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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-INCLUDE THE RECOMMENDATIONS OF THE COMMISSION IN THE 2027 BIENNIUM EXECUTIVE BUDGET; PROVIDING FOR THE COMMISSION TO SUBMIT ITS RECOMMENDATIONS TO INTERIM COMMITTEES FOR CONSIDERATION OF LEGISLATIVE PROPOSALS FOR THE 2027 BIENNIUM; 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. Purpose. The purpose of [this act] is to build a behavioral health system that serves all Montanans, that supports people to remain in their homes and, when not possible, in their communities.

NEW SECTION. Section 2. 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-four~~ senators, ~~one two~~ from the majority party and ~~one two~~ from the minority party, appointed by the committee on committees;

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

1 (c) ~~three~~four members ~~of the public,~~ including the director of the department of public health and  
2 ~~human services,~~ appointed by the governor, including:

3 (i) one person representing an organization that protects the rights of people with behavioral  
4 health problems;

5 (ii) one person representing an organization that protects the rights of people with disabilities;

6 (iii) one person with a mental health or behavioral health diagnosis; and

7 (iv) one person who has a disability; and

8 (d) one representative from the department of corrections and one representative from the  
9 department of public health and human services shall serve as ad hoc, nonvoting members.

10 (3) For legislative appointments, one member must be a member of, legislators serving as  
11 ~~members of the legislative finance committee;~~

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

13 (b) the children, families, health, and human services interim committee; ~~from the 2025 biennium~~  
14 ~~are given preference~~

15 (c) the judicial branch, law enforcement, and justice budget committee; and

16 (d) the long-range planning budget committee provided for in 5-12-501.

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

20 (5) The department of public health and human services shall staff the ~~advisory~~ commission.

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

23  
24 NEW SECTION. Section 3. Commission -- meetings -- recommendations. (1) The ~~advisory~~  
25 commission shall recommend to the 69th legislature how funds allocated to the department of public health and  
26 human services through the state special revenue fund established in ~~[section 3]~~[section 4] are expended.

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

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

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

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

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

6 (a) ~~initiatives that address behavioral health~~initiatives that stabilize behavioral health and  
7 developmental disabilities service providers and delivery;

8 (b) ~~initiatives that assist those with developmental disabilities~~initiatives that increase service  
9 capacity to meet identified behavioral health and developmental disabilities services demands;

10 (c) initiatives that increase service capacity to meet identified behavioral health and developmental  
11 disabilities services demands;

12 (d) initiatives that increase opportunities for Montanans to receive integrated physical and  
13 behavioral health care; and

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

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

19 (a) the legislative finance committee;

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

21 (c) the children, families, health, and human services interim committee;

22 (d) the judicial branch, law enforcement, and justice budget committee; and

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

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

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

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

- 2023

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1 ~~to consider the comments from committee members and the public pursuant to subsection (6)(a), and the~~  
2 ~~governor may include the final recommendations in the executive budget for the 2027 biennium.~~

3 ~~(c) The final recommendations of the commission may be transmitted to all members of the 69th~~  
4 ~~legislature.~~

5 ~~(7) Any of the following committees may draft proposed legislation based on the recommendations~~  
6 ~~of the commission:~~

7 ~~(a) the legislative finance committee;~~

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

9 ~~(c) the children, families, health, and human services interim committee;~~

10 ~~(d) the judicial branch, law enforcement, and justice budget committee; or~~

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

12 ~~(7) The governor may modify recommendations and must provide the list of approved~~  
13 ~~recommendations and amounts to the advisory commission, the office of budget and program planning, the~~  
14 ~~department of public health and human services, and to the health and human services interim budget~~  
15 ~~committee. If the governor modifies the list of recommendations and amounts submitted by the advisory~~  
16 ~~commission, the department of public health and human services shall report and explain the change to the~~  
17 ~~advisory commission and to the health and human services interim budget committee at the next scheduled~~  
18 ~~meetings.~~

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

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

26  
27 NEW SECTION. Section 4. Behavioral health system for future generations fund. (1) There is an  
28 account in the state special revenue fund established in 17-2-102 to be known as the behavioral health system

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1 for future generations fund.

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

3 (3) Eligible uses of the fund include:

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

6 (b) medicaid and CHIP matching funds ~~for payments made to state intermediate care facilities for~~  
7 ~~individuals with intellectual disabilities for services to assist those with developmental and intellectual~~  
8 ~~disabilities; and~~

9 (c) statewide community-based investments to stabilize behavioral health and developmental  
10 disabilities service providers and delivery, increase and strengthen the behavioral health and developmental  
11 disabilities workforce, increase service capacity to meet identified behavioral health and developmental  
12 disabilities services demands, and increase opportunities for Montanans to receive integrated physical and  
13 behavioral ~~healthcare~~ health care;

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

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

19 ~~(f) planning, operation, or other contract expenses associated with state behavioral health~~  
20 ~~settings; and~~

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

22  
23 NEW SECTION. Section 5. Transfer of funds. ~~(1)~~ No later than June 30, 2023, the state treasurer  
24 shall transfer ~~\$225~~ \$300 million from the general fund to the account established in ~~[section 3]~~ [section 4].

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

27  
28 NEW SECTION. Section 5. Appropriations. ~~(1)~~ There is appropriated \$40 million to the department

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1 ~~of public health and human services on passage and approval of [this act] through the biennium beginning July~~  
2 ~~1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3].~~

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

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

8  
9 ~~**NEW SECTION. Section 6. — Appropriation for capital projects.** (1) No later than July 1, 2024, and~~  
10 ~~only after the advisory commission transmits its recommendations to the governor after following the process~~  
11 ~~set forth in [section 2], there is appropriated \$75 million to the department of administration from the capital~~  
12 ~~developments long-range building program account in the capital projects fund type provided for in 17-7-209 for~~  
13 ~~the behavioral health system for future generations capital development.~~

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

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

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

25  
26 ~~**NEW SECTION. Section 7. — Planning and design.** The department of administration may proceed~~  
27 ~~with the planning and design of capital projects in [section 6] prior to the receipt of other funding sources. The~~  
28 ~~department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred~~

1 ~~before the receipt of other funding sources.~~

2

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

12

13 ~~NEW SECTION. Section 9. Legislative consent. The appropriation authorized in [section 6]~~  
14 ~~constitutes legislative consent for the capital project contained in [section 6] within the meaning of 18-2-102.~~

15

16 NEW SECTION. Section 6. Appropriation. There is appropriated \$100,000 from the general fund to  
17 the department of public health and human services for the biennium beginning July 1, 2023, to staff the  
18 behavioral health system for future generations commission.

19

20 NEW SECTION. Section 7. Codification instruction. [Section 3][Section 4] is intended to be  
21 codified as an integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply  
22 to [section 3][section 4].

23

24 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

25

26 NEW SECTION. Section 9. Termination. [Sections 1 and 2][Sections 2 and 3] terminate July 1,  
27 2025.

28

- END -