

HOUSE BILL NO. 669

INTRODUCED BY F. MOORE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE PROVISIONS OF THE GENERAL
5 APPROPRIATIONS ACT; GENERALLY REVISING HEALTH CARE LAWS; CREATING STATE SPECIAL
6 REVENUE ACCOUNTS; ALLOWING THE GOVERNOR TO AUTHORIZE A SUPPLEMENTAL APPROPRIATION
7 TRANSFER FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REQUIRING THE
8 GOVERNOR TO REPORT TO THE LEGISLATIVE FINANCE COMMITTEE; REQUIRING OPERATION OF THE
9 EASTERN MONTANA VETERANS' HOME AND THE SOUTHWESTERN MONTANA VETERANS' HOME BY
10 PRIVATE VENDORS; PROVIDING FUNDING FOR 100 ADDITIONAL MEDICAID WAIVER SLOTS AT SENIOR
11 AND LONG-TERM CARE FOR ELDERLY AND PHYSICALLY DISABLED PERSONS RECEIVING HOME AND
12 COMMUNITY BASED SERVICES THROUGH THE BIG SKY WAIVER; TEMPORARILY REDUCING THE
13 PHYSICIAN REIMBURSEMENT RATE; PROVIDING FOR FUND TRANSFERS; AMENDING SECTIONS
14 10-2-416, 17-7-301, 17-7-311, 52-3-115, 53-1-402, 53-6-125, AND 53-19-310, MCA; AND PROVIDING AN
15 EFFECTIVE DATE AND A TERMINATION DATE."

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

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19 **NEW SECTION. Section 1. Extended employment and targeted case management -- state special**
20 **revenue account.** (1) There is an account in the state special revenue fund established in 17-2-102 to the credit
21 of the department of public health and human services to be known as the targeted case management state
22 special revenue account.

23 (2) The purpose of the account is to provide additional funding for extended employment and targeted
24 case management services for adults and children with mental illness.

25
26 **NEW SECTION. Section 2. Older Montanans trust state special revenue account.** (1) There is an
27 account in the state special revenue fund established in 17-2-102 to the credit of the department of public health
28 and human services to be known as the older Montanans trust state special revenue account.

29 (2) The purpose of the account is to fund additional medicaid waiver slots at senior and long-term care
30 for elderly and physically disabled persons receiving home and community-based services through the big sky

1 waiver as follows:

- 2 (a) 25 slots beginning July 1, 2019;
3 (b) 25 slots beginning January 1, 2020;
4 (c) 25 slots beginning July 1, 2020; and
5 (d) 25 slots beginning January 1, 2021.
6

7 **Section 3.** Section 10-2-416, MCA, is amended to read:

8 **"10-2-416. Pledge to continue operation and maintenance.** Pursuant to 38 U.S.C. 8134 and
9 8135(a)(6), the state shall appropriate funds either from the general fund or from funds generated under
10 16-11-111 to the department of public health and human services for financial support necessary to provide for
11 continued operation and maintenance of the state homes for veterans in eastern Montana and southwestern
12 Montana. The department of public health and human services ~~may~~ shall contract with a private vendor to provide
13 for the operation of the eastern Montana veterans' home and the southwestern Montana veterans' home and may
14 charge the contract vendor a rental fee for the maintenance and upkeep of the facility."
15

16 **SECTION 4. SECTION 17-7-301, MCA, IS AMENDED TO READ:**

17 **"17-7-301. Authorization to expend during first year of biennium from appropriation for second**
18 **year -- proposed supplemental appropriation defined -- limit on second-year expenditures.** (1) An agency
19 may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year
20 of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general
21 appropriations act to make first-year expenditures may be granted spending authorization by the approving
22 authority upon submission and approval of a proposed supplemental appropriation to the approving authority.
23 The proposal submitted to the approving authority must include a plan for reducing expenditures in the second
24 year of the biennium that allows the agency to contain expenditures within appropriations. If the approving
25 authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the
26 first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the
27 agency during the year for which the appropriation was made, the approving authority shall, after careful study
28 and examination of the request and upon review of the recommendation for executive branch proposals by the
29 budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

