

HOUSE BILL NO. 296

INTRODUCED BY M. CAFERRO

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 A PROVIDER OF COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES; TRANSFERRING FUNDS; PROVIDING A STATUTORY APPROPRIATION; 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:

(i) acceptance of employment;

(ii) longevity in employment; or

(iii) the complexity of the care provided;

(d) payment for medical equipment needed by a person with developmental disabilities but not covered by medicaid; and

(e) other purposes involving community-based facilities or community-based services as established by the department by rule.

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

(2) (a) The state treasurer shall transfer the following amounts from the general fund into the special revenue account for the biennium beginning July 1, 2021:

(i) \$46,319,421 by July 15, 2021, for fiscal year 2022; and

(ii) \$47,630,491 by July 15, 2022, for fiscal year 2023.

(b) By July 15 in each subsequent fiscal year, the state treasurer shall transfer from the general fund into the special revenue account an amount equal to the amount transferred in fiscal year 2023 plus:

(i) the general fund share of any appropriation made for a provider rate increase for providers of community developmental disabilities services;

(ii) the general fund share of any appropriation made to increase the number of slots in the comprehensive home and community-based services waiver for people with developmental disabilities; and

(iii) any other funding made available for the waiver program through the general fund.

(c) Interest earned on money in the account must be deposited in the account.

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

1 with developmental disabilities.

2 (4) (a) There is a grant subaccount within the community developmental disabilities services special
3 revenue account provided for in this section.

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

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

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

11
12 **Section 4.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

21 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
22 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
23 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108;
24 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-
25 106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410;
26 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-
27 107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-
28 105; 23-5-306; 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; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; section
3]; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-
1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 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; 81-10-103; 82-11-161; 85-2-
526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(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. 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. 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. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
occurrence of contingency; 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. 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; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-
103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates
September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;
pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;

pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

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

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

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

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

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

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

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

Section 6. 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] and the criteria for grant awards.

(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."

NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through 3] are intended to be

1 codified as an integral part of Title 53, chapter 20, part 2, and the provisions of Title 53, chapter 20, part 2,
2 apply to [sections 1 through 3].

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

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