

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 CONSIDER~~ THE RECOMMENDATIONS; ~~PROVIDING RULEMAKING AUTHORITY; PROVIDING~~

11 ~~THE LEGISLATIVE FINANCE COMMITTEE WITH SPECIFIC ADMINISTRATIVE RULE REVIEW~~

12 ~~AUTHORITY; PROVIDING APPROPRIATIONS AN APPROPRIATION; PROVIDING AN APPROPRIATION;~~

13 AND PROVIDING AN IMMEDIATE 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~~

28 ~~PRESIDENT OF THE SENATE.~~

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Drafter: Julie Johnson, 406-444-4024

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1 (3) For legislative appointments, legislators serving as members MUST INCLUDE AT LEAST ONE

2 MEMBER OF EACH OF THE FOLLOWING COMMITTEES:

3 (A) _____ of the legislative finance committee;₁

4 (B) _____ the health and human services interim budget committee provided for in 5-12-501;₁

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

7 (D) _____ THE JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE INTERIM BUDGET COMMITTEE PROVIDED FOR
8 IN 5-12-501; AND

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

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

13 (5) ~~The department of public health and human~~ LEGISLATIVE services DIVISION DEPARTMENT OF
14 PUBLIC HEALTH AND HUMAN SERVICES shall staff the ~~advisory~~ commission AND PAY FOR THE OPERATIONAL COSTS OF
15 THE COMMISSION FROM THE APPROPRIATION IN [SECTION 7]. THE LEGISLATIVE FISCAL DIVISION SHALL PROVIDE
16 RESEARCH AND ANALYSIS AT THE REQUEST OF THE COMMISSION OR ITS LEGISLATIVE MEMBERS.

17 (6) ~~The advisory~~ commission shall elect a chair from the legislative branch AND A VICE CHAIR FROM
18 ONE OF THE GOVERNOR'S APPOINTEES. ~~The director of the department of public health and human services shall~~
19 ~~serve as the vice chair.~~

20
21 NEW SECTION. Section 2. Commission -- meetings -- recommendations. (1) The ~~advisory~~
22 commission shall recommend how funds allocated to the department of public health and human services
23 through the state special revenue fund established in [section 3] are expended.

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

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

28 (4) ~~The advisory~~ commission shall submit ~~a report~~ REPORTS of its recommendations AS NEEDED to

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1 the office of budget and program planning and to the legislative fiscal analyst by ~~May 1, 2024~~. The report

2 REPORTS must include ONE OR MORE OF the following:

3 (a) initiatives that address behavioral health;

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

5 (C) OUTCOME MEASURES, AS DEFINED IN 2-15-2221;

6 (D) OUTPUT MEASURES, AS DEFINED IN 2-15-2221;

7 (E) PERFORMANCE MEASURES, AS DEFINED IN 2-15-2221; AND

8 ~~(e)(F)~~ the amount of funding required for the initiatives.

9 (5) BY JULY 1, 2024, THE COMMISSION SHALL SUBMIT A REPORT ON ITS FINAL RECOMMENDATIONS,

10 INCLUDING ALL OF THE ITEMS LISTED IN SUBSECTIONS (4)(A) THROUGH (4)(F) AND RECOMMENDED FUNDING AMOUNTS

11 PURSUANT TO SUBSECTION (1). Within 60 days of submitting its SUMMARY REPORT ON ITS recommendations to the

12 office of budget and program planning and the legislative fiscal analyst, the ~~advisory~~ commission, in

13 cooperation with the department of public health and human services, shall present the recommendations to

14 the following legislative committees, who shall meet jointly:

15 (a) the legislative finance committee;

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

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

18 (6) WHEN THE COMMISSION PRESENTS TO THE LEGISLATIVE COMMITTEES IDENTIFIED IN SUBSECTION (5),

19 IT SHALL INVITE MONTANA'S BEHAVIORAL HEALTH ADVISORY COUNCIL AND THE MONTANA STATEWIDE INDEPENDENT

20 LIVING COUNCIL TO RECEIVE ITS PRESENTATION AND TO PROVIDE COMMENTS TO THE COMMISSION.

21 ~~(6)(7)~~ (a) Following the presentation before the joint meeting of the three committees the ~~advisory~~

22 commission shall meet to consider the comments from committee members and the public and may revise or

23 amend its recommendations, if desired.

