A Bill for an Act entitled: "An Act providing flexibility in funding of community-based services for people with developmental disabilities; establishing requirements for reimbursement of certain services; restricting use of general fund appropriations made for waiver services; creating a grant program for community services; extending rulemaking authority; creating a special revenue account; transferring funds; providing a statutory appropriation; 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 appropriated in a general appropriations act to match federal funds for the comprehensive home and community-based services waiver for people with developmental disabilities may be used only:

1. on waiver services for people with developmental disabilities; or
2. as provided in [section 2].

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

(2) Providers shall apply for grants made pursuant to this section in accordance with rules adopted by the department.

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

(a) acquisition, renovation, or maintenance of developmental disabilities 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 pay increases or bonuses based on:

(i) acceptance of employment;

(ii) longevity in employment;

(iii) the complexity of the care provided; or

(iv) OTHER CIRCUMSTANCES AS DETERMINED BY THE COMMITTEE;

(d) payment for medical equipment not covered by medicaid; and

(e) OTHER PURPOSES AS DETERMINED BY THE COMMITTEE.

NEW SECTION. Section 3. Community developmental disabilities services special revenue account -- fund transfer -- statutory appropriation. (1) There is a community developmental disabilities services special revenue account to the credit of the department.

(2) By July 15 each year, the state treasurer shall
transfer to the community developmental disabilities special services revenue account any unencumbered general fund appropriated to the department in the preceding fiscal year for the home and community based-services waiver for people with developmental disabilities. Interest earned on the money in the account must be deposited in the account.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, for the purposes of [section 2].

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

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 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; 10-3-312; 10-3-314; 10-3-1304; 10-4-301;"
(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation.
authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded 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 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec.
4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant 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; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; pursuant to sec. 31(2), Ch. 367, L. 2017, the inclusion of 10-4-301 terminates July 1, 2018, and the inclusion of 10-4-304 is effective July 1, 2018; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"
Section 5. Section 53-20-204, MCA, is amended to read:

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

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

{Internal References to 53-20-204: None.}

Section 6. Section 53-20-205, MCA, is amended to read:

"53-20-205. Community services. (1) The department may establish and administer community comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or
other services may be provided directly by state agencies or indirectly through contract or cooperative arrangements with other agencies of government, regional or local, private or public agencies, private professional persons, or accredited health or long-term care facilities.

(2) The department may contract for programs for developmental disabilities services. Contracts entered into by the department must contain specific conditions for performance by the contractor. The department shall set minimum standards for programs and establish appropriate qualifications for persons employed in the programs.

(3) (a) Upon approval from the centers for medicare and medicaid services, the department shall reimburse residential habilitation and ANY DAY SERVICES AS DETERMINED BY THE COMMITTEE using a daily or monthly rate that includes options for additional payments based on the level of need of the individuals receiving services.

(b) For the purposes of this subsection (3):

(i) "daily rate" means reimbursement for services provided for any period from 12:00 a.m. to 11:59 p.m.; and

(ii) "monthly rate" means a fixed amount provided on a monthly basis for care provided to a person enrolled in a service that month.

(3)(4) All developmental disabilities facilities and services must comply with existing federal guidelines and with requirements that will enable the services and facilities to qualify for available aid funds. However, this section does not
require facilities serving persons with developmental disabilities to meet the same or equal standards as licensed medical facilities unless the developmental disabilities facility is providing professional or skilled medical care.

(4)(5) Comprehensive services, programs, clinics, or other facilities established or provided by the department under this part must conform as nearly as possible to the plans of the council created under 2-15-1869.

(5)(6) The department may promote scientific and medical research investigations relative to the incidence, cause, prevention, and care of persons with developmental disabilities."

{Internal References to 53-20-205:
  53-20-203x}

NEW SECTION. Section 7. Direction to the department. The department of public health and human services shall apply by October 1, 2019, for an amendment to the 0208 home and community-based services waiver for individuals with developmental disabilities to allow for reimbursement of residential habilitation and ANY DAY SERVICES AS DETERMINED BY THE COMMITTEE on a daily or monthly rate basis as provided in 53-20-205. The department shall implement the amended reimbursement rate within 90 days of receiving approval from the centers for medicare and medicaid services.

NEW SECTION. Section 8. {standard} Codification instruction. [Sections 1 through 3] are intended to be codified
as an integral part of Title 53, chapter 20, part 2, and the provisions of Title 53, chapter 20, part 2, apply to [sections 1 through 3].

NEW SECTION. Section 9. (standard) Effective date. [This act] is effective on passage and approval.

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