

Amendment - 1st Reading/2nd House-blue - Requested by: John Fitzpatrick - (S) Public Health, Welfare and Safety

- 2025

69th Legislature 2025

Drafter: Laura Sherley,

HB0851.001.002

HOUSE BILL NO. 851

INTRODUCED BY J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE DEPARTMENT OF HEALTH SERVICES; TRANSFERRING ADMINISTRATION OF STATE-OWNED HEALTH CARE FACILITIES FROM THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO THE DEPARTMENT OF HEALTH SERVICES; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-12-103, 2-15-104, 2-15-112, 2-15-211, ~~2-15-225~~, 2-15-232, 2-15-1205, 2-15-1869, 2-15-2212, 2-18-1202, 3-5-901, 5-5-225, 5-11-222, 5-12-303, 5-12-501, 7-22-2151, 10-2-401, 10-2-402, 10-2-403, 10-2-404, 10-2-416, 10-2-417, 10-2-901, ~~16-1-404, 16-1-406, 16-1-411~~, 16-11-119, ~~16-12-122, 17-2-108~~, 17-3-1001, 17-3-1002, 17-7-111, 18-4-133, ~~33-22-702~~, 44-5-302, 45-5-513, 45-8-356, 46-1-1103, 46-14-202, 46-14-221, 46-14-222, 46-14-301, 46-14-302, 46-14-303, 46-14-304, 46-14-311, 46-14-312, 46-19-202, 46-23-201, 46-23-208, 50-3-102, 50-21-103, ~~53-1-211~~, 53-1-216, 53-1-401, 53-1-601, 53-1-602, 53-1-603, 53-1-604, ~~53-1-610, 53-1-611, 53-1-612, 53-6-603, 53-18-101, 53-19-102, 53-20-102~~, 53-20-104, ~~53-20-125, 53-20-133~~, 53-20-146, 53-20-161, 53-20-163, ~~53-20-173, 53-20-174, 53-20-202, 53-20-213, 53-20-224, 53-20-225, 53-20-302, 53-20-303, 53-20-304, 53-20-306, 53-20-307, 53-20-504, 53-20-505~~, 53-20-601, 53-21-102, 53-21-104, 53-21-106, ~~53-21-107, 53-21-145~~, 53-21-147, 53-21-148, ~~53-21-152, 53-21-161, 53-21-162, 53-21-163, 53-21-165, 53-21-166~~, 53-21-194, 53-21-401, 53-21-403, 53-21-406, 53-21-407, 53-21-411, 53-21-413, 53-21-414, ~~53-21-508~~, 53-21-601, 53-21-701, ~~53-21-702, 53-21-1001, 53-21-1101~~, 53-21-1202, ~~53-21-1401, 53-22-102, 53-22-104, 53-24-103, 53-24-106, 53-24-108, 53-24-302, 53-24-310, 53-24-311, 53-24-313, 53-25-103, 53-25-105, 76-2-411~~, 87-2-802, 90-7-220, AND 90-7-221, MCA; ~~REPEALING SECTIONS 53-1-604 AND 53-20-214, MCA~~; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Department of health services -- head.** There is a department of health services. The department head is a director of health services appointed by the governor in accordance with 2-

1 15-111.

2

3 NEW SECTION. **Section 2. Certain functions of department of public health and human**
4 **services transferred to department of health services.** The ~~human services~~ administrative functions of the
5 department of public health and human services are transferred to the department of health services
6 established in [section 1], ~~including but not limited to for~~ the following state-owned institutions:

7 ~~(1) — developmental disabilities services pursuant to Title 53, chapter 20, including institutional and~~
8 ~~residential care, provided at the intensive behavior center and through private community-based facilities;~~

9 ~~(2) — mental health services pursuant to Title 53, chapter 21, including the care and treatment of the~~
10 ~~mentally ill, provided at the Montana state hospital and the Montana mental health nursing care center and~~
11 ~~through community-based services at private, nonprofit regional mental health centers;~~

12 ~~(3) — chemical dependency services pursuant to Title 53, chapter 24, provided at the Montana~~
13 ~~chemical dependency center and through private community-based facilities; and~~

14 ~~(4) — veterans' long-term care services, including those provided at the eastern Montana veterans'~~
15 ~~home, the Montana veterans' home, and the southwest Montana veterans' home~~

16 (1) the Montana state hospital;

17 (2) the Montana mental health nursing care center;

18 (3) the Montana chemical dependency center;

19 (4) the Montana intensive behavior center;

20 (5) the Montana veterans' home;

21 (6) the eastern Montana veterans' home at Glendive; and

22 (7) the southwestern Montana veterans' home.

