

Amendment - 1st Reading/2nd House-blue - Requested by: John Esp - (S) Finance and Claims

- 2023
68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0872.003.002

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; REPEALING SECTION 20-9-240,
13 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE DATES AND A TERMINATION DATE."
14

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

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 ~~(e)(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
15 PUBLIC HEALTH AND HUMAN SERVICES shall staff the ~~advisory~~ commission AND PAY FOR THE OPERATIONAL COSTS OF
16 THE COMMISSION FROM THE APPROPRIATION IN [SECTION 7] [section 8]. THE LEGISLATIVE FISCAL DIVISION SHALL
17 PROVIDE RESEARCH AND 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,
12 INCLUDING ALL OF THE ITEMS LISTED IN SUBSECTIONS (4)(A) THROUGH (4)(F) AND RECOMMENDED FUNDING AMOUNTS
13 PURSUANT TO SUBSECTION (1). Within 60 days of submitting its SUMMARY REPORT ON ITS recommendations to the
14 office of budget and program planning and the legislative fiscal analyst, the advisory commission, in
15 cooperation with the department of public health and human services, shall present the recommendations to
16 the following legislative 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),
21 IT SHALL INVITE MONTANA'S BEHAVIORAL HEALTH ADVISORY COUNCIL AND THE MONTANA STATEWIDE INDEPENDENT
22 LIVING COUNCIL TO 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
8 INTELLECTUAL DISABILITIES;

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

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

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

15 (4) FUNDS IN THIS ACCOUNT MAY NOT BE USED TO OPERATE EXISTING STATE FACILITIES.

17 NEW SECTION. SECTION 4. RULEMAKING AUTHORITY. (1) THE DEPARTMENT OF PUBLIC HEALTH AND
18 HUMAN SERVICES SHALL ADOPT ADMINISTRATIVE RULES THAT DEFINE HOW THE APPROPRIATION FOR CAPITAL PROJECTS
19 WILL BE ALLOCATED AND SPENT UNDER ~~[SECTION 8]~~ [section 9].

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

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

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

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NEW SECTION. Section 6. Repealer. The following section of the Montana Code Annotated is repealed:
20-9-240. Funding for school-based medical services -- duties of office of public instruction and department of public health and human services -- school-based services account.

NEW SECTION. Section 7. Transfer of funds. (1) No later than June 30, 2023, the state treasurer shall transfer ~~\$225~~ \$70 million from the general fund to the account established in [section 3].

(2) NO LATER THAN JUNE 30, 2024, THE STATE TREASURER SHALL TRANSFER \$155 MILLION FROM THE GENERAL FUND TO THE ACCOUNT ESTABLISHED IN [SECTION 3].

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

(4) Any unencumbered and unexpended fund balance in the school-based services account on June 30, 2023, must be transferred to the CSCT-OPI state match account managed by the department of public health and human services.

NEW SECTION. Section 8. Appropriations. (1) There is appropriated \$40 million to the department of public health and human services on passage and approval of [this act] through the biennium beginning July 1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3]. AND TO PAY FOR THE OPERATIONAL COSTS OF THE COMMISSION ESTABLISHED IN [SECTION 1].

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

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

NEW SECTION. Section 9. Appropriation for capital projects. (1) ~~No later than July 1, 2024,~~

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1 AFTER THE ADMINISTRATIVE RULES HAVE BEEN ADOPTED UNDER [SECTION 4] and only after the advisory-commission
2 transmits its SUMMARY REPORT ON ITS recommendations to the governor after following the process set forth in
3 [section 2], there is appropriated \$75 ~~\$55~~ million to the department of administration from the capital
4 developments long-range building program account in the capital projects fund type provided for in 17-7-209 for
5 the behavioral health system for future generations capital development.

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

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

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

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

22
23 NEW SECTION. Section 11. Review by department of environmental quality. The department of
24 environmental quality shall review capital projects authorized in ~~[section 6]~~ [SECTION 8] [section 9] for potential
25 inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review
26 shows that a capital project will result in energy or utility savings and improvements, that project must be
27 submitted to the energy conservation program for funding consideration by the state building energy

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1 conservation program. Funding provided under the energy conservation program guidelines must be used to
2 offset or add to the authorized funding for the project, and the amount must be dependent on the annual utility
3 savings resulting from the capital project. The department of public health and human services must be notified
4 of potential funding after the review and is obligated to utilize the state building energy conservation program
5 funding, if available.

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

9
10 NEW SECTION. Section 12. APPROPRIATIONS. (1) THERE IS APPROPRIATED \$20 MILLION FROM THE
11 CAPITAL DEVELOPMENT LONG-RANGE BUILDING PROGRAM ACCOUNT TO THE DEPARTMENT OF PUBLIC HEALTH AND
12 HUMAN SERVICES FOR THE BIENNIUM BEGINNING JULY 1, 2023, FOR THE USES OUTLINED IN [SECTION 3(3)(D)].

13 (2) THERE IS APPROPRIATED \$83.5 MILLION IN FEDERAL SPECIAL REVENUE TO THE DEPARTMENT OF
14 PUBLIC HEALTH AND HUMAN SERVICES FOR THE BIENNIUM BEGINNING JULY 1, 2023, TO PROVIDE MATCHING FUNDS TO
15 THE DEPARTMENT.

16
17 NEW SECTION. Section 13. LEGISLATIVE INTENT. THE APPROPRIATION AUTHORIZED IN ~~[SECTION 11]~~
18 ~~[section 12]~~ CONSTITUTES LEGISLATIVE CONSENT FOR THE CAPITAL PROJECTS OUTLINED IN [SECTION 3(3)(D)] WITHIN
19 THE MEANING OF 18-2-102.

20
21 NEW SECTION. Section 14. Codification instruction. [Section 3] is intended to be codified as an
22 integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply to [section 3].

23
24 NEW SECTION. Section 15. Effective date. ~~[This act] (1) Except as otherwise provided in~~
25 ~~subsection (2), [this act]~~ is effective on passage and approval.

26 (2) [Section 6] is effective July 1, 2023.

27

