

1 HOUSE BILL NO. 872
2 INTRODUCED BY B. KEENAN, L. JONES, J. ESP, C. SPRUNGER
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BEHAVIORAL HEALTH SYSTEMS; ESTABLISHING
5 THE BEHAVIORAL HEALTH SYSTEM FOR FUTURE GENERATIONS ADVISORY COMMISSION;
6 OUTLINING THE DUTIES AND ROLE OF THE ADVISORY COMMISSION; ESTABLISHING MEETING
7 DATES; PROVIDING FOR PUBLIC COMMENT; PROVIDING FOR A PRESENTATION OF THE ADVISORY
8 COMMISSION'S RECOMMENDATIONS TO LEGISLATIVE COMMITTEES; PROVIDING FOR
9 CONSIDERATION OF LEGISLATOR INPUT; PROVIDING THAT THE GOVERNOR MAY APPROVE OR
10 MODIFY THE RECOMMENDATIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING THE
11 LEGISLATIVE FINANCE COMMITTEE WITH SPECIFIC ADMINISTRATIVE RULE REVIEW AUTHORITY;
12 PROVIDING APPROPRIATIONS; ~~PROVIDING AN APPROPRIATION;~~ AND PROVIDING AN IMMEDIATE
13 EFFECTIVE DATE AND A TERMINATION DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 NEW SECTION. Section 1. Behavioral health system for future generations advisory

18 **commission.** (1) There is a behavioral health system for future generations ~~advisory~~ commission.

19 (2) The ~~advisory~~ commission consists of:

20 (a) ~~two senators, one from the majority party and one from the minority party, appointed by the~~
21 ~~committee on committees;~~ THE SPONSOR OF [THIS ACT];

22 ~~(b) two representatives, one from the majority party and one from the minority party, appointed by~~
23 ~~the speaker of the house; and~~

24 ~~(c)(B) three members, including the director of the department of public health and human services,~~
25 ~~appointed by the governor; AND~~

26 (c) SEVEN five LEGISLATORS, FOUR three FROM THE MAJORITY PARTY AND THREE two FROM THE
27 MINORITY PARTY, SELECTED BY THE SPONSOR, who shall confer with THE SPEAKER OF THE HOUSE; AND THE

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1 PRESIDENT OF THE SENATE.

2 (3) For legislative appointments, legislators serving as members MUST INCLUDE at least ONE

3 MEMBER OF EACH OF THE FOLLOWING COMMITTEES:

4 (A) _____ of the legislative finance committee;

5 (B) _____ the health and human services interim budget committee provided for in 5-12-501;

6 (C) _____ and the children, families, health, and human services interim committee from the 2025

7 biennium are given preference;

8 (D) THE JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE INTERIM BUDGET COMMITTEE PROVIDED FOR

9 IN 5-12-501; AND

10 (E) THE LONG-RANGE PLANNING INTERIM BUDGET COMMITTEE PROVIDED FOR IN 5-12-501.

11 (4) Appointed members of the ~~advisory~~ commission must be compensated and receive travel
12 expenses as provided for in 2-15-124 for each day in attendance at commission meetings or in the performance
13 of any duty or service as a commission member.

14 (5) The ~~department of public health and human~~ LEGISLATIVE SERVICES DIVISION ~~department of public~~
15 health and human services shall staff the ~~advisory~~ commission and pay for the operational costs of the
16 commission from the appropriation in [section 7]. The legislative fiscal division shall provide research and
17 analysis at the request of the commission or its legislative members.

18 (6) The ~~advisory~~ commission shall elect a chair from the legislative branch and a vice chair from
19 one of the governor's appointees. ~~The director of the department of public health and human services shall~~
20 serve as the vice chair.

21
22 NEW SECTION. Section 2. Commission -- meetings -- recommendations. (1) The ~~advisory~~
23 commission shall recommend how funds allocated to the department of public health and human services
24 through the state special revenue fund established in [section 3] are expended.

25 (2) The ~~advisory~~ commission shall hold its first meeting no later than August 1, 2023, and set its
26 future meeting dates.

27 (3) The ~~advisory~~ commission shall reserve time at each commission meeting for stakeholder

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1 engagement and public comment. Public participation is encouraged.

2 (4) The ~~advisory~~ commission shall submit ~~a report~~ reports of its recommendations as needed to
3 the office of budget and program planning and to the legislative fiscal analyst ~~by May 1, 2024~~. The ~~report~~
4 reports must include one or more of the following:

5 (a) initiatives that address behavioral health;

6 (b) initiatives that assist those with developmental disabilities; ~~and~~

7 ~~(c) OUTCOME MEASURES, AS DEFINED IN 2-15-2221;~~

8 ~~(d) OUTPUT MEASURES, AS DEFINED IN 2-15-2221;~~

9 ~~(e) PERFORMANCE MEASURES, AS DEFINED IN 2-15-2221; AND~~

10 ~~(e)(f)~~ the amount of funding required for the initiatives.

