

**Amendment - 1st Reading/2nd House-blue - Requested by: John Esp - (S) Finance and Claims**

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0835.002.002

1 HOUSE BILL NO. 835

2 INTRODUCED BY B. KEENAN, L. JONES

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MEDICAID AND 24/7 FACILITY CONTINGENCY  
5 FUND; ESTABLISHING USES OF THE FUND; PROVIDING FOR A TRANSFER OF FUNDS; PROVIDING  
6 APPROPRIATIONS; ~~PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND~~  
7 ~~53-6-404, MCA; REPEALING SECTION 17-7-163, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE~~  
8 ~~DATE AND A TERMINATION DATE."~~

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 NEW SECTION. Section 1. Medicaid and 24/7 facility contingency fund. (1) Subject to available  
13 funding, there is a medicaid and 24/7 facility contingency fund in the state special revenue fund provided for in  
14 17-2-102 to the credit of the office of budget and program planning.

15 (2) The contingency fund consists of money received from funds transferred by the legislature.

16 (3) Funds in the account are subject to agency transfer ~~no sooner than April 1 of each year~~ to the  
17 department of public health and human services. ~~The department may use the funds to mitigate supplemental~~  
18 requests associated with EXPENDITURES IN FISCAL YEAR 2023 FOR:

19 (a) the medicaid program provided for in Title 53, chapter 6; and

20 (b) operation of the following facilities that provide 24/7 care and treatment:

21 (i) the intensive behavior center provided for in 53-20-602;

22 (ii) the Montana mental health nursing care center provided for in 53-21-411; and

23 (iii) the Montana state hospital provided for in 53-21-601.

24 (4) On the occurrence of an agency transfer pursuant to this section, the director of the office of  
25 budget and program planning shall certify to the legislative finance committee no later than June 30 of the fiscal  
26 year in which the transfer occurred:

27 (a) the amount transferred to and anticipated to be spent by the department of public health and

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1 human services;

2 (b) the specific purposes for which the funds will be used; and

3 (c) the department's plan for mitigating the expenditures related to the facilities listed in subsection

4 (3)(b) in the next fiscal year.

5 (5) ANY MONEY IN THE ACCOUNT THAT IS NOT ENCUMBERED BY SEPTEMBER 30, 2023, MUST REVERT TO

6 THE GENERAL FUND.

7

8 **Section 2.** Section 17-7-502, MCA, is amended to read:

9 ~~"17-7-502. Statutory appropriations -- definition -- requisites for validity.~~ (1) A statutory

10 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without

11 the need for a biennial legislative appropriation or budget amendment.

12 (2) ~~Except as provided in subsection (4), to be effective, a statutory appropriation must comply with~~

13 both of the following provisions:

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

15 (b) ~~The law or portion of the law making a statutory appropriation must specifically state that a~~

16 statutory appropriation is made as provided in this section.

17 (3) ~~The following laws are the only laws containing statutory appropriations: 2-17-105 ; 5-11-120 ;~~

18 ~~5- 11-407 ; 5-13-403 ; 5-13-404 ; 7-4-2502 ; 7-4-2924 ; 7-32-236 ; 10-1-108 ; 10-1-1202 ; 10-1-1303 ; 10-2-603~~

19  ~~; 10-2- 807 ; 10-3-203 ; 10-3-310 ; 10-3-312 ; 10-3-314 ; 10-3-802 ; 10-3-1304 ; 10-4-304 ; 10-4-310 ; 15-1-121~~

20  ~~; 15-1-218 ; 15-31-165 ; 15-31-1004 ; 15-31-1005 ; 15-35-108 ; 15-36-332 ; 15-37-117 ; 15-39-110 ; 15-65-121 ;~~

21 ~~15-70-101 ; 15- 70-130 ; 15-70-433 ; 16-11-119 ; 16-11-509 ; [section 1]; 17-3-106 ; 17-3-212 ; 17-3-222 ; 17-3-~~

22 ~~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-~~

23 ~~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-~~

24 ~~622 ; [20-15-328 ] ; 20-26-617 ; 20- 26-1503 ; 22-1-327 ; 22-3-116 ; 22-3-117 ; [22-3-1004 ] ; 23-4-105 ; 23-5-306~~