23

24 NEW SECTION. **Section 3. Dispute resolution requirement for contracts.** Each written contract
25 that the department of health services enters into for the provision of human services to a third party must
26 contain a clause providing for a dispute resolution in the event of disagreement between the contractor and the
27 department about the terms of the contract.

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2 **Section 4.** Section 2-12-103, MCA, is amended to read:

3 **"2-12-103. Definitions.** As used in this part, the following definitions apply:

4 (1) "Annual performance report" means a written annual review and assessment of the outcomes
5 and outputs of a department as compared to its established annual plan and performance measures.

6 (2) "Annual plan" means a written plan prepared to guide the ongoing and proposed activities of a
7 department by setting out initiatives, aspirational goals, outcomes, and outputs that the department intends to
8 accomplish, and performance measures to facilitate program evaluations.

9 (3) "Department" means each entity listed in 2-15-104(1)(a) through ~~(1)(p)~~ (1)(q), the office of the
10 secretary of state, the office of the state auditor, and the office of public instruction.

11 (4) "Division" has the meaning provided in 2-15-104.

12 (5) "Initiative" means a specific goal, objective, or target related to a performance measure that is
13 adopted by a department.

14 (6) "Outcomes" means a quantification of the public benefit for Montanans derived from actions by
15 a department.

16 (7) "Outputs" means a quantification of the number of services that a department produces for
17 Montanans.

18 (8) "Performance measure" means a metric or measurement that is designed to help guide
19 government by assessing what a department aspires to achieve pursuant to its annual plan with respect to the
20 outcomes and outputs of its programs."

21

22 **Section 5.** Section 2-15-104, MCA, is amended to read:

23 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and
24 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state
25 government and their respective functions are allocated by this chapter among and within the following
26 departments or entities:

27 (a) department of administration;

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(b) department of military affairs;

(c) department of revenue;

(d) state board of education;

(e) department of labor and industry;

(f) department of commerce;

(g) department of justice;

(h) department of public health and human services;

(i) department of corrections;

(j) department of transportation;

(k) department of public service regulation;

(l) department of agriculture;

(m) department of livestock;

(n) department of natural resources and conservation;

(o) department of fish, wildlife, and parks;

(p) department of environmental quality;

(q) department of health services.

(2) For its internal structure, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division is headed by an administrator.

(b) The principal unit of a division is a bureau. Each bureau is headed by a chief.

(c) The principal unit of a bureau is a section. Each section is headed by a supervisor."

Section 6. Section 2-15-112, MCA, is amended to read:

"2-15-112. Duties and powers of department heads. (1) Except as otherwise provided by law, each

department head shall:

(a) supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department by this chapter or other law;

(b) establish the policy to be followed by the department and employees;

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(c) compile and submit reports and budgets for the department as required by law or requested by the governor;

(d) provide the governor with any information that the governor requests at any time on the operation of the department;

(e) represent the department in communications with the governor;

(f) (i) prescribe rules, consistent with law and rules established by the governor, for the:

(A) administration of the department;

(B) conduct of the employees;

(C) distribution and performance of business; and

(D) custody, use, and preservation of the records, documents, and property pertaining to department business.

(ii) The lieutenant governor, secretary of state, attorney general, auditor, and superintendent of public instruction may prescribe their own rules for their departments or offices, and the governor may not prescribe rules for them.

(iii) The rules described in this subsection (1)(f) are limited to statements concerning only the internal management of the agency and not affecting private rights or procedures available to the public. This section does not authorize the adoption of any rule as rules are defined in the Montana Administrative Procedure Act.

(g) subject to the approval of the governor, establish the internal organizational structure of the department and allocate the functions of the department to units to promote the economic and efficient administration and operation of the department. The internal structure of the department must be established in accordance with 2-15-104(2).

(h) subject to law, establish and make appointments to necessary subordinate positions and abolish unnecessary positions;

(i) maintain a central office in Helena for the department and maintain other facilities throughout the state as may be required for the effective and efficient operation of the department, except that the central office for the department of health services may be located in or on the property of the Montana state hospital in

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1 Warm Springs, Montana.

