

## SENATE FILE NO. SF0115

Air ambulance remedies.

Sponsored by: Senator(s) Scott and Representative(s) Barlow

## A BILL

for

1 AN ACT relating to public health and safety; making  
2 legislative findings in regard to air ambulance services;  
3 specifying authority of boards of county commissioners,  
4 county memorial hospitals and district hospitals, special  
5 hospital districts and special rural health care districts  
6 to contract for air ambulance services; requiring the state  
7 employees' and officials' group insurance plan to offer air  
8 ambulance services under the air ambulance transport  
9 services program only upon federal approval of the program;  
10 making the operation of air ambulance provisions in  
11 Medicaid statutes contingent upon federal approval of the  
12 air ambulance transport services program; requiring a  
13 legislative committee study as specified and authorizing  
14 the committee to introduce related legislation; and  
15 providing for an effective date.

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1 *Be It Enacted by the Legislature of the State of Wyoming:*

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3 **Section 1.**

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5 (a) The legislature finds that:

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7 (i) Air ambulance services are an important and  
8 sometimes lifesaving part of our health care system and are  
9 especially important in Wyoming because of our low  
10 population, low population density and consequently long  
11 distances that people may be required to travel rapidly in  
12 order to receive essential medical services;

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14 (ii) The legislature is aware that too many  
15 times Wyoming residents have received excessive and  
16 unreasonable bills for the use of air ambulance services;

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18 (iii) Federal court precedent has placed air  
19 ambulance services under the preemptive authority of the  
20 Airline Deregulation Act of 1978 which, to control prices,  
21 relies on informed consumers with a practical choice as to  
22 which service to use and whether or not to use any service;

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1           (iv) Often air ambulance services are needed in  
2 life threatening circumstances where the need for prompt  
3 transportation to needed medical services deprives the  
4 consumer of a real choice in service and choice of whether  
5 or not to use any service;

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7           (v) Air ambulance services are largely  
8 interstate commerce which Congress has the right to  
9 regulate under the United States Constitution;

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11           (vi) Over time the several states have learned  
12 that where consumers are deprived by circumstances of a  
13 choice of supplier of needed services, a degree of or  
14 threat of governmental price regulation is needed to  
15 restrain prices and prevent price gouging;

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17           (vii) The credible threat of price regulation  
18 does restrain prices for medical services;

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20           (viii) Inaction by the United States congress  
21 has allowed for the continued inability of state regulation  
22 of air ambulance prices;

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1           (ix) This inaction is apparent because in  
2 worker's compensation, an area where Wyoming does regulate  
3 medical prices, Wyoming's efforts to restrain air ambulance  
4 prices have twice been found contrary to federal law by the  
5 United States Court of Appeals for the Tenth Circuit;

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7           (x) The current dysfunction of the United States  
8 congress means that the defects of the federal regulatory  
9 nonsystem for air ambulance services are not being  
10 corrected;

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12           (xi) The federal government does regulate air  
13 ambulance prices for the major medical programs which the  
14 federal government pays for including specifically the  
15 Medicare program, the largest federal medical program;

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17           (xii) The federal centers for Medicaid and  
18 Medicare services have denied Wyoming's request to regulate  
19 air ambulance services using the Medicaid program in light  
20 of the preemptive authority of the Airline Deregulation Act  
21 of 1978;

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1           (xiii) It is within the power of the state to  
2 encourage private contracting for air ambulance services  
3 before the urgent need for transportation to critical  
4 medical services arises to enable a real choice from among  
5 potential suppliers;

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7           (xiv) It is not in the public interest for any  
8 branch of the Wyoming state government to facilitate price  
9 gouging for air ambulance services; and

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11           (xv) Because of the federal preemption, the  
12 legislature has been unable to enact a statute preventing  
13 price gouging for air ambulance services. Nonetheless, the  
14 legislature encourages the courts to do justice for all  
15 parties in any controversy over payment for air ambulance  
16 services and if a court is unable to do justice due to  
17 federal preemption, to say so clearly in any relevant  
18 opinion.

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20           **Section 2.** W.S. 18-2-101 by creating new subsections  
21 (b) through (d), 18-8-108(b), 35-2-403(c) and 35-2-703(a)  
22 by creating a new paragraph (xii) are amended to read:

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1           **18-2-101. General powers.**

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3           (b) As authorized by paragraph (a)(iii) of this  
4 section, the board of county commissioners for any county  
5 may contract with one (1) or more entities providing air  
6 ambulance services provided that:

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8           (i) Persons may agree to being covered under the  
9 terms and conditions of the contract, and any additional  
10 terms as specified by the board of county commissioners,  
11 and shall pay at least an annual fee for the coverage of  
12 the contracted services to the county;

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14           (ii) In no case may the terms specified by the  
15 board of county commissioners require payment of copayments  
16 and deductibles whose sum exceeds the charge that the  
17 federal Medicare program requires for the same or similar  
18 services;

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20           (iii) Any insurer providing air ambulance  
21 coverage may, by agreement with the board of county  
22 commissioners, use the county negotiated system as a  
23 preferred provider within the county;

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(iv) No person, except a county employee for whom the county is providing health coverage, shall be required to use the air ambulance coverage negotiated by the board of county commissioners;

(v) When negotiating for air ambulance coverage the board of county commissioners shall consult with every hospital located within the county but shall not be required to obtain the permission of any hospital to enter into any contract.

