

HOUSE BILL NO. 17

INTRODUCED BY K. KELKER

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING ALLOWABLE USES OF GENERAL FUND APPROPRIATIONS MADE FOR COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES; CREATING A GRANT PROGRAM FOR PROVIDERS OF COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES; TRANSFERRING FUNDS; PROVIDING STATUTORY APPROPRIATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 17-7-502, 53-20-101, AND 53-20-204, MCA; 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 money appropriated in a general appropriations act to match federal funds for services provided under the medicaid comprehensive home and community-based services waiver for people with developmental disabilities may be used only for the following purposes:

- (1) waiver services for people with developmental disabilities; or
- (2) the grant program provided for in [section 2].

NEW SECTION. Section 2. Grants for community-based facilities and services. (1) The department shall make grants no later than October 1 each year from the special revenue subaccount provided for in [section 3(4)] to providers under contract with the department for community-based facilities or community-based services pursuant to this part.

(2) The department shall adopt rules establishing grant application requirements and the process for awarding grants.

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

- (a) acquisition, renovation, or maintenance of community-based 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 lump-sum payments based on:



- 1 (i) acceptance of employment;
2 (ii) longevity in employment; or
3 (iii) the complexity of the care provided;
4 (d) payment for medical equipment need by a person with developmental disabilities but not covered by
5 medicaid; and
6 (e) other purposes involving community-based facilities or community-based services as established by
7 the department by rule.

8
9 **NEW SECTION. Section 3. Community developmental disabilities services special revenue**
10 **account and grant subaccount -- fund transfer -- statutory appropriations -- reports.** (1) There is a
11 community developmental disabilities services special revenue account to the credit of the department consisting
12 of general fund money appropriated to the department for the developmental services division and transferred
13 annually by the state treasurer as specified in this section.

14 (2) (a) The state treasurer shall transfer the following amounts from the general fund into the special
15 revenue account for the biennium beginning July 1, 2020:

- 16 (i) \$39,675,000 by July 15, 2020, for fiscal year 2020; and
17 (ii) \$39,347,000 by July 15, 2021, for fiscal year 2021.

18 (b) By July 15 in each subsequent fiscal year, the state treasurer shall transfer from the general fund into
19 the special revenue account an amount equal to the amount transferred in fiscal year 2021 plus the general fund
20 share of:

- 21 (i) any appropriation made for a provider rate increase for providers of community developmental
22 disabilities services;
23 (ii) any appropriation made to increase the number of slots in the comprehensive home and
24 community-based services waiver for people with developmental disabilities; and
25 (iii) any other funds made available for the waiver program.
26 (c) Interest earned on money in the account must be deposited in the account.

27 (3) Except as provided in subsection (4), money in the account may be used only to pay for the state's
28 share of services provided under the comprehensive home and community-based services waiver for people with
29 developmental disabilities.

30 (4) (a) There is a grant subaccount within the community developmental disabilities services special

1 revenue account provided for in this section.

2 (b) The state treasurer shall transfer into the grant subaccount any money in the special revenue account
3 that is not encumbered for the costs described in subsection (3) in the previous fiscal year. The transfer must
4 occur by July 30 each year.

5 (5) Money in the community developmental disabilities services special revenue account is statutorily
6 appropriated, as provided in 17-7-502, to the department for the purposes of subsection (3).

7 (6) Money in the grant subaccount is statutorily appropriated, as provided in 17-7-502, to the department
8 for the grant program provided for in [section 2].

9

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

11 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
12 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
13 need for a biennial legislative appropriation or budget amendment.

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

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

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

19 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
20 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;
21 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110;
22 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;
23 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;
24 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;
25 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;
26 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;
27 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];
28 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;
29 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;
30 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;

1 [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.

2 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
3 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
4 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
5 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
6 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
7 appropriation authority for the payments.(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
8 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
9 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
10 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
11 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
12 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion
13 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112
14 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,
15 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of
16 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates
17 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of
18 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant
19 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.
20 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,
21 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the
22 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304
23 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates
24 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant
25 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;
26 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,
27 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,
28 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

29

30 **Section 5.** Section 53-20-101, MCA, is amended to read:

1 **"53-20-101. Purpose.** The purpose of this ~~part~~ chapter is to:

2 (1) secure for each person who may be a person with developmental disabilities ~~such the~~ treatment and
3 habilitation ~~as will be~~ suited to the needs of the person and to ~~assure~~ ensure that ~~such the~~ treatment and
4 habilitation are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

5 (2) accomplish this goal whenever possible in a community-based setting;

6 (3) accomplish this goal in an institutionalized setting only when less restrictive alternatives are
7 unavailable or inadequate and only when a person is so severely disabled as to require institutionalized care; ~~and~~

8 (4) ~~assure~~ ensure that due process of law is accorded any person coming under the provisions of this
9 ~~part~~ chapter; and

10 (5) ensure that appropriations made for community services for people with developmental disabilities
11 are used only to pay for or support those services."

12

13 **Section 6.** Section 53-20-204, MCA, is amended to read:

14 **"53-20-204. Rules.** (1) The department may adopt rules necessary for the proper administration of this
15 ~~part, including but not limited to rules for grant applications submitted pursuant to [section 2] and the criteria for~~
16 ~~grant awards.~~

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

21

22 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 3] are intended to be codified
23 as an integral part of Title 53, chapter 20, part 2, and the provisions of Title 53, chapter 20, part 2, apply to
24 [sections 1 through 3].

25

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

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