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HOUSE BILL NO. 872

INTRODUCED BY B. KEENAN, L. JONES, J. ESP, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BEHAVIORAL HEALTH SYSTEMS; ESTABLISHING THE BEHAVIORAL HEALTH SYSTEM FOR FUTURE GENERATIONS ~~ADVISORY~~ COMMISSION; OUTLINING THE DUTIES AND ROLE OF THE ~~ADVISORY~~ COMMISSION; ESTABLISHING MEETING DATES; PROVIDING FOR PUBLIC COMMENT; PROVIDING FOR A PRESENTATION OF THE ~~ADVISORY~~ COMMISSION'S RECOMMENDATIONS TO LEGISLATIVE COMMITTEES; PROVIDING FOR CONSIDERATION OF LEGISLATOR INPUT; PROVIDING THAT THE GOVERNOR MAY APPROVE OR MODIFY THE RECOMMENDATIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING THE LEGISLATIVE FINANCE COMMITTEE WITH SPECIFIC ADMINISTRATIVE RULE REVIEW AUTHORITY; PROVIDING APPROPRIATIONS; ~~PROVIDING AN APPROPRIATION;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Behavioral health system for future generations ~~advisory~~ commission.** (1) There is a behavioral health system for future generations ~~advisory~~ commission.

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

(a) ~~two senators, one from the majority party and one from the minority party, appointed by the committee on committees; the sponsor of [this act];~~

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

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

~~(c) seven legislators, four from the majority party and three from the minority party, selected by the sponsor, the speaker of the house, and the president of the senate.~~

(3) For legislative appointments, legislators serving as members must include one member of each

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1 of the following committees:

2 (a) of the legislative finance committee;

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

4 (c) and the children, families, health, and human services interim committee ~~from the 2025~~
5 biennium are given preference;

6 (d) the judicial branch, law enforcement, and justice interim budget committee provided for in 5-12-
7 501; and

8 (e) the long-range planning interim budget committee provided for in 5-12-501.

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

12 (5) The ~~department of public health and human legislative~~ services division shall staff the ~~advisory~~
13 commission.

14 (6) The ~~advisory~~ commission shall elect a chair from the legislative branch. The director of the
15 department of public health and human services shall serve as the vice chair.

16
17 **NEW SECTION. Section 2. Commission -- meetings -- recommendations.** (1) The ~~advisory~~
18 commission shall recommend how funds allocated to the department of public health and human services
19 through the state special revenue fund established in [section 3] are expended.

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

22 (3) The ~~advisory~~ commission shall reserve time at each commission meeting for stakeholder
23 engagement and public comment. Public participation is encouraged.

24 (4) The ~~advisory~~ commission shall submit a report of its recommendations to the office of budget
25 and program planning and to the legislative fiscal analyst by May 1, 2024. The report must include the
26 following:

27 (a) initiatives that address behavioral health;

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

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1 (c) outcome measures, as defined in 2-15-2221;

2 (d) output measures, as defined in 2-15-2221;

3 (e) performance measures, as defined in 2-15-2221; and

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

5 (5) Within 60 days of submitting its recommendations to the office of budget and program planning
6 and the legislative fiscal analyst, the ~~advisory~~ commission, in cooperation with the department of public health
7 and human services, shall present the recommendations to the following legislative committees, who shall meet
8 jointly:

9 (a) the legislative finance committee;

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

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

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

15 (b) The final recommendations of the ~~advisory~~ commission must be transmitted to the governor by
16 the office of budget and program planning for consideration by the governor only after the commission has met
17 to consider the comments from committee members and the public pursuant to subsection (6)(a).

18 (7) The governor may modify recommendations and must provide the list of approved
19 recommendations and amounts to the ~~advisory~~ commission, the office of budget and program planning, the
20 department of public health and human services, and to the health and human services interim budget
21 committee. If the governor modifies the list of recommendations and amounts submitted by the ~~advisory~~
22 commission, the department of public health and human services shall report and explain the change to the
23 ~~advisory~~ commission and to the health and human services interim budget committee at the next scheduled
24 meetings.