24 (b) The ~~final~~ recommendations of the ~~advisory~~ commission must be transmitted to the governor by

25 the office of budget and program planning for consideration by the governor only after the commission has met

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

27 ~~(7)(8)~~ The governor may ~~modify~~ consider recommendations that must be submitted for approval by

28 the 69th legislature. The legislature may approve and modify the plan and provide for appropriations in the 69th

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

7 (8)(9) If the governor later determines that a recommended AN APPROVED initiative cannot be
 8 completed, the governor may authorize a different initiative. Prior to implementing a different initiative, the
 9 department of public health and human services shall present a report on the new initiative to both the advisory
 10 commission and the health and human services interim budget committee.

11 (9)(10) At any time during the process outlined in this section, ~~if a legislator does not approve of the~~
 12 ~~recommended initiatives or the amounts for funding, if a legislator or the governor determines that an~~
 13 ~~appropriation must be made prior to the 69th legislative session,~~ the legislator may initiate the provisions of 5-3-
 14 105 to request a poll of the legislature to hold a special session or the governor may call for a special session.

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

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

20 (3) Eligible uses of the fund include:

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

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

24 (c) statewide community-based investments to stabilize behavioral health and developmental
 25 disabilities service providers and delivery, increase and strengthen the behavioral health and developmental
 26 disabilities workforce, increase service capacity to meet identified behavioral health and developmental
 27 disabilities services demands, and increase opportunities for Montanans to receive integrated physical and
 28 behavioral HEALTH CARE;

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

4 (D) ACQUISITION OF NEW OR REMODELING OF EXISTING INFRASTRUCTURE OR PROPERTY TO SUPPORT THE
5 ESTABLISHMENT OF BEHAVIORAL HEALTH SETTINGS AND INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH
6 INTELLECTUAL DISABILITIES;

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

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

11 ~~(g)(F)(G)~~ studying and planning of the development of a comprehensive behavioral health
12 system.

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

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

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

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

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

27 NEW SECTION. Section 4. Transfer of funds. (1) No later than June 30, 2023, the state treasurer
28 shall transfer \$225 \$70 million from the general fund to the account established in [section 3].

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

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

6 ~~**NEW SECTION. Section 7.— Appropriations.** (1) There is appropriated \$40 million to the department
7 of public health and human services on passage and approval of [this act] through the biennium beginning July
8 1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3], AND TO PAY
9 FOR THE OPERATIONAL COSTS OF THE COMMISSION ESTABLISHED IN [SECTION 1].~~

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

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

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

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

28 ~~(b) — It is the legislature's intent that the appropriation in subsection (3) become part of the~~

1 ~~respective agency's base budget for the biennium beginning July 1, 2025.~~

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

5
6 ~~NEW SECTION. Section 9. — Planning and design. The department of administration may proceed~~
7 ~~with the planning and design of capital projects AUTHORIZED in [section 6] [SECTION 8] prior to the receipt of other~~
8 ~~funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and~~
9 ~~design costs incurred before the receipt of other funding sources.~~

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

21
22 ~~NEW SECTION. Section 11. — Legislative consent. The appropriation authorized in [section 6]~~
23 ~~constitute s legislative consent for the capital contained in [section 6] within the meaning of 18-2-102.~~

24
25 ~~NEW SECTION. SECTION 5. APPROPRIATIONS APPROPRIATION. (1) THERE IS APPROPRIATED \$20-1~~
26 ~~MILLION FROM THE CAPITAL DEVELOPMENT LONG-RANGE BUILDING PROGRAM ACCOUNT TO THE DEPARTMENT OF PUBLIC~~
27 ~~HEALTH AND HUMAN SERVICES FOR THE BIENNIUM BEGINNING JULY 1, 2023, FOR THE USES OUTLINED IN [SECTION~~
28 ~~3(3)(D)].~~

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

4
5 ~~NEW SECTION. Section 12. LEGISLATIVE INTENT. THE APPROPRIATION AUTHORIZED IN [SECTION 11]~~
6 ~~CONSTITUTES LEGISLATIVE CONSENT FOR THE CAPITAL PROJECTS OUTLINED IN [SECTION 3(3)(D)] WITHIN THE MEANING~~
7 ~~OF 18-2-102.~~

8
9 NEW SECTION. Section 6. Codification instruction. [Section 3] is intended to be codified as an
10 integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply to [section 3].

11
12 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

13
14 NEW SECTION. Section 8. Termination. ~~[Sections 1 and 2, 1, 2, 4, AND 5]~~ [Sections 1 and 2]
15 terminate July 1, 2025.

16 - END -