30 (2) The plan for reducing expenditures required by subsection (1) is not required if the proposed

1 supplemental appropriation is:

2 (a) due to an unforeseen and unanticipated emergency for fire suppression;

3 (b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351,
4 and is to complete the state's funding of guaranteed tax base aid, transportation aid, or equalization aid to
5 elementary and secondary schools for the current biennium; or

6 (c) requested by the department of public health and human services when the expenditures for the
7 approved level of medicaid benefits exceed the level of the appropriations for medicaid benefits; or

8 ~~(e)~~(d) requested by the attorney general and:

9 (i) is to pay the costs associated with litigation in which the department of justice is required to provide
10 representation to the state of Montana; or

11 (ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is
12 responsible for confinement of an arrested person in a detention center.

13 (3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the
14 approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the
15 appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving
16 authority shall require the agency to implement the plan for reducing expenditures in the second year of the
17 biennium that contains agency expenditures within appropriations.

18 (4) The agency may expend the amount authorized by the approving authority only for the purposes
19 specified in the authorization.

20 (5) The approving authority shall report to the next legislature in a special section of the budget the
21 amounts expended as a result of all authorizations granted by the approving authority and shall request that any
22 necessary supplemental appropriation bills be passed.

23 (6) As used in this part, "proposed supplemental appropriation" means an application for authorization
24 to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year
25 of the biennium.

26 (7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the
27 second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly
28 referred to as a "supplemental appropriation".

29 (b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in
30 the second year of the biennium that contains agency expenditures within appropriations. The approving authority

1 is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated
 2 expenditures that are required by state or federal law will cause an agency to exceed appropriations or available
 3 funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the
 4 greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer
 5 funds between fund types in order to implement a plan."

6

7 **SECTION 5. SECTION 17-7-311, MCA, IS AMENDED TO READ:**

8 **"17-7-311. Proposed fiscal year transfer supplemental appropriation -- procedure.** (1) ~~A~~ Except
 9 as provided in subsection (6), a proposed supplemental appropriation to transfer appropriations between fiscal
 10 years of a biennium and all supporting documentation must be submitted to the legislative fiscal analyst. ~~The~~
 11 Except as provided in subsection (6), the governor may not approve a proposed fiscal year transfer supplemental
 12 appropriation until the governor receives the legislative finance committee's written report for that proposed fiscal
 13 year transfer supplemental appropriation unless:

14 (a) the report is not received within 90 calendar days from the date the proposed fiscal year transfer
 15 supplemental appropriation and supporting documentation were forwarded to the legislative finance committee,
 16 in which case the governor may approve the proposed fiscal year transfer supplemental appropriation; or

17 (b) there has been a waiver of the review and report requirements, as provided in subsection (4).

18 (2) The legislative fiscal analyst shall review each proposed fiscal year transfer supplemental
 19 appropriation submitted by the governor for compliance with statutory requirements and standards and to
 20 determine the expenditures that will be reduced in order to contain spending within legislative appropriations. The
 21 legislative fiscal analyst shall present a written report of this review to the legislative finance committee. Within
 22 10 days after the legislative finance committee's consideration of the proposed fiscal year transfer supplemental
 23 appropriation, the legislative fiscal analyst shall submit the legislative finance committee's report to the governor.

24 (3) Upon receipt of the legislative finance committee's written report, the governor may approve or deny
 25 the proposed fiscal year transfer supplemental appropriation or may return the proposed fiscal year transfer
 26 supplemental appropriation to the requesting agency for further information. If the governor has returned the
 27 proposed fiscal year transfer supplemental appropriation to the requesting agency and the requesting agency
 28 resubmits the proposed fiscal year transfer supplemental appropriation to the governor, all procedures provided
 29 in this section apply to the resubmitted proposed fiscal year transfer supplemental appropriation.