11 (5) By July 1, 2024, the commission shall submit a report on its final recommendations, including
12 all of the items listed in subsections (4)(a) through (4)(f) and recommended funding amounts pursuant to
13 subsection (1). Within 60 days of submitting its summary report on its recommendations to the office of budget
14 and program planning and the legislative fiscal analyst, the ~~advisory~~ commission, in cooperation with the
15 department of public health and human services, shall present the recommendations to the following legislative
16 committees, who shall meet jointly:

17 (a) the legislative finance committee;

18 (b) the health and human services interim budget committee provided for in 5-12-501; and

19 (c) the children, families, health, and human services interim committee.

20 (6) When the commission presents to the legislative committees identified in subsection (5), it shall
21 invite Montana's behavioral health advisory council and the Montana statewide independent living council to
22 receive its presentation and to provide comments to the commission.

23 ~~(6)(7)~~ (a) Following the presentation before the joint meeting of the three committees the ~~advisory~~
24 commission shall meet to consider the comments from committee members and the public and may revise or
25 amend its recommendations, if desired.

26 (b) The ~~final~~ recommendations of the ~~advisory~~ commission must be transmitted to the governor by
27 the office of budget and program planning for consideration by the governor only after the commission has met

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1 to consider the comments from committee members and the public pursuant to subsection ~~(6)(a)~~ (7)(a).

2 ~~(7)(8)~~ The governor may modify recommendations and must provide the list of approved
3 recommendations and amounts to the ~~advisory~~ commission, the office of budget and program planning, the
4 department of public health and human services, and to the health and human services interim budget
5 committee. If the governor modifies the list of recommendations and amounts submitted by the ~~advisory~~
6 commission, the department of public health and human services shall report and explain the change to the
7 ~~advisory~~ commission and to the health and human services interim budget committee at the next scheduled
8 meetings.

9 ~~(8)(9)~~ If the governor later determines that ~~a recommended~~ an approved initiative cannot be
10 completed, the governor may authorize a different initiative. Prior to implementing a different initiative, the
11 department of public health and human services shall present a report on the new initiative to both the ~~advisory~~
12 commission and the health and human services interim budget committee.

13 ~~(9)(10)~~ At any time during the process outlined in this section, if a legislator does not approve of the
14 recommended initiatives or the amounts for funding, the legislator may initiate the provisions of 5-3-105 to
15 request a poll of the legislature to hold a special session.

16
17 **NEW SECTION. Section 3. Behavioral health system for future generations fund.** (1) There is an
18 account in the state special revenue fund established in 17-2-102 to be known as the behavioral health system
19 for future generations fund.

20 (2) There must be deposited in the account money received from legislative general fund transfers.

21 (3) Eligible uses of the fund include:

22 (a) medicaid and CHIP matching funds for payments made to ~~state~~ behavioral health settings;

23 (b) medicaid and CHIP matching funds for payments made to ~~state~~ intermediate care facilities for
24 individuals with intellectual disabilities;

25 (c) statewide community-based investments to stabilize behavioral health and developmental
26 disabilities service providers and delivery, increase and strengthen the behavioral health and developmental
27 disabilities workforce, increase service capacity to meet identified behavioral health and developmental

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1 disabilities services demands, and increase opportunities for Montanans to receive integrated physical and
2 behavioral HEALTH CARE;

3 (d) — acquisition of new or remodeling of existing infrastructure or property to support the
4 establishment of state behavioral health settings and state intermediate care facilities for individuals with
5 intellectual disabilities ;

6 (d) acquisition of new or remodeling of existing infrastructure or property to support the
7 establishment of behavioral health settings and intermediate care facilities for individuals with intellectual
8 disabilities;

9 (e)(D) planning, operation, or other contract expenses associated with ~~state~~ intermediate care
10 facilities for individuals with intellectual disabilities;

11 (f)(E) planning, operation, or other contract expenses associated with ~~state~~ behavioral health
12 settings; and

13 (g)(F) studying and planning of the development of a comprehensive behavioral health system.

14 (4) Funds in this account may not be used to operate existing state facilities.

15
16 NEW SECTION. SECTION 4. RULEMAKING AUTHORITY. (1) THE DEPARTMENT OF PUBLIC HEALTH AND
17 HUMAN SERVICES SHALL ADOPT ADMINISTRATIVE RULES THAT DEFINE HOW THE APPROPRIATION FOR CAPITAL PROJECTS
18 WILL BE ALLOCATED AND SPENT UNDER [SECTION 8].