2 (2) Except as otherwise provided by law, each department head may:

3 (a) subject to law, transfer employees between positions, remove persons appointed to positions,
4 and change the duties, titles, and compensation of employees within the department;

5 (b) delegate any of the functions vested in the department head to subordinate employees;

6 (c) apply for, accept, administer, and expend funds, grants, gifts, and loans from the federal
7 government or any other source in administering the department's functions;

8 (d) enter into agreements with federal, state, and local agencies necessary to carry out the
9 department's functions; and

10 (e) eliminate positions within the department. If the salary for an eliminated position is not
11 redistributed as provided for under 2-18-1107, the office of budget and program planning shall increase the
12 department's appropriation in the second year of the biennium by an amount equal to one-half of the savings
13 resulting from the elimination of a position. The increased appropriation in the second year of the biennium may
14 be expended at the discretion of the department head, provided that the expenditure is consistent with the
15 goals and objectives of the department. The remaining one-half must revert to the original funding source. This
16 subsection (2)(e) (2)(e) does not apply to an agency allocated to a department in either year of the 2 years of
17 the biennium for administrative purposes, as provided in 2-15-121."

18

19 **Section 7.** Section 2-15-211, MCA, is amended to read:

20 **"2-15-211. Mental disabilities board of visitors -- composition -- allocation.** (1) The governor shall
21 appoint a mental disabilities board of visitors.

22 (2) (a) The board shall consist of six persons who possess qualifications necessary to carry out the
23 responsibilities of the board defined in 53-20-104 and 53-21-104.

24 (b) The members of the board must meet the following requirements:

25 (i) one person must possess skills, knowledge, and experience relative to the treatment and
26 welfare of adults with serious disabling mental illnesses;

27 (ii) one person must possess skills, knowledge, and experience relative to the treatment and

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- 1 welfare of children with serious emotional disturbances;
- 2 (iii) one person must possess skills, knowledge, and experience relative to the treatment and
- 3 welfare of adults with developmental disabilities;
- 4 (iv) one person must be a consumer of mental health services or a family member of a consumer
- 5 of mental health services; and
- 6 (v) one person must be a consumer of developmental disabilities services or a family member of a
- 7 person with developmental disabilities.
- 8 (c) The members of the board must also meet the following requirements:
- 9 (i) at least one board member must be a professional person in the field of mental health
- 10 treatment;
- 11 (ii) at least one board member must be a professional person in the field of developmental
- 12 disabilities treatment; and
- 13 (iii) no more than three board members may be professional persons in the fields of mental health
- 14 treatment and developmental disabilities treatment.
- 15 (d) A member of the board may not be a full-time agent or employee of the department of public
- 16 health and human services, the department of health services, or a mental health facility affected by Title 53,
- 17 chapter 20, part 1, and Title 53, chapter 21, part 1, except this prohibition does not affect any employee of a
- 18 state college or university.
- 19 (e) Board members serve for 2-year terms. The terms are staggered so that one-half of the terms
- 20 expire June 30 of each year.
- 21 (3) The mental disabilities board of visitors is attached to the governor for administrative purposes.
- 22 It may employ staff for the purpose of carrying out its duties as set out in Title 53, chapter 20, part 1, and Title
- 23 53, chapter 21, part 1."

Section 8. ~~Section 2-15-225, MCA, is amended to read:~~

"2-15-225.—Interagency coordinating council for state prevention programs. ~~(1) There is an interagency coordinating council for state prevention programs consisting of the following members:~~

