

1 HOUSE BILL NO. 835

2 INTRODUCED BY B. KEENAN, L. JONES

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MEDICAID AND 24/7 FACILITY CONTINGENCY  
5 FUND; ESTABLISHING USES OF THE FUND; PROVIDING SUPPLEMENTAL FUNDING TO THE  
6 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AUTHORIZING A GENERAL FUND LOAN;  
7 PROVIDING FOR A TRANSFER OF FUNDS; PROVIDING A STATUTORY APPROPRIATION; AMENDING  
8 SECTIONS 17-7-502 AND 53-6-404, MCA; REPEALING SECTION 17-7-163, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 NEW SECTION. **Section 1. Medicaid and 24/7 facility contingency fund.** (1) Subject to available  
14 funding, there is a medicaid and 24/7 facility contingency fund in the state special revenue fund provided for in  
15 17-2-102 to the credit of the office of budget and program planning.

16 (2) The contingency fund consists of money received from funds transferred by the legislature.

17 (3) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the office of  
18 budget and program planning and are subject to agency transfer no sooner than April 1 of each year to the  
19 department of public health and human services. The department may use the funds to mitigate supplemental  
20 requests associated with:

21 (a) the medicaid program provided for in Title 53, chapter 6; and

22 (b) operation of the following facilities that provide 24/7 care and treatment:

23 (i) the intensive behavior center provided for in 53-20-602;

24 (ii) the Montana mental health nursing care center provided for in 53-21-411; and

25 (iii) the Montana state hospital provided for in 53-21-601.

26 (4) On the occurrence of an agency transfer pursuant to this section, the director of the office of  
27 budget and program planning shall certify to the legislative finance committee no later than June 30 of the fiscal  
28 year in which the transfer occurred:

**Amendment - 1st Reading-white - Requested by: John Fitzpatrick - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0835.001.001

- 1 (a) the amount transferred to and anticipated to be spent by the department of public health and
- 2 human services;
- 3 (b) the specific purposes for which the funds will be used; and
- 4 (c) the department's plan for mitigating the expenditures related to the facilities listed in subsection
- 5 (3)(b) in the next fiscal year.

6

7 **Section 2.** Section 17-7-502, MCA, is amended to read:

8 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

9 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without

10 the need for a biennial legislative appropriation or budget amendment.

11 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with

12 both of the following provisions:

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

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

15 statutory appropriation is made as provided in this section.

16 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-

17 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-

18 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;

19 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-

20 70-130; 15-70-433; 16-11-119; 16-11-509; [section 1]; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-

21 215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-

22 305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [ 20-15-328]; 20-26-617; 20-

23 26-1503; 22-1-327; 22-3-116; 22-3-117; [ 22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-

24 402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;

25 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115;

26 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-

27 13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006;

28 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [ 85-25-

**Amendment - 1st Reading-white - Requested by: John Fitzpatrick - (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0835.001.001

1 102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

2 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
3 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
4 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
5 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
6 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
7 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
8 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
9 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
10 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
11 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
12 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
13 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
14 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
15 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
16 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
17 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
18 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
19 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
20 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
21 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
22 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
23 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
24 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
25 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
26 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and  
27 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

28

1           **Section 3.** Section 53-6-404, MCA, is amended to read:

2           "**53-6-404. Use of waiver funding.** (1) The department shall use money appropriated for home and  
3 community-based services waiver slots for the purpose of:

4           (a)     creating waiver slots as authorized by the legislature; or

5           (b)     addressing workforce shortages or other barriers to creating the number of waiver slots  
6 authorized by the legislature.

7           ~~(2) Unencumbered funds appropriated for home and community-based services waiver slots for use  
8 by a particular division may not be transferred to another department division or program. The money must be  
9 used for the program for which it was appropriated or be reverted to the fund from which it was appropriated.~~

10          ~~(3)~~(2) The department shall report annually to the legislative finance committee in accordance with 5-  
11 11-210 on the status of appropriations for home and community-based services waiver slots."

13           **NEW SECTION. Section 4. Authorization for general fund loan.** For the biennium beginning July  
14 1, 2023, the department of public health and human services is authorized to secure a loan from the general  
15 fund only to pay for overtime, salaries, and benefits for employees at all state institutions and to pay for the  
16 costs of traveling health care providers.

17  
18           **NEW SECTION. Section 5. Repealer.** The following section of the Montana Code Annotated is  
19 repealed:

20 17-7-163.     Appropriations for medicaid expenditures.

21  
22           **NEW SECTION. Section 6. Transfer of funds.** There is transferred ~~\$150~~ **\$66** million from the  
23 general fund to the medicaid and 24/7 facility contingency fund provided for in [section 1]. The transfer must  
24 occur no later than June 30, 2023.

25  
26           **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an  
27 integral part of Title 17, chapter 2, part 1, and the provisions of Title 17, chapter 2, part 1, apply to [section 1].

28