30 (4) (a) If an emergency occurs that poses a serious threat to the life, health, or safety of the public, the

1 legislative fiscal analyst may waive the written review and the legislative finance committee's written report
2 required by this section. After a waiver, the legislative fiscal analyst may complete the written review.

3 (b) Upon receipt of the waiver, the governor may approve the proposed fiscal year transfer supplemental
4 appropriation.

5 (c) A waiver affects only the legislative fiscal analyst's written review and the legislative finance
6 committee's written report on the proposed fiscal year transfer supplemental appropriation. All other proposed
7 fiscal year transfer supplemental appropriation requirements and standards remain in effect.

8 (5) Nothing in this part confers on the legislative finance committee authority to approve or deny a
9 proposed fiscal year transfer supplemental appropriation.

10 (6) For the biennium beginning July 1, 2019, the provisions of this section do not apply to a supplemental
11 appropriation transfer for the department of public health and human services if the expenditures for the approved
12 level of medicaid benefits exceed the level of the appropriations for medicaid benefits. Prior to approving a
13 supplemental appropriation transfer for the department in that circumstance, the governor shall notify the
14 legislative fiscal analyst in writing and shall subsequently report to the legislative finance committee on the dollar
15 amount of the supplemental appropriation by September 30, 2020."

16

17 **Section 6.** Section 52-3-115, MCA, is amended to read:

18 **"52-3-115. (Temporary) Older Montanans trust fund.** ~~(1) There is an older Montanans trust fund within~~
19 ~~the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section:~~

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

27 ~~———(3) The department may accept contributions and gifts for the trust fund in money or other forms, and~~
28 ~~when accepted, the contributions and gifts must be deposited in the trust fund:~~

29 ~~———(4) Interest and income earned on money in the trust fund must be retained within the fund except as~~
30 ~~provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be~~

1 appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

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

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

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

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

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

9 ——— **52-3-115. (Effective on occurrence of contingency -- temporary) Older Montanans trust fund.** (1)

10 There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative
11 appropriation as provided in this section.

12 ——— (2) The money in the fund may be used to fund existing services for the benefit of Montana residents
13 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive
14 setting and will promote the dignity of and respect for those Montanans. The interest and income produced by
15 the trust fund and appropriated to the department by the legislature is intended to increase services referred to
16 in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level,
17 as used in 53-6-1201, of appropriations for those services.

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

20 ——— (4) Interest and income earned on money in the trust fund must be retained within the fund except as
21 provided in this section. Money may be appropriated by the legislature and used for the programs specified in
22 section 2, Chapter 375, Laws of 2017.

23 ——— (5) The department shall provide to the legislature a biennial report of the expenditures of the money
24 appropriated from the older Montanans trust fund as provided in 5-11-210. (Terminates June 30, 2019--sec. 10;
25 Ch. 375, L. 2017.)

26 **52-3-115. (Effective July 1, 2019) Older Montanans trust fund.** (1) There is an older Montanans trust
27 fund within the permanent fund type. The trust fund is subject to legislative transfer and appropriation as provided
28 in this section.

29 (2) The money in the fund may be used to create new, innovative services or to expand existing services
30 for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an

1 independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those
 2 Montanans. The interest and income produced by the trust fund and appropriated to the department by the
 3 legislature is intended to increase services referred to in this subsection and not to supplant other sources of
 4 revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those
 5 services.

