



AN ACT REVISING BEHAVIORAL HEALTH SYSTEMS; ESTABLISHING THE BEHAVIORAL HEALTH SYSTEM FOR FUTURE GENERATIONS COMMISSION; OUTLINING THE DUTIES AND ROLE OF THE COMMISSION; ESTABLISHING MEETING DATES; PROVIDING FOR PUBLIC COMMENT; PROVIDING FOR A PRESENTATION OF THE COMMISSION'S RECOMMENDATIONS TO LEGISLATIVE COMMITTEES; PROVIDING FOR CONSIDERATION OF LEGISLATOR INPUT; PROVIDING THAT THE GOVERNOR MAY APPROVE OR MODIFY THE RECOMMENDATIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING THE LEGISLATIVE FINANCE COMMITTEE WITH SPECIFIC ADMINISTRATIVE RULE REVIEW AUTHORITY; PROVIDING APPROPRIATIONS; REPEALING SECTION 20-9-240, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

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

Section 1. Behavioral health system for future generations commission. (1) There is a behavioral health system for future generations commission.

(2) The commission consists of:

(a) the sponsor of [this act];

(b) three members appointed by the governor; and

(c) five legislators, three from the majority party and two from the minority party, selected by the sponsor, who shall confer with the speaker of the house and the president of the senate.

(3) For legislative appointments, legislators serving as members must include at least one member of each of the following committees:

(a) the legislative finance committee;

(b) the health and human services interim budget committee provided for in 5-12-501;

(c) the children, families, health, and human services interim committee;

(d) the judicial branch, law enforcement, and justice interim budget committee provided for in 5-12-501; and

(e) the long-range planning interim budget committee provided for in 5-12-501.

(4) Appointed members of the commission must be compensated and receive travel expenses as provided for in 2-15-124 for each day in attendance at commission meetings or in the performance of any duty or service as a commission member.

(5) The department of public health and human services shall staff the commission and pay for the operational costs of the commission from the appropriation in [section 8]. The legislative fiscal division shall provide research and analysis at the request of the commission or its legislative members.

(6) The commission shall elect a chair from the legislative branch and a vice chair from one of the governor's appointees.

Section 2. Commission -- meetings -- recommendations. (1) ~~The advisory~~ commission shall recommend how funds allocated to the department of public health and human services through the state special revenue fund established in [section 3] are expended.

(2) The commission shall hold its first meeting no later than August 1, 2023, and set its future meeting dates.

(3) The commission shall reserve time at each commission meeting for stakeholder engagement and public comment. Public participation is encouraged.

(4) The commission shall submit reports of its recommendations as needed to the office of budget and program planning and to the legislative fiscal analyst. The reports must include one or more of the following:

- (a) initiatives that address behavioral health;
- (b) initiatives that assist those with developmental disabilities;
- (c) outcome measures, as defined in 2-15-2221;
- (d) output measures, as defined in 2-15-2221;
- (e) performance measures, as defined in 2-15-2221; and
- (f) the amount of funding required for the initiatives.

(5) By July 1, 2024, the commission shall submit a report on its final recommendations, including all of the items listed in subsections (4)(a) through (4)(f) and recommended funding amounts pursuant to subsection (1). Within 60 days of submitting its summary report on its recommendations to the office of budget and program planning and the legislative fiscal analyst, the commission, in cooperation with the department of public health and human services, shall present the recommendations to the following legislative committees, who shall meet jointly:

- (a) the legislative finance committee;
 - (b) the health and human services interim budget committee provided for in 5-12-501; and
 - (c) the children, families, health, and human services interim committee.
- (6) When the commission presents to the legislative committees identified in subsection (5), it shall

invite Montana's behavioral health advisory council and the Montana statewide independent living council to receive its presentation and to provide comments to the commission.

(7) (a) Following the presentation before the joint meeting of the three committees the commission shall meet to consider the comments from committee members and the public and may revise or amend its recommendations, if desired.

(b) The recommendations of the commission must be transmitted to the governor by the office of budget and program planning for consideration by the governor only after the commission has met to consider the comments from committee members and the public pursuant to subsection (7)(a).

(8) The governor may modify recommendations and must provide the list of approved recommendations and amounts to the ~~advisory~~ commission, the office of budget and program planning, the department of public health and human services, and to the health and human services interim budget committee. If the governor modifies the list of recommendations and amounts submitted by the commission, the department of public health and human services shall report and explain the change to the commission and to the health and human services interim budget committee at the next scheduled meetings.

(9) If the governor later determines that an approved initiative cannot be completed, the governor may authorize a different initiative. Prior to implementing a different initiative, the department of public health and human services shall present a report on the new initiative to both the commission and the health and human services interim budget committee.

(10) At any time during the process outlined in this section, if a legislator does not approve of the recommended initiatives or the amounts for funding, the legislator may initiate the provisions of 5-3-105 to request a poll of the legislature to hold a special session.

Section 3. Behavioral health system for future generations fund. (1) There is an account in the state special revenue fund established in 17-2-102 to be known as the behavioral health system for future generations fund.

(2) There must be deposited in the account money received from legislative general fund transfers.