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- 1 ~~(a) — the attorney general provided for in 2-15-501;~~
- 2 ~~(b) — the director of the department of public health and human services provided for in 2-15-2201;~~
- 3 ~~(c) — the director of the department of health services provided for in [section 1];~~
- 4 ~~(c)(d) — the superintendent of public instruction provided for in 2-15-701;~~
- 5 ~~(d)(e) — the presiding officer of the Montana children's trust fund board;~~
- 6 ~~(e)(f) — two persons appointed by the governor who have experiences related to the private or~~
- 7 ~~nonprofit provision of prevention programs and services;~~
- 8 ~~(f)(g) — the administrator of the board of crime control provided for in 2-15-2008;~~
- 9 ~~(g)(h) — the commissioner of labor and industry provided for in 2-15-1701;~~
- 10 ~~(h)(i) — the director of the department of corrections provided for in 2-15-2301;~~
- 11 ~~(i)(j) — the state director of Indian affairs provided for in 2-15-217;~~
- 12 ~~(j)(k) — the adjutant general of the department of military affairs provided for in 2-15-1202;~~
- 13 ~~(k)(l) — the director of the department of transportation provided for in 2-15-2501;~~
- 14 ~~(l)(m) — the commissioner of higher education provided for in 2-15-1506; and~~
- 15 ~~(m)(n) — the designated representative of a state agency desiring to participate who is accepted as a~~
- 16 ~~member by a majority of the current coordinating council members.~~
- 17 ~~(2) — The coordinating council shall perform the following duties:~~
- 18 ~~(a) — develop, through interagency planning efforts, a comprehensive and coordinated prevention~~
- 19 ~~program delivery system that will strengthen the healthy development, well-being, and safety of children,~~
- 20 ~~families, individuals, and communities;~~
- 21 ~~(b) — develop appropriate interagency prevention programs and services that address the problems~~
- 22 ~~of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children~~
- 23 ~~and families;~~
- 24 ~~(c) — study various financing options for prevention programs and services;~~
- 25 ~~(d) — ensure that a balanced and comprehensive range of prevention services is available to children~~
- 26 ~~and families with specific or multiagency needs;~~
- 27 ~~(e) — assist in development of cooperative partnerships among state agencies and community-based~~

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~~public and private providers of prevention programs; and~~

~~(f)——develop, maintain, and implement benchmarks for state prevention programs. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an outcome reflecting the desired state of affairs.~~

~~(3)——The coordinating council shall cooperate with and report its activities and any recommendations to the legislature in accordance with 5-11-210.~~

~~(4)——The coordinating council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.~~

~~(5)——The coordinating council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.~~

~~(6)——Staffing and other resources may be provided to the coordinating council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."~~

Section 8. Section 2-15-232, MCA, is amended to read:

"2-15-232. Duties and assistance. (1) The coordinator of aging shall, with the advice of the advisory council on aging, assist the governor, and the department of public health and human services, and the department of health services in planning, coordination, and operation of programs within state government that affect senior citizens of the state.

(2) The coordinator shall meet with senior citizens and the general public to gather information on the needs of senior citizens and the effectiveness of state programs in meeting those needs.

(3) The coordinator shall advise the governor, and the director of the department of public health and human services, and the department of health services as to ways to improve the effectiveness of programs that affect senior citizens."

Section 9. Section 2-15-1205, MCA, is amended to read:

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"2-15-1205. Board of veterans' affairs -- composition -- quorum -- voting -- compensation --

allocation. (1) There is a board of veterans' affairs.

(2) (a) The board consists of ~~14~~15 members. All members must be residents of this state. Six members are voting members, who must be confirmed by the senate, and ~~eight~~nine members are nonvoting, ex officio members.

(b) The governor shall appoint ~~13~~14 members in a manner that provides for staggered terms. The members are:

(i) five regional representatives, who must be voting members and who must have been honorably discharged from service in the military forces of the United States. Each must be appointed to represent a different geographic region of the state and must be a resident of that geographic region. The board shall establish the geographic regions by rule. A member who represents a geographic region and who changes residence to a different geographic region may no longer serve on the board unless appointed as a representative for the new location or as a representative meeting other criteria.

(ii) a representative of the office of state director of Indian affairs, who is a nonvoting member;

(iii) a representative from the department of public health and human services, who is a nonvoting member;

~~(iv)~~ a representative from the department of health services, who is a nonvoting member;

~~(iv)~~(v) a representative of the United States department of veterans affairs, who is a nonvoting member;

~~(v)~~(vi) four members, one representing each house and senate member of Montana's congressional delegation, who are nonvoting members; and

~~(vi)~~(vii) the director of the department of military affairs, who is a nonvoting member.

(c) The tribal leaders of the eight tribal councils in Montana may appoint one voting member who is affiliated with a Montana tribe and is an honorably discharged veteran. If a tribal member is not appointed by the Montana tribal leaders, the governor shall choose this member by lot from a pool of names submitted by the eight tribal councils in the state, with each tribal council submitting one name.

(3) A vacancy occurring on the board must be filled by the governor, subject to the conditions of

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1 subsection (2).

2 (4) A quorum is three voting members.