25  ~~; 23-5-409 ; 23-5-612 ; 23-7-301 ; 23-7- 402 ; 30-10-1004 ; 37-43-204 ; 37-50-209 ; 37-54-113 ; 39-71-503 ; 41-~~

26 ~~5-2011 ; 42-2-105 ; 44-4-1101 ; 44-12-213 ; 44-13-102 ; 46-32-108 ; 50-1-115 ; 53-1-109 ; 53-6-148 ; 53-9-113~~

27  ~~; 53-24-108 ; 53-24-206 ; 60-5-530 ; 60-11-115 ; 61-3-321 ; 61-3-415 ; 67-1-309 ; 69-3-870 ; 69-4-527 ; 75-1-~~

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1 1101 ; 75-5-1108 ; 75-6-214 ; 75-11-313 ; 75-26-308 ; 76-13-150 ; 76-13-151 ; 76-13-417 ; 76-17-103 ; 77-1-  
2 108 ; 77-2-362 ; 80-2-222 ; 80-4-416 ; 80-11-518 ; 80-11-1006 ; 81-1-112 ; 81-1-113 ; 81-7-106 ; 81-7-123 ; 81-  
3 10-103 ; 82-11-161 ; 85-2-526 ; 85-20-1504 ; 85-20-1505 ; [85-25-102 ] ; 87-1-603 ; 87-5-909 ; 90-1-115 ; 90-1-  
4 205 ; 90-1-504 ; 90-6-331 ; and 90-9-306 .

5 (4) — There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
8 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
9 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
10 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
11 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
12 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
13 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
14 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
15 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
16 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
17 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
18 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
19 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
20 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
21 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
22 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
23 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
24 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
25 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
26 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
27 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004

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1 ~~terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,~~  
2 ~~2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and~~  
3 ~~pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.) "~~

4  
5 **Section 3.** Section 53-6-404, MCA, is amended to read:

6 **"53-6-404. Use of waiver funding.** (1) The department shall use money appropriated for home and  
7 community-based services waiver slots for the purpose of:

- 8 (a) ~~creating waiver slots as authorized by the legislature; or~~
- 9 (b) ~~addressing workforce shortages or other barriers to creating the number of waiver slots~~  
10 ~~authorized by the legislature.~~

11 ~~(2) Unencumbered funds appropriated for home and community-based services waiver slots for use~~  
12 ~~by a particular division may not be transferred to another department division or program. The money must be~~  
13 ~~used for the program for which it was appropriated or be reverted to the fund from which it was appropriated.~~

14 ~~(3)(2) The department shall report annually to the legislative finance committee in accordance with 5-~~  
15 ~~11-210 on the status of appropriations for home and community-based services waiver slots. "~~

16  
17 **NEW SECTION. Section 4. Repealer.** The following section of the Montana Code Annotated is  
18 repealed:

19 ~~17-7-163. Appropriations for medicaid expenditures.~~

20  
21 **NEW SECTION. Section 2. Transfer of funds.** There is transferred \$150 ~~\$56.5~~ million from the  
22 general fund to the medicaid and 24/7 facility contingency fund provided for in [section 1]. The transfer must  
23 occur no later than June 30, 2023.

24  
25 **NEW SECTION. SECTION 3. APPROPRIATION Appropriations. (1) THERE IS APPROPRIATED \$56.5**  
26 **MILLION FROM THE MEDICAID AND 24/7 FACILITY CONTINGENCY FUND PROVIDED FOR IN [SECTION 1] TO THE OFFICE OF**  
27 **BUDGET AND PROGRAM PLANNING FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, FOR THE PURPOSES OF [SECTION 1].**

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1 (2) There is appropriated \$165 million in federal special revenue authority to the office of budget  
2 and program planning for the fiscal year beginning July 1, 2022, for the purposes of [section 1].

3 (3) There is appropriated \$4 million in state special revenue authority to the office of budget and  
4 program planning for the fiscal year beginning July 1, 2022, for the purposes of [section 1].

5  
6 NEW SECTION. Section 6. — Codification instruction. [Section 1] is intended to be codified as an  
7 integral part of Title 17, chapter 2, part 1, and the provisions of Title 17, chapter 2, part 1, apply to [section 1].

8  
9 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

10  
11 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT] TERMINATES OCTOBER 1, 2023.

12 - END -