(c) Any provider contracting with a board of county commissioners under this section shall receive first priority in dispatching within the county. Any provider acting as an any willing provider accepting the negotiated prices shall have second priority. Other providers may be dispatched if the first two (2) priority providers are not available in a timely fashion. The board of county commissioners shall publish on county's official web site the relevant terms and conditions in order to notify any interested air ambulance provider not included in the contract and wishing to be an any willing provider.

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2 (d) Two (2) or more boards of county commissioners  
3 may join together to negotiate and enter into a common  
4 contract under subsection (b) of this section for the  
5 receipt of air ambulance services from a provider for their  
6 respective counties.

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8 **18-8-108. Authority to enter contract for operation;**  
9 **terms and conditions of contract.**

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11 (b) A county memorial hospital with the approval and  
12 consent of the board of county commissioners, or district  
13 hospital with the consent of the board of trustees, may  
14 contract:

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16 (i) With another licensed hospital located  
17 within a reasonable distance to share or divide speciality  
18 or costly hospital services and equipment, or a county  
19 memorial hospital or district hospital with such approval  
20 may discontinue or avoid duplication of speciality or  
21 costly hospital services and equipment otherwise available  
22 to the community served for the purpose of minimizing costs  
23 for such hospital services or improving health care.



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(ii) With entities providing air ambulance services. Any contract executed as authorized under this paragraph shall conform to the requirements specified under W.S. 18-2-101(b)(i) through (iii), (c) and (d). No person, except a county memorial hospital or district hospital employee for whom the hospital is providing health coverage, shall be required to use the air ambulance coverage negotiated by the county memorial hospital or district hospital.

**35-2-403. Body corporate; name and style; powers generally; rules and regulations of trustees; definitions of certain terms.**

(c) In addition to subsection (a) of this section, each district:

(i) May engage in activities authorized under W.S. 18-8-301 subject to requirements and conditions specified therein;

1           (ii) May contract with entities providing air  
2 ambulance services. Any contract executed as authorized  
3 under this paragraph shall conform to the requirements  
4 specified under W.S. 18-2-101(b)(i) through (iii), (c) and  
5 (d). No person, except a special hospital district employee  
6 for whom the hospital district is providing health  
7 coverage, shall be required to use the air ambulance  
8 coverage negotiated by the special hospital district.

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10           **35-2-703. Body corporate; name and style; powers**  
11 **generally; rules and regulations of trustees.**

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13           (a) Each district so established is a body corporate  
14 and shall be designated by the name of the .... rural  
15 health care district. The district name shall be entered  
16 upon the commissioners' records and shall be selected by  
17 the board of county commissioners of the county in which  
18 the greater area of land within the district is located. In  
19 the name so selected, the district through its governing  
20 board may:

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22           (xii) Contract with entities providing air  
23 ambulance services. Any contract executed as authorized

1 under this paragraph shall conform to the requirements  
2 specified under W.S. 18-2-101(b)(i) through (iii), (c) and  
3 (d). No person, except a special rural health care district  
4 employee for whom the rural health care district is  
5 providing health coverage, shall be required to use the air  
6 ambulance coverage negotiated by the special rural health  
7 care district.

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9       **Section 3.** W.S. 9-3-219(a) and (b) and 42-4-123(b) as  
10 created by 2019 Wyoming Session Laws, Chapter 189, Section  
11 2 are amended to read:

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13       **9-3-219. Air ambulance transport services for**  
14 **employees, officials and dependents; reimbursement; sunset.**

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16       (a) Emergency and medically necessary air ambulance  
17 transport services for employees, officials and their  
18 dependents shall be covered under W.S. 42-4-123, subject to  
19 availability and any limitations specified by the  
20 department of health under W.S. 42-4-123(a) and subject to  
21 operation of the air ambulance transport services program  
22 under W.S. 42-4-123(b).

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1           (b) Contingent on operation of the air ambulance  
2 transport services program under W.S. 42-4-123(b), the  
3 department of administration and information shall pay  
4 reimbursement for services under this section to the  
5 department of health, as specified under W.S. 42-4-123.

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7           **42-4-123. Air ambulance transport services for**  
8 **Wyoming residents; sunset.**

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10           (b) Contingent on federal approval under subsection  
11 (a) of this section, there is created the air ambulance  
12 transport services program under the department. Operation  
13 of the air ambulance services program as provided in  
14 subsections (c) through (p) of this section shall be  
15 contingent on the federal approval required by subsection  
16 (a) of this section.

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18           **Section 4.**

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20           (a) The joint labor, health and social services  
21 interim committee shall undertake to study avenues  
22 available to the state for ensuring the delivery of high  
23 quality air ambulance services while ensuring those

1 services are delivered at a fair market price to consumers.

2 In conducting the study, the committee shall consider:

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4 (i) Partnerships that may be entered into by  
5 vested stakeholders, including public and private entities,  
6 organizations and associations that would enhance the  
7 state's bargaining power for obtaining air ambulance  
8 services for the people of Wyoming;

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10 (ii) Innovative approaches for dispute  
11 resolution pertaining to the payment for the delivery of  
12 air ambulance services by consumers and insurance providers  
13 in the state;

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15 (iii) Statutory changes that may aid in  
16 decreasing the cost for the delivery of high quality air  
17 ambulance services;

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19 (iv) The ability of the state to limit the  
20 jurisdiction of its courts for complaints seeking payment  
21 for unregulated and unjust air ambulance service expenses;

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