

**Unofficial Draft Copy**

As of: June 7, 2018 (3:03pm)

LCCF03

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act providing flexibility in funding of community-based services for people with developmental disabilities; establishing requirements for reimbursement of certain services; restricting use of general fund appropriations made for waiver services; creating a grant program for community services; extending rulemaking authority; creating a special revenue account; transferring funds; providing a statutory appropriation; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Restriction on appropriations for community developmental disabilities services.** Any general fund appropriated in a general appropriations act to match federal funds for the comprehensive home and community-based services waiver for people with developmental disabilities may be used only:

(1) on waiver services for people with developmental disabilities; or

(2) as provided in [section 2].

NEW SECTION. **Section 2. Grants for community developmental disabilities services.** (1) The department shall make grants no

later than October 1 each year from the special revenue account provided for in [section 3] to providers under contract with the department for community developmental disabilities services pursuant to this part.

(2) Providers shall apply for grants made pursuant to this section in accordance with rules adopted by the department.

(3) Grant funds may be used for the following purposes:

(a) acquisition, renovation, or maintenance of developmental disabilities facilities;

(b) staff training that exceeds the minimum training levels established by the department;

(c) staff retention and recruitment efforts including but not limited to pay increases or bonuses based on:

(i) acceptance of employment;

(ii) longevity in employment;

(ii) the complexity of the care provided; or

(iv) OTHER CIRCUMSTANCES AS DETERMINED BY THE COMMITTEE;

(d) payment for medical equipment not covered by medicaid;

and

(e) OTHER PURPOSES AS DETERMINED BY THE COMMITTEE.

NEW SECTION. **Section 3. Community developmental disabilities services special revenue account -- fund transfer -- statutory appropriation.** (1) There is a community developmental disabilities services special revenue account to the credit of the department.

(2) By July 15 each year, the state treasurer shall

transfer to the community developmental disabilities special services revenue account any unencumbered general fund appropriated to the department in the preceding fiscal year for the home and community based-services waiver for people with developmental disabilities. Interest earned on the money in the account must be deposited in the account.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, for the purposes of [section 2].

**Section 4.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-301;

**Unofficial Draft Copy**

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LCCF03

[10-4-304;] 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117;  
15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119;  
16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241;  
17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404;  
19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;  
19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534;  
20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116;  
22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612;  
23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501;  
37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;  
44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113;  
[section 3]; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415;  
69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313;  
75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108;  
77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112;  
81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;  
[85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003;  
90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation

# Unofficial Draft Copy

As of: June 7, 2018 (3:03pm)

LCCF03

authority for the payments.(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec.

**Unofficial Draft Copy**

As of: June 7, 2018 (3:03pm)

LCCF03

4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; pursuant to sec. 31(2), Ch. 367, L. 2017, the inclusion of 10-4-301 terminates July 1, 2018, and the inclusion of 10-4-304 is effective July 1, 2018; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

{*Internal References to 17-7-502:*

2-17-105	5-11-120	5-11-407	5-13-403
7-4-2502	10-1-108	10-1-1202	10-1-1303
10-2-603	10-2-807	10-3-203	10-3-310
10-3-312	10-3-312	10-3-314	10-3-1304
10-4-301	10-4-304	15-1-121	15-1-218
15-35-108	15-36-332	15-36-332	15-37-117
15-37-117	15-39-110	15-65-121	15-70-101
15-70-130	15-70-433	16-11-119	16-11-509
17-1-508	17-3-106	17-3-112	17-3-212
17-3-222	17-3-241	17-6-101	17-7-215
17-7-501	18-11-112	19-3-319	19-3-320
19-6-404	19-6-410	19-9-702	19-13-604
19-17-301	19-18-512	19-19-305	19-19-506
19-20-604	19-20-607	19-21-203	20-8-107
20-9-534	20-9-534	20-9-622	20-9-905
20-26-617	20-26-1503	22-1-327	22-3-116
22-3-117	22-3-1004	23-4-105	23-4-105
23-5-306	23-5-409	23-5-612	23-7-301
23-7-402	23-7-402	23-7-402	30-10-1004
37-43-204	37-50-209	37-51-501	37-54-113
39-71-503	41-5-2011	42-2-105	44-4-1101
44-12-213	44-13-102	50-1-115	53-1-109
53-6-148	53-6-1304	53-6-1304	53-9-113
53-24-108	53-24-108	53-24-206	60-11-115

