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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;

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

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

(3) For legislative appointments, legislators serving as members of the legislative finance committee, the health and human services interim budget committee provided for in 5-12-501, and the children, families, health, and human services interim committee from the 2025 biennium are given preference.

Amendment - 1st Reading-white - Requested by: Llew Jones - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Todd Everts, 406-444-4023

HB0872.001.007

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

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

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

7

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

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

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

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

- 18 (a) initiatives that address behavioral health;
- 19 (b) initiatives that assist those with developmental disabilities; and
- 20 (c) the amount of funding required for the initiatives.

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

- 25 (a) the legislative finance committee;
- 26 (b) the health and human services interim budget committee provided for in 5-12-501; and
- 27 (c) the children, families, health, and human services interim committee.

28 (6) (a) Following the presentation before the joint meeting of the three committees the advisory

1 commission shall meet to consider the comments from committee members and the public and may revise or
2 amend its recommendations, if desired.

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

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

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

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

20
21 **NEW SECTION. Section 3. Behavioral health system for future generations fund.** (1) There is an
22 account in the state special revenue fund established in 17-2-102 to be known as the behavioral health system
23 for future generations fund.

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

25 (3) Eligible uses of the fund include:

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

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

Amendment - 1st Reading-white - Requested by: Llew Jones - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Todd Everts, 406-444-4023

HB0872.001.007

1 (c) statewide community-based investments to stabilize behavioral health and developmental
2 disabilities service providers and delivery, increase and strengthen the behavioral health and developmental
3 disabilities workforce, increase service capacity to meet identified behavioral health and developmental
4 disabilities services demands, and increase opportunities for Montanans to receive integrated physical and
5 behavioral healthcare;

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

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

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

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

15 **NEW SECTION. Section 4. Rulemaking authority.** (1) The department of public health and human
16 services shall adopt administrative rules that define how the appropriation for capital projects will be allocated
17 and spent under [section 8] and the extent to which legislative consent for capital projects is used under
18 [section 11].

19 (2) The department of public health and human services shall initiate the rulemaking before May 1,
20 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 review
26 committee only for the rules promulgated under [section 4] pursuant to Title 2, chapter 4.
27

28 **NEW SECTION. Section 6. Transfer of funds.** (1) No later than June 30, 2023, the state treasurer

Amendment - 1st Reading-white - Requested by: Llew Jones - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Todd Everts, 406-444-4023

HB0872.001.007

1 shall transfer \$225 million from the general fund to the account established in [section 3].

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

4
5 **NEW SECTION. Section 7. Appropriations.** (1) There is appropriated \$40 million to the department
6 of public health and human services on passage and approval of [this act] through the biennium beginning July
7 1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3].

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

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

13
14 **NEW SECTION. Section 8. Appropriation for capital projects.** (1) ~~No later than July 1, 2024, After~~
15 ~~the administrative rules have been adopted under [section 4]~~ and only after the advisory commission transmits
16 its recommendations to the governor after following the process set forth in [section 2], there is appropriated
17 \$75 million to the department of administration from the capital developments long-range building program
18 account in the capital projects fund type provided for in 17-7-209 for the behavioral health system for future
19 generations capital development.

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

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

28 (3) The amount of \$1,661,426 is appropriated for the biennium beginning July 1, 2023, to the

1 department of public health and human services from the account established in [section 3] for program
2 expansion or operations and maintenance for the indicated new facility.

3
4 **NEW SECTION. Section 9. Planning and design.** The department of administration may proceed
5 with the planning and design of capital projects authorized in ~~[section 6]~~ [section 8] prior to the receipt of other
6 funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and
7 design costs incurred before the receipt of other funding sources.

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

19
20 **NEW SECTION. Section 11. Legislative consent.** The appropriation authorized in ~~[section 6]~~
21 [section 8] constitutes legislative consent for the capital projects contained in ~~[section 6]~~ [section 8] within the
22 meaning of 18-2-102.

23
24 **NEW SECTION. Section 12. Codification instruction.** [Section 3] is intended to be codified as an
25 integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply to [section 3].

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27 **NEW SECTION. Section 13. Effective date.** [This act] is effective on passage and approval.

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