

HOUSE BILL NO. 638

INTRODUCED BY J. KNOKEY

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A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR A DEVELOPMENTAL DISABILITY AND AGING SERVICES PROVIDER RATE INCREASE FOR DIRECT CARE WORKER WAGES; AUTHORIZING A FUND TRANSFER FROM THE OLDER MONTANANS TRUST FUND TO THE DIRECT CARE WORKER WAGES ACCOUNT; AMENDING SECTION 52-3-115, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

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NEW SECTION. **Section 1. Appropriation for direct care worker wages.** (1) The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, 2017, for a rate increase for developmental disability services providers to be phased in and used as provided in this section:

16	Fiscal Year 2018	\$6,605,652	federal special revenue
17		<u>\$5,277,977</u>	
18		\$3,433,333	general <u>STATE SPECIAL REVENUE</u> fund
19		<u>\$2,789,240</u>	
20	Fiscal Year 2019	\$13,211,304	federal special revenue
21		<u>\$12,326,129</u>	
22		\$6,866,666	general <u>STATE SPECIAL REVENUE</u> fund
23		<u>\$6,526,928</u>	

24 (2) Providers must use the appropriation to increase wages ~~and related benefits or provide lump-sum~~
25 ~~payments~~ only for workers who:

- 26 (a) provide direct care;
- 27 (b) are employed in community services established pursuant to 53-20-205; and
- 28 (c) are not state employees.

29 (3) Except as provided in subsection (4), the department shall phase in the appropriation on July 1 and
30 January 1 of each year of the biennium in a manner that provides the equivalent of an increase in wages ~~and~~



1 ~~related benefits or a lump-sum payment~~ of at least ~~\$1.25~~ 75 CENTS an hour per employee.

2 (4) (a) If the appropriation is insufficient to provide the equivalent of a biannual increase of ~~\$1.25~~ 75
 3 CENTS an hour per employee, the department shall provide the maximum provider rate increase possible from
 4 the appropriation.

5 (b) If the appropriation allows for the equivalent of a biannual increase of more than ~~\$1.25~~ 75 CENTS an
 6 hour per employee, the department shall use the full amount of the appropriation to provide the greater increase.

7 (5) THE APPROPRIATION IN THIS SECTION IS INTENDED TO INCREASE MEDICAID SERVICES AND NOT TO SUPPLANT
 8 THE GENERAL FUND IN THE TRENDED TRADITIONAL LEVEL OF APPROPRIATION FOR MEDICAID SERVICES AND MEDICAID
 9 PROVIDER RATES. THE APPROPRIATION IN THIS SECTION MAY NOT BE USED TO PROVIDE WAGES TO PROGRAM MANAGERS,
 10 ADMINISTRATIVE STAFF, MANAGEMENT STAFF, SCHEDULERS, NURSE SUPERVISORS, LICENSED PRACTICAL NURSES,
 11 REGISTERED NURSES, OR CASE MANAGERS.

12 ~~(5)(6)~~ The legislature intends that the appropriation in this section be considered a part of the ongoing
 13 base for the next legislative session.

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 15 **NEW SECTION. SECTION 2. APPROPRIATION FOR DIRECT CARE WORKER WAGES.** (1) THE FOLLOWING
 16 AMOUNTS ARE APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE BIENNIUM
 17 BEGINNING JULY 1, 2017, FOR A RATE INCREASE FOR HOME AND COMMUNITY-BASED SERVICES WAIVER DIRECT CARE
 18 WORKERS AND FOR COMMUNITY SERVICES PERSONAL CARE ASSISTANTS TO BE ADMINISTERED BY THE SENIOR AND
 19 LONG-TERM CARE DIVISION FOR ELDERLY AND PHYSICALLY DISABLED INDIVIDUALS, TO BE PHASED IN AND USED AS
 20 PROVIDED IN THIS SECTION:

21	<u>FISCAL YEAR 2018</u>	<u>\$808,268</u>	<u>FEDERAL SPECIAL REVENUE</u>
22		<u>\$427,144</u>	<u>STATE SPECIAL REVENUE FUND</u>
23			
24	<u>FISCAL YEAR 2019</u>	<u>\$1,211,568</u>	<u>FEDERAL SPECIAL REVENUE</u>
25		<u>\$641,549</u>	<u>STATE SPECIAL REVENUE FUND</u>

26 (2) PROVIDERS MAY USE THE APPROPRIATION TO INCREASE WAGES ONLY FOR WORKERS WHO:

27 (A) PROVIDE DIRECT CARE;

28 (B) ARE EMPLOYED IN COMMUNITY SERVICES; AND

29 (C) ARE NOT STATE EMPLOYEES.