19 (2) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL INITIATE THE RULEMAKING BEFORE
20 MAY-JULY 1, 2024.

21
22 NEW SECTION. SECTION 5. LEGISLATIVE FINANCE COMMITTEE RULE REVIEW. (1) FOR THE PURPOSES OF
23 RULES PROMULGATED UNDER [SECTION 4], THE LEGISLATIVE FINANCE COMMITTEE ESTABLISHED IN 5-12-201 IS THE
24 ADMINISTRATIVE RULE REVIEW COMMITTEE UNDER TITLE 2, CHAPTER 4.

25 (2) THE LEGISLATIVE FINANCE COMMITTEE MAY EXERCISE ALL THE POWERS OF AN ADMINISTRATIVE RULE
26 REVIEW COMMITTEE ONLY FOR THE RULES PROMULGATED UNDER [SECTION 4] PURSUANT TO TITLE 2, CHAPTER 4.

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1 NEW SECTION. Section 6. Transfer of funds. (1) No later than June 30, 2023, the state treasurer
2 shall transfer ~~\$225 \$70~~ million from the general fund to the account established in [section 3].

3 ~~(2) No later than June 30, 2024, the state treasurer shall transfer \$155 million from the general~~
4 ~~fund to the account established in [section 3].~~

5 ~~(2)(3)~~ No later than June 30, 2023, the state treasurer shall transfer \$75 million from the general fund
6 to the capital developments long-range building program account provided for in 17-7-209.

7
8 NEW SECTION. Section 7. Appropriations. (1) There is appropriated \$40 million to the department
9 of public health and human services on passage and approval of [this act] through the biennium beginning July
10 1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3], and to pay
11 for the operational costs of the commission established in [section 1].

12 (2) There is appropriated \$30 million to the department of public health and human services for the
13 fiscal year beginning July 1, 2024, from the account established in [section 3] to pay for eligible uses identified
14 in [section 3].

15 (3) Any funds remaining in the fund established in [section 3] are subject to legislative
16 appropriation.

17
18 NEW SECTION. Section 8. Appropriation for capital projects. (1) ~~No later than July 1, 2024,~~
19 AFTER THE ADMINISTRATIVE RULES HAVE BEEN ADOPTED UNDER [SECTION 4] and only after the ~~advisory~~-commission
20 transmits its summary report on its recommendations to the governor after following the process set forth in
21 [section 2], there is appropriated ~~\$75 \$55~~ million to the department of administration from the capital
22 developments long-range building program account in the capital projects fund type provided for in 17-7-209 for
23 the behavioral health system for future generations capital development.

24 (2) (a) Pursuant to 17-7-210, if construction of a new facility requires an immediate or future
25 increase in state funding for program expansion or operations and maintenance, the legislature may not
26 authorize the new facility unless it also appropriates funds for the increase in state funding for program
27 expansion and operations and maintenance. To the extent allowed by law, at the end of each fiscal year

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1 following approval of a new facility but prior to receipt of its certificate of occupancy, the appropriation made in
2 subsection (3) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

3 (b) It is the legislature's intent that the appropriation in subsection (3) become part of the
4 respective agency's base budget for the biennium beginning July 1, 2025.

5 (3) The amount of \$1,661,426 is appropriated for the biennium beginning July 1, 2023, to the
6 department of public health and human services from the account established in [section 3] for program
7 expansion or operations and maintenance for the indicated new facility setting.

8
9 NEW SECTION. Section 9. Planning and design. The department of administration may proceed
10 with the planning and design of capital projects AUTHORIZED in [section 6] [SECTION 8] prior to the receipt of other
11 funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and
12 design costs incurred before the receipt of other funding sources.

13
14 NEW SECTION. Section 10. Review by department of environmental quality. The department of
15 environmental quality shall review capital projects authorized in [section 6] [SECTION 8] for potential inclusion in
16 the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a
17 capital project will result in energy or utility savings and improvements, that project must be submitted to the
18 energy conservation program for funding consideration by the state building energy conservation program.
19 Funding provided under the energy conservation program guidelines must be used to offset or add to the
20 authorized funding for the project, and the amount must be dependent on the annual utility savings resulting
21 from the capital project. The department of public health and human services must be notified of potential
22 funding after the review and is obligated to utilize the state building energy conservation program funding, if
23 available.

24
25 NEW SECTION. Section 11. Legislative consent. ~~The appropriation authorized in [section 6]~~
26 ~~constitute s legislative consent for the capital contained in [section 6] within the meaning of 18-2-102.~~

27