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

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

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

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

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

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

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

18

19 **Section 7.** Section 53-1-402, MCA, is amended to read:

20 **"53-1-402. Residents and financially responsible persons liable for cost of care.** (1) A resident and
 21 a financially responsible person are liable to the department for the resident's cost of care as provided in this part.
 22 The cost of care includes the applicable per diem and ancillary charges or all-inclusive rate charges for the care
 23 of residents in the following institutions:

24 (a) Montana state hospital;

25 (b) Montana developmental center;

26 (c) Montana veterans' home;

27 (d) eastern Montana veterans' home;

28 (e) southwestern Montana veterans' home;

29 (f) Montana mental health nursing care center; and

30 (g) Montana chemical dependency treatment center.

1 (2) The eastern Montana veterans' home and the southwestern Montana veterans' home may assess
 2 charges on either a per diem and ancillary charge basis or an all-inclusive rate basis if the department contracts
 3 with a private vendor to operate the facility as provided for in 10-2-416.

4 (3) The Montana state hospital and the Montana mental health nursing center may determine the cost
 5 of care using an all-inclusive rate or per diem and ancillary charges if the department contracts with a private
 6 entity to operate a mental health managed care program."
 7

8 **SECTION 8. SECTION 53-6-125, MCA, IS AMENDED TO READ:**

9 **"53-6-125. Physician services reimbursement.** (1) The fee for a covered service provided by a
 10 physician under the medicaid program is determined by multiplying the conversion factor times the relative value
 11 unit for that service times any applicable policy adjusters.

12 (2) (a) For fiscal years 2018 and 2019, the conversion factor must be increased, at a minimum, by the
 13 same numerical inflation factor calculated in accordance with 20-9-326.

14 (b) For each subsequent fiscal year, the conversion factor must be increased, at a minimum, by the same
 15 percentage increase as the consumer price index for medical care for the previous year, as calculated by the
 16 bureau of labor statistics of the United States department of labor.

17 (3) For the biennium beginning July 1, 2019, the amount of reimbursement calculated under this section
 18 each fiscal year is reduced to fund the development of health information exchange by the following amounts:

19 (a) for the fiscal year beginning July 1, 2019, \$200,000; and

20 (b) for the fiscal year beginning July 1, 2020, \$400,000."
 21

22 **Section 9.** Section 53-19-310, MCA, is amended to read:

23 **"53-19-310. Account for telecommunications services and specialized telecommunications**
 24 **equipment for persons with disabilities.** (1) ~~There~~ Subject to legislative transfer, there is an account for
 25 telecommunications services and specialized telecommunications equipment for persons with disabilities in the
 26 state special revenue fund in the state treasury. The account consists of:

27 (a) all monetary contributions, gifts, and grants received by the committee as provided in 53-19-309; and

28 (b) all fees billed and collected pursuant to 53-19-311.

29 (2) The money in the account is allocated to the committee for purposes of implementing this part.

30 (3) All expenditures of the committee in administering this part must be paid from money deposited in

1 the account."

2

3 NEW SECTION. Section 10. Fund transfers. (1) By August 15, 2019, the state treasurer shall make
4 the following transfers:

5 (a) \$1.5 million from the account established in 53-19-310 to the account established in [section 1]; and

6 (b) \$320,608 from the older Montanans trust fund established in 52-3-115 to the older Montanans trust
7 fund state special revenue account established in [section 2].

8 (2) By August 15, 2020, the state treasurer shall make the following transfers:

9 (a) \$2 million from the account established in 53-19-310 to the account established in [section 1]; and

10 (b) \$748,085 from the older Montanans trust fund established in 52-3-115 to the older Montanans trust
11 fund state special revenue account established in [section 2].

12

13 NEW SECTION. SECTION 11. CODIFICATION INSTRUCTION. [SECTIONS 1 AND 2] ARE INTENDED TO BE CODIFIED
14 AS AN INTEGRAL PART OF TITLE 52, AND THE PROVISIONS OF TITLE 52 APPLY TO [SECTIONS 1 AND 2].

15

16 NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 2019.

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18 NEW SECTION. SECTION 13. TERMINATION. [SECTIONS 4, 5, AND 8] TERMINATE JUNE 30, 2021.

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- END -