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

1 (9) At any time during the process outlined in this section, if a legislator does not approve of the
2 recommended initiatives or the amounts for funding, the legislator may initiate the provisions of 5-3-105 to
3 request a poll of the legislature to hold a special session.
4

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

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

9 (3) Eligible uses of the fund include:

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

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

13 (c) statewide community-based investments to stabilize behavioral health and developmental
14 disabilities service providers and delivery, increase and strengthen the behavioral health and developmental
15 disabilities workforce, increase service capacity to meet identified behavioral health and developmental
16 disabilities services demands, and increase opportunities for Montanans to receive integrated physical and
17 behavioral health care;

18 ~~(d) acquisition of new or remodeling of existing infrastructure or property to support the~~
19 ~~establishment of state behavioral health settings and state intermediate care facilities for individuals with~~
20 ~~intellectual disabilities;~~

21 ~~(e)~~(d) planning, operation, or other contract expenses associated with state intermediate care
22 facilities for individuals with intellectual disabilities;

23 ~~(f)~~(e) planning, operation, or other contract expenses associated with state behavioral health
24 settings; and

25 ~~(g)~~(f) studying and planning of the development of a comprehensive behavioral health system.
26

27 NEW SECTION. **Section 4. Rulemaking authority.** (1) The department of public health and human
28 services shall adopt administrative rules that define how the appropriation for capital projects will be allocated

1 and spent under [section 8].

2 (2) The department of public health and human services shall initiate the rulemaking before May 1,
3 2024.

4
5 **NEW SECTION. Section 5. Legislative finance committee rule review.** (1) For the purposes of
6 rules promulgated under [section 4], the legislative finance committee established in 5-12-201 is the
7 administrative rule review committee under Title 2, chapter 4.

8 (2) The legislative finance committee may exercise all the powers of an administrative rule review
9 committee only for the rules promulgated under [section 4] pursuant to Title 2, chapter 4.

10
11 **NEW SECTION. Section 6. Transfer of funds.** (1) No later than June 30, 2023, the state treasurer
12 shall transfer \$225 million from the general fund to the account established in [section 3].

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

15
16 **NEW SECTION. Section 7. Appropriations.** (1) There is appropriated \$40 million to the department
17 of public health and human services on passage and approval of [this act] through the biennium beginning July
18 1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3].

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

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

24
25 **NEW SECTION. Section 8. Appropriation for capital projects.** (1) ~~No later than July 1, 2024, After~~
26 ~~the administrative rules have been adopted under [section 4]~~ and only after the ~~advisory~~-commission transmits
27 its recommendations to the governor after following the process set forth in [section 2], there is appropriated
28 \$75 million to the department of administration from the capital developments long-range building program

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1 account in the capital projects fund type provided for in 17-7-209 for the behavioral health system for future
2 generations capital development.

3 (2) (a) Pursuant to 17-7-210, if construction of a new facility requires an immediate or future
4 increase in state funding for program expansion or operations and maintenance, the legislature may not
5 authorize the new facility unless it also appropriates funds for the increase in state funding for program
6 expansion and operations and maintenance. To the extent allowed by law, at the end of each fiscal year
7 following approval of a new facility but prior to receipt of its certificate of occupancy, the appropriation made in
8 subsection (3) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

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

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

14
15 **NEW SECTION. Section 9. Planning and design.** The department of administration may proceed
16 with the planning and design of capital projects authorized in [section 6] [section 8] prior to the receipt of other
17 funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and
18 design costs incurred before the receipt of other funding sources.

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

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1 available.

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3 ~~NEW SECTION. Section 11. Legislative consent. The appropriation authorized in [section 6]~~
4 ~~[section 8] constitutes legislative consent for the capital projects contained in [section 6] [section 8] within the~~
5 ~~meaning of 18-2-102.~~

6

7 NEW SECTION. Section 11. Codification instruction. [Section 3] is intended to be codified as an
8 integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply to [section 3].

9

10 NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval.

11

12 NEW SECTION. Section 13. Termination. [Sections ~~1 and 2~~ 1, 2, 4, and 5] terminate July 1, 2025.

13

- END -