**Unofficial Draft Copy**

As of: June 7, 2018 (3:03pm)

LCCF03

61-3-321	61-3-415	69-3-870	69-4-527
75-1-1101	75-5-1108	75-6-214	75-11-313
75-26-308	76-13-150	76-13-150	76-13-416
76-17-103	76-22-109	76-22-109	77-1-108
77-2-362	80-2-222	80-4-416	80-11-518
80-11-1006	81-1-112	81-1-113	81-7-106
81-10-103	82-11-161	82-11-161	85-20-1504
85-20-1504	85-20-1505	85-25-102	87-1-603
90-1-115	90-1-115	90-1-205	90-1-504
90-3-1003	90-6-331	90-9-306	}

**Section 5.** Section 53-20-204, MCA, is amended to read:

**"53-20-204. Rules.** (1) The department may adopt rules necessary for the proper administration of this part, including but not limited to rules for grant applications submitted pursuant to [section 2].

(2) The department shall adopt rules in cooperation with the board of nursing under which a properly trained staff member of a facility providing services to persons with developmental disabilities under this part may assist and supervise a client of the facility in taking medication if the medication is usually self-administered and if a physician has prescribed the assistance."

{*Internal References to 53-20-204: None.*}

**Section 6.** Section 53-20-205, MCA, is amended to read:

**"53-20-205. Community services.** (1) The department may establish and administer community comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or

# Unofficial Draft Copy

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LCCF03

other services may be provided directly by state agencies or indirectly through contract or cooperative arrangements with other agencies of government, regional or local, private or public agencies, private professional persons, or accredited health or long-term care facilities.

(2) The department may contract for programs for developmental disabilities services. Contracts entered into by the department must contain specific conditions for performance by the contractor. The department shall set minimum standards for programs and establish appropriate qualifications for persons employed in the programs.

(3) (a) Upon approval from the centers for medicare and medicaid services, the department shall reimburse residential habilitation and ANY DAY SERVICES AS DETERMINED BY THE COMMITTEE using a daily or monthly rate that includes options for additional payments based on the level of need of the individuals receiving services.

(b) For the purposes of this subsection (3):

(i) "daily rate" means reimbursement for services provided for any period from 12:00 a.m. to 11:59 p.m.; and

(ii) "monthly rate" means a fixed amount provided on a monthly basis for care provided to a person enrolled in a service that month.

~~(3)~~(4) All developmental disabilities facilities and services must comply with existing federal guidelines and with requirements that will enable the services and facilities to qualify for available aid funds. However, this section does not



require facilities serving persons with developmental disabilities to meet the same or equal standards as licensed medical facilities unless the developmental disabilities facility is providing professional or skilled medical care.

~~(4)~~(5) Comprehensive services, programs, clinics, or other facilities established or provided by the department under this part must conform as nearly as possible to the plans of the council created under 2-15-1869.

~~(5)~~(6) The department may promote scientific and medical research investigations relative to the incidence, cause, prevention, and care of persons with developmental disabilities."

{*Internal References to 53-20-205:  
53-20-203x*}

NEW SECTION. **Section 7. Direction to the department.** The department of public health and human services shall apply by October 1, 2019, for an amendment to the 0208 home and community-based services waiver for individuals with developmental disabilities to allow for reimbursement of residential habilitation and ANY DAY SERVICES AS DETERMINED BY THE COMMITTEE on a daily or monthly rate basis as provided in 53-20-205. The department shall implement the amended reimbursement rate within 90 days of receiving approval from the centers for medicare and medicaid services.

NEW SECTION. **Section 8. {standard} Codification instruction.** [Sections 1 through 3] are intended to be codified

**Unofficial Draft Copy**

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LCCF03

as an integral part of Title 53, chapter 20, part 2, and the provisions of Title 53, chapter 20, part 2, apply to [sections 1 through 3].

NEW SECTION. **Section 9. {standard} Effective date.** [This act] is effective on passage and approval.

- END -

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