for distribution in

1 accordance with [section 14].

2 (2) Beginning January 1, 2022, all money received by the department of revenue pursuant to [section
3 4] must be paid to the state treasurer for deposit in the account.

4 (3) The account established in subsection (1) retains interest earned from the investment of money in
5 the account.

6 (4) Funds in the account:

7 (a) are statutorily appropriated to the department, as provided in 17-7-502;

8 (b) do not revert to the general fund at the end of any fiscal year but remain available for the purposes
9 of the account in subsequent fiscal years; and

10 (c) are not subject to transfer to any other fund or to transfer, assignment, or reassignment for any
11 other use or purpose outside of those specified in [section 14].

12

13 **NEW SECTION. Section 14. Distribution of statewide 9-8-8 account.** The department shall
14 allocate and distribute the total quarterly balance of the account provided for in [section 13] to offset costs that
15 are or will reasonably be attributed to the implementation, operation, improvement, and expansion of 9-8-8
16 services in the state in accordance with rules adopted by the department in accordance with [section 15].

17

18 **NEW SECTION. Section 15. Rulemaking.** The department and the department of revenue shall
19 adopt rules to implement the provisions of [sections 1 through 15].

20

21 **Section 16.** Section 17-7-502, MCA, is amended to read:

22 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
23 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
24 the need for a biennial legislative appropriation or budget amendment.

25 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
26 both of the following provisions:

27 (a) The law containing the statutory authority must be listed in subsection (3).

28 (b) The law or portion of the law making a statutory appropriation must specifically state that a

1 statutory appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
3 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
4 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; section 13; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005;
5 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-
6 509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404;
7 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-
8 203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-
9 1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-
10 113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-
11 113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-
12 1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-
13 2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-
14 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

15 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
16 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
17 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
18 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
19 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
20 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
21 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
22 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
23 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
24 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion
25 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115
26 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
27 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
28 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates

1 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;
2 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to
3 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.
4 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the
5 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,
6 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-
7 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates
8 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;
9 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;
10 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,
11 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

12
13 **NEW SECTION. Section 17. Notification to tribal governments.** The secretary of state shall send a
14 copy of [this act] to each federally recognized tribal government in Montana.

15
16 **NEW SECTION. Section 18. Codification instruction.** [Sections 1 through 15] are intended to be
17 codified as a new chapter in Title 10, and the provisions of Title 10 apply to [sections 1 through 15].

18
19 **NEW SECTION. Section 19. Effective dates.** (1) Except as provided in subsection (2), [this act] is
20 effective July 1, 2021.

21 (2) [Sections 4 through 14] are effective January 1, 2022.

22 - END -