30 (3) THE DEPARTMENT SHALL USE THE APPROPRIATION STARTING ON:

1 (A) JULY 1, 2017, TO INCREASE WAGES BY AT LEAST \$1.50 AN HOUR PER EMPLOYEE; AND

2 (B) JULY 1, 2018, TO INCREASE WAGES BY AT LEAST \$2.25 AN HOUR PER EMPLOYEE.

3 (4) THE APPROPRIATION IN THIS SECTION IS INTENDED TO INCREASE MEDICAID SERVICES AND NOT TO SUPPLANT
 4 THE GENERAL FUND IN THE TRENDED TRADITIONAL LEVEL OF APPROPRIATION FOR MEDICAID SERVICES AND MEDICAID
 5 PROVIDER RATES. THE APPROPRIATION IN THIS SECTION MAY NOT BE USED TO PROVIDE WAGES TO PROGRAM MANAGERS,
 6 ADMINISTRATIVE STAFF, MANAGEMENT STAFF, SCHEDULERS, NURSE SUPERVISORS, LICENSED PRACTICAL NURSES,
 7 REGISTERED NURSES, OR CASE MANAGERS.

8 (5) THE LEGISLATURE INTENDS THAT THE APPROPRIATION IN THIS SECTION BE CONSIDERED A PART OF THE
 9 ONGOING BASE FOR THE NEXT LEGISLATIVE SESSION.

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 11 NEW SECTION. SECTION 3. DIRECT CARE WORKER WAGE ACCOUNT. (1) THERE IS AN ACCOUNT IN THE STATE
 12 SPECIAL REVENUE FUND ESTABLISHED BY 17-2-102 TO BE KNOWN AS THE DIRECT CARE WORKER WAGE ACCOUNT.

13 (2) THERE MUST BE DEPOSITED IN THE ACCOUNT MONEY RECEIVED FROM FUND TRANSFERS PROVIDED BY
 14 [SECTIONS 4 AND 5].

15 (3) THE MONEY IN THE ACCOUNT MUST BE USED TO FUND THE STATE SPECIAL REVENUE APPROPRIATIONS IN
 16 [SECTIONS 1 AND 2].

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 18 NEW SECTION. SECTION 4. CONTINGENT FUND TRANSFER TO DIRECT CARE WORKER WAGE ACCOUNT.

19 (1) FOR THE FISCAL YEAR ENDING JUNE 30, 2017, IF THE CERTIFIED UNAUDITED GENERAL FUND REVENUE AND TRANSFERS
 20 INTO THE GENERAL FUND RECEIVED IN FISCAL YEAR 2017 IS MORE THAN THE ESTIMATED STATE GENERAL FUND REVENUE
 21 IN HOUSE JOINT RESOLUTION NO. 2 FOR THE SAME FISCAL YEAR, THEN THE STATE TREASURER SHALL TRANSFER THE
 22 AMOUNT OF GENERAL FUND REVENUE THAT EXCEEDS THE REVENUE ESTIMATE FROM THE GENERAL FUND TO THE DIRECT
 23 CARE WORKER WAGE ACCOUNT PROVIDED IN [SECTION 3], NOT TO EXCEED \$2,789,240. THE STATE TREASURER SHALL
 24 MAKE THE TRANSFER BY AUGUST 1, 2017, AND BEFORE THE TRANSFER IN SECTION 14(4) OF SENATE BILL NO. 367.