(3) Eligible uses of the fund include:

(a) medicaid and CHIP matching funds for payments made to behavioral health settings;

(b) medicaid and CHIP matching funds for payments made to intermediate care facilities for individuals with intellectual disabilities;

(c) statewide community-based investments to stabilize behavioral health and developmental disabilities service providers and delivery, increase and strengthen the behavioral health and developmental disabilities workforce, increase service capacity to meet identified behavioral health and developmental disabilities services demands, and increase opportunities for Montanans to receive integrated physical and behavioral health care;

(d) acquisition of new or remodeling of existing infrastructure or property to support the establishment of behavioral health settings and intermediate care facilities for individuals with intellectual disabilities;

(e) planning, operation, or other contract expenses associated with intermediate care facilities for individuals with intellectual disabilities;

(f) planning, operation, or other contract expenses associated with behavioral health settings; and

(g) studying and planning of the development of a comprehensive behavioral health system.

(4) Funds in this account may not be used to operate existing state facilities.

Section 4. Rulemaking authority. (1) The department of public health and human services shall adopt administrative rules that define how the appropriation for capital projects will be allocated and spent

under [section 9].

(2) The department of public health and human services shall initiate the rulemaking before July 1, 2024.

Section 5. Legislative finance committee rule review. (1) For the purposes of rules promulgated under [section 4], the legislative finance committee established in 5-12-201 is the administrative rule review committee under Title 2, chapter 4.

(2) The legislative finance committee may exercise all the powers of an administrative rule review committee only for the rules promulgated under [section 4] pursuant to Title 2, chapter 4.

Section 6. Repealer. The following section of the Montana Code Annotated is repealed:

20-9-240. Funding for school-based medical services -- duties of office of public instruction and department of public health and human services -- school-based services account.

Section 7. Transfer of funds. (1) No later than June 30, 2023, the state treasurer shall transfer \$70 million from the general fund to the account established in [section 3].

(2) No later than June 30, 2024, the state treasurer shall transfer \$155 million from the general fund to the account established in [section 3].

(3) No later than June 30, 2023, the state treasurer shall transfer \$75 million from the general fund to the capital developments long-range building program account provided for in 17-7-209.

(4) Any unencumbered and unexpended fund balance in the school-based services account on June 30, 2023, must be transferred to the CSCT-OPI state match account managed by the department of public health and human services.

Section 8. Appropriations. (1) There is appropriated \$40 million to the department of public health and human services on passage and approval of [this act] through the biennium beginning July 1, 2023, from the account established in [section 3] to pay for eligible uses identified in [section 3], and to pay for the operational costs of the commission established in [section 1].

(2) There is appropriated \$30 million to the department of public health and human services for the fiscal year beginning July 1, 2024, from the account established in [section 3] to pay for eligible uses identified in [section 3].

(3) Any funds remaining in the fund established in [section 3] are subject to legislative appropriation.

Section 9. Appropriation for capital projects. (1) After the administrative rules have been adopted under [section 4] and only after the commission transmits its summary report on its recommendations to the governor after following the process set forth in [section 2], there is appropriated \$55 million to the department of administration from the capital developments long-range building program account in the capital projects fund type provided for in 17-7-209 for the behavioral health system for future generations capital development.

(2) (a) Pursuant to 17-7-210, if construction of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance. To the extent allowed by law, at the end of each fiscal year following approval of a new facility but prior to receipt of its certificate of occupancy, the appropriation made in subsection (3) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) It is the legislature's intent that the appropriation in subsection (3) become part of the respective agency's base budget for the biennium beginning July 1, 2025.

(3) The amount of \$1,661,426 is appropriated for the biennium beginning July 1, 2023, to the department of public health and human services from the account established in [section 3] for program expansion or operations and maintenance for the indicated new setting.

Section 10. Planning and design. The department of administration may proceed with the planning and design of capital projects authorized in [section 9] prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of other funding sources.

Section 11. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [section 9] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy or utility savings and improvements, that project must be submitted to the energy conservation program for funding consideration by the state building energy conservation program. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount must be dependent on the annual utility savings resulting from the capital project. The department of public health and human services must be notified of potential funding after the review and is obligated to utilize the state building energy conservation program funding, if available.

Section 12. Appropriations. (1) There is appropriated \$20 million from the capital development long-range building program account to the department of public health and human services for the biennium beginning July 1, 2023, for the uses outlined in [section 3(3)(d)].

(2) There is appropriated \$83.5 million in federal special revenue to the department of public health and human services for the biennium beginning July 1, 2023, to provide matching funds to the department.

Section 13. Legislative intent. The appropriation authorized in [section 12] constitutes legislative consent for the capital projects outlined in [section 3(3)(d)] within the meaning of 18-2-102.

Section 14. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply to [section 3].

Section 15. Effective date. (1) Except as otherwise provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 6] is effective July 1, 2023.

Section 16. Termination. [Sections 1, 2, 4, and 5] terminate July 1, 2025.

- END -

I hereby certify that the within bill,
HB 872, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 872

INTRODUCED BY B. KEENAN, L. JONES, J. ESP, C. SPRUNGER

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