3 (5) A vote resulting in a tie is the same as a negative vote.

4 (6) Each voting member must receive meals, lodging, and travel expenses as provided for in 2-18-
5 501 through 2-18-503. Compensation for the legislator who represents the state administration and veterans'
6 affairs interim committee must be paid from the board of veterans' affairs budget.

7 (7) The board shall meet at least three times a year. Special meetings may be called by the
8 administrator or by a majority of voting members. Meetings may be held at different locations around the state
9 to give local veterans an opportunity to attend. Advance notice of meetings must be provided to all veterans'
10 groups and to any individual who requests notification.

11 (8) Each voting member may serve for a maximum of two terms. Each term is for 4 years.

12 (9) A member may be removed by the governor only for incompetence, malfeasance, or neglect of
13 duty.

14 (10) The board is allocated to the department for administrative purposes only as prescribed in 2-
15 15-121. However, the board may hire its own personnel, including an administrator. The administrator shall
16 serve as the secretary of the board and may represent the board in communications with the governor and with
17 other state agencies, notwithstanding the provisions of 2-15-121(3)(a)."

18

19 **Section 10.** Section 2-15-1869, MCA, is amended to read:

20 **"2-15-1869. Montana council on developmental disabilities.** (1) The governor shall appoint a
21 Montana council on developmental disabilities in accordance with the Developmental Disabilities Assistance
22 and Bill of Rights Act of 2000, Public Law 106-402, codified at 42 U.S.C. 15001, et seq.

23 (2) In addition to the members appointed under subsection (1), the council must include one
24 member of the senate and one member of the house of representatives.

25 (3) (a) Except as provided in subsection (3)(b), members of the council serve 1-year terms.

26 (b) Of the members described in 42 U.S.C. 15025(b)(3) who represent persons with
27 developmental disabilities and parents or relatives of persons with developmental disabilities, the governor shall

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1 appoint:

2 (i) not less than one-half of the members to serve for terms concurrent with the gubernatorial term
3 and until their successors are appointed; and

4 (ii) the remaining members to serve for terms ending on January 1 of the third year of the
5 succeeding gubernatorial term and until their successors are appointed.

6 (4) Members appointed to the council may also be selected to represent the geographical regions
7 and the racial and ethnic composition of the state, including American Indians.

8 (5) A council member, unless the member is a full-time salaried officer or employee of this state or
9 any of the political subdivisions of this state, is entitled to be paid in an amount to be determined by the council,
10 not to exceed \$25, for each day in which the member is actually and necessarily engaged in the performance of
11 council duties. A council member is also entitled to be reimbursed for travel expenses incurred while in the
12 performance of council duties as provided for in 2-18-501 through 2-18-503. Members who are full-time salaried
13 officers or employees of this state or any political subdivisions of this state are not entitled to be compensated
14 for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501
15 through 2-18-503.

16 (6) The council shall:

17 (a) advise the department of public health and human services, the department of health services,
18 other state agencies, tribal governments, councils, local governments, and private organizations on programs
19 for services to persons with developmental disabilities; and

20 (b) serve in any capacity required by the Developmental Disabilities Assistance and Bill of Rights
21 Act of 2000, Public Law 106-402, or by other federal law for the administration of federal programs for services
22 to persons with developmental disabilities.

23 (7) (a) Unless the state enters a contract with a nonprofit corporation as provided in 2-15-1870, the
24 council:

25 (i) is allocated to the department of commerce for administrative purposes only and, unless
26 inconsistent with this section, the provisions of 2-15-121 apply;

27 (ii) may elect from among its members the officers necessary for the proper management of the

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1 council;

2 (iii) may adopt rules governing its own organization and procedures, and a majority of the members
3 of the council constitutes a quorum for the transaction of business; and

4 (iv) shall employ and fix the compensation and duties of necessary staff and control the location of
5 its office.

6 (b) The department of commerce shall remain the designated state agency for funding purposes if
7 the responsibilities of the council are delegated by contract to a nonprofit corporation as provided in 2-15-1870."

8

9 **Section 11.** Section 2-15-2212, MCA, is amended to read:

10 **"2-15-2212. Committee on telecommunications access services for persons with disabilities --**

11 **composition -- allocation.** (1) There is a committee on telecommunications access services for persons with
12 disabilities.

13 (2) The committee consists of ~~13~~ 14 members appointed by the governor as follows:

14 (a) four members who are persons with disabilities, two of whom must be deaf or hard-of-hearing;

15 (b) two members who are not persons with disabilities, one of whom must be engaged in a
16 business other than a business in the telecommunications industry and one of whom must be a senior citizen;

17 (c) one member from the department of public health and human services;

18 (d) one member from the department of health services;

19 ~~(d)~~(e) one member from a public safety answering point, as defined in 10-4-101, who has knowledge
20 of emergency communications issues for individuals who are deaf or hard-of-hearing;

21 ~~(e)~~(f) one member from an independent service provider;

22 ~~(f)~~(g) one member from an interLATA interexchange carrier;

23 ~~(g)~~(h) one member from the public service commission;

24 ~~(h)~~(i) one member who is a licensed audiologist; and

25 ~~(i)~~(j) one member from the department of administration.

26 (3) The committee is allocated to the department of public health and human services for
27 administrative purposes only as provided in 2-15-121."

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1

2 **Section 12.** Section 2-18-1202, MCA, is amended to read:

3 **"2-18-1202. Definitions.** As used in this part, the following definitions apply:

4 (1) "Agency" has the meaning provided in 2-18-101 but does not include the Montana university
5 system.

6 (2) (a) "Employee" means a person employed by the state who has achieved permanent status, as
7 defined in 2-18-101, or officers and employees of the legislative branch and teachers under the authority of the
8 department of corrections, or the department of public health and human services, or the department of health
9 services who have been employed for at least 6 continuous months.

10 (b) The term does not include a student intern, as defined in 2-18-101.

11 (3) "Privatization" means contracting with the private sector to provide a service normally or
12 traditionally provided directly by an employee of an agency."

13

14 **Section 13.** Section 3-5-901, MCA, is amended to read:

15 **"3-5-901. State assumption of district court expenses.** (1) There is a state-funded district court
16 program under the judicial branch. Under this program, the office of court administrator shall fund all district
17 court costs, except as provided in subsection (3). These costs include but are not limited to the following:

18 (a) salaries and benefits for:

19 (i) district court judges;

20 (ii) law clerks;

21 (iii) court reporters, as provided in 3-5-601;

22 (iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth
23 court;

24 (v) standing masters; and

25 (vi) other employees of the district court;

26 (b) in criminal cases:

27 (i) fees for transcripts of proceedings, as provided in 3-5-604;

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- 1 (ii) witness fees and necessary expenses, as provided in 46-15-116;
- 2 (iii) juror fees and necessary expenses;
- 3 (iv) for a psychiatric examination under 46-14-202, the cost of the examination and other
- 4 associated expenses, as provided in 46-14-202(4); and
- 5 (v) for commitment under 46-14-221, the cost of transporting the defendant to the custody of the
- 6 director of the ~~department of public health and human services~~ department of health services to be placed in an
- 7 appropriate facility of the ~~department of public health and human services~~ department of health services and of
- 8 transporting the defendant back for any proceedings, as provided in 46-14-221(5);
- 9 (c) except as provided in 47-1-119, the district court expenses in all postconviction proceedings
- 10 held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter
- 11 22, and appeals from those proceedings;
- 12 (d) except as provided in 47-1-119, the following expenses incurred by the state in federal habeas
- 13 corpus cases that challenge the validity of a conviction or of a sentence:
- 14 (i) transcript fees;
- 15 (ii) witness fees; and
- 16 (iii) expenses for psychiatric examinations;
- 17 (e) except as provided in 47-1-119, the following expenses incurred by the state in a proceeding
- 18 held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth,
- 19 temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:
- 20 (i) transcript fees;
- 21 (ii) witness fees;
- 22 (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian,
- 23 or other person having physical or legal custody of the youth except for expenses for services that a person is
- 24 eligible to receive under a public program that provides medical or psychological evaluation;
- 25 (iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth;
- 26 and
- 27 (v) expenses associated with court-ordered alternative dispute resolution;

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(f) except as provided in 47-1-119, costs of juror and witness fees and witness expenses before a grand jury;

(g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);

(h) except as provided in 47-1-119, all district court expenses associated with civil jury trials if similar expenses were paid out of the district court fund or the county general fund in any previous year;

(i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors; and

(j) costs associated with the operation and maintenance of the youth court and youth court division operations pursuant to 41-5-111 and subsection (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5.

(2) If a cost is not paid directly by the office of court administrator, the county shall pay the cost and the office of court administrator shall reimburse the county within 30 days of receipt of a claim.

(3) For the purposes of subsection (1), district court costs paid by the office of court administrator do not include:

(a) costs for clerks of district court and employees and expenses of the offices of the clerks of district court;

(b) costs of providing and maintaining district court office space; or

(c) charges incurred against a county by virtue of any provision of Title 7 or 46."

Section 14. Section 5-5-225, MCA, is amended to read:

"5-5-225. Children, families, health, and human services interim committee. The children, families, health, and human services interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of public health and human services, the department of health services, and the entities attached to the ~~department~~ departments for administrative purposes."

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2 **Section 15.** Section 5-11-222, MCA, is amended to read:

3 **"5-11-222. Reports to legislature.** (1) (a) Except as provided in subsections (1)(b) and (5), a report
4 to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or
5 before September 1 of each year preceding the convening of a regular session of the legislature.

6 (b) If otherwise specified in law, a report may be required more or less frequently than the biennial
7 requirement in subsection (1)(a).

8 (2) Reports to the legislature include:

9 (a) annual reports on the unified investment program for public funds and public retirement
10 systems and state compensation insurance fund assets audits from the board of investments in accordance
11 with Article VIII, section 13, of the Montana constitution;

12 (b) federal mandates requirements from the governor in accordance with 2-1-407;

13 (c) activities of the state records committee in accordance with 2-6-1108;

14 (d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

15 (e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-
16 410;

17 (f) the annual performance report of each department to the appropriate interim budget committee
18 and legislative policy interim committee in accordance with 2-12-105;

19 (g) progress on gender and racial balance from the governor in accordance with 2-15-108;

20 (h) a mental health report from the ombudsman in accordance with 2-15-210;

21 (i) policies related to children and families from the interagency coordinating council for state
22 prevention in accordance with 2-15-225;

23 (j) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

24 (k) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board
25 in accordance with 2-15-3113;

26 (l) the allocation of space report from the department of administration required in accordance
27 with 2-17-101;

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- 1 (m) information technology activities in accordance with 2-17-512;
- 2 (n) state strategic information technology plan exceptions, if granted, from the department of
- 3 administration in accordance with 2-17-515;
- 4 (o) the state strategic information technology plan and biennial report from the department of
- 5 administration in accordance with 2-17-521 and 2-17-522;
- 6 (p) reports from standing, interim, and administrative committees, if prepared, in accordance with
- 7 2-17-825 and 5-5-216;
- 8 (q) statistical and other data related to business transacted by the courts from the court
- 9 administrator, if requested, in accordance with 3-1-702;
- 10 (r) the judicial standards commission report in accordance with 3-1-1126;
- 11 (s) an annual report on the actual cost of legislation that had a projected fiscal impact from the
- 12 office of budget and program planning in accordance with 5-4-208;
- 13 (t) a link to annual state agency reports on grants awarded in the previous fiscal year established
- 14 by the legislative finance committee in accordance with 5-12-208;
- 15 (u) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in
- 16 accordance with 5-12-302(4);
- 17 (v) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may
- 18 impair the independence of the legislative audit division in accordance with 5-13-305;
- 19 (w) if a waste of state resources occurs, a report from the legislative state auditor, in accordance
- 20 with 5-13-311;
- 21 (x) school funding commission reports each fifth interim in accordance with 5-20-301;
- 22 (y) a report of political committee operations conducted on state-owned property, if required, from
- 23 a political committee to the legislative services division in accordance with 13-37-404;
- 24 (z) a report concerning taxable value from the department of revenue in accordance with 15-1-
- 25 205;
- 26 (aa) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;
- 27 (bb) semiannual reports on the Montana heritage preservation and development account from the

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- 1 Montana heritage preservation and development commission in accordance with 15-65-121;
- 2 (cc) general marijuana regulation reports and medical marijuana registry reports from the
- 3 department of revenue in accordance with 16-12-110;
- 4 (dd) annual reports on general fund and nongeneral fund encumbrances from the department of
- 5 administration in accordance with 17-1-102;
- 6 (ee) loans or loan extensions authorized for two consecutive fiscal years from the department of
- 7 administration and office of commissioner of higher education, including negative cash balances from the
- 8 commissioner of higher education