25 (2) FOR THE FISCAL YEAR ENDING JUNE 30, 2018, IF THE CERTIFIED UNAUDITED GENERAL FUND REVENUE AND
 26 TRANSFERS INTO THE GENERAL FUND RECEIVED IN FISCAL YEAR 2018 IS MORE THAN THE ESTIMATED STATE GENERAL
 27 FUND REVENUE IN HOUSE JOINT RESOLUTION NO. 2 FOR THE SAME FISCAL YEAR, THEN THE STATE TREASURER SHALL
 28 TRANSFER THE AMOUNT OF GENERAL FUND REVENUE THAT EXCEEDS THE REVENUE ESTIMATE FROM THE GENERAL FUND
 29 TO THE DIRECT CARE WORKER WAGE ACCOUNT PROVIDED IN [SECTION 3], NOT TO EXCEED \$6,526,928. THE STATE
 30 TREASURER SHALL MAKE THE TRANSFER BY AUGUST 1, 2018, AND BEFORE THE TRANSFER IN SECTION 14(4) OF SENATE

1 BILL NO. 367.

2 (3) FOR THE PURPOSE OF THIS SECTION, CERTIFIED UNAUDITED GENERAL FUND REVENUE AND TRANSFERS INTO
 3 THE GENERAL FUND ARE THOSE RECORDED IN THE STATEWIDE ACCOUNTING, BUDGETING, AND HUMAN RESOURCE SYSTEM
 4 USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES IN ACCORDANCE WITH 17-1-102 AND INCLUDE TRANSFERS INTO
 5 THE GENERAL FUND.

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 7 NEW SECTION. SECTION 5. TRANSFER OF FUNDS TO DIRECT CARE WORKER WAGE ACCOUNT. BY JULY 1,
 8 2017, THE STATE TREASURER SHALL TRANSFER \$1,068,693 FROM THE OLDER MONTANANS TRUST FUND, PROVIDED FOR
 9 IN 52-3-115, TO THE DIRECT CARE WORKER WAGE ACCOUNT PROVIDED IN [SECTION 3] FOR THE BIENNIUM BEGINNING JULY
 10 1, 2017.

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 12 SECTION 6. SECTION 52-3-115, MCA, IS AMENDED TO READ:

13 **"52-3-115. Older Montanans trust fund.** (1) There is an older Montanans trust fund within the
 14 permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

15 (2) The money in the fund may be used to ~~create new, innovative services or to expand fund~~ existing
 16 services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live
 17 an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those
 18 Montanans. The interest and income produced by the trust fund and appropriated to the department by the
 19 legislature is intended to increase services referred to in this subsection and not to supplant other sources of
 20 revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those
 21 services.

22 (3) The department may accept contributions and gifts for the trust fund in money or other forms, and
 23 when accepted, the contributions and gifts must be deposited in the trust fund.

24 (4) Interest and income earned on money in the trust fund must be retained within the fund except as
 25 provided in this section. ~~Until the year 2015, if assets in the fund reach the following amounts, money~~ Money may
 26 be appropriated by the legislature and used in the following amounts for the programs specified in ~~subsection (2):~~
 27 [section 2].

28 ~~—— (a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.~~

29 ~~—— (b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.~~

30 ~~—— (c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.~~

1 ~~———(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for~~
2 ~~the programs specified in subsection (2).~~

3 ~~———(6)(5) The department shall provide to the legislature a biennial report of the expenditures of the money~~
4 ~~appropriated from the older Montanans trust fund as provided in 5-11-210."~~

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6 COORDINATION SECTION. SECTION 7. COORDINATION INSTRUCTION. IF SENATE BILL NO. 367 AND [THIS
7 ACT] ARE BOTH PASSED AND APPROVED AND IF SENATE BILL NO. 261 IS NOT PASSED AND APPROVED, THEN [SECTION 1
8 OF SENATE BILL NO. 367] IS AMENDED TO INCLUDE THE FOLLOWING DEFINITION:

9 "(4) "Excess revenues" means the amount of general fund revenue that exceeds the revenue estimate
10 established pursuant to 5-5-227 minus the amount of the general fund transfer provided for in [section 4 of House
11 Bill No. 638]."

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13 COORDINATION SECTION. SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 261, SENATE
14 BILL NO. 367, AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 1 OF SENATE BILL NO. 367] IS AMENDED TO
15 INCLUDE THE FOLLOWING DEFINITION:

16 "(4) "Excess revenues" means the amount of general fund revenue that exceeds the revenue estimate
17 established pursuant to 5-5-227 plus the amount of the general fund transfer provided for in [section 4 of House
18 Bill No. 638]."

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20 NEW SECTION. SECTION 9. Effective date. [This act] is effective July 1, 2017.

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22 NEW SECTION. SECTION 10. TERMINATION. [SECTIONS 3 AND 6] TERMINATE JUNE 30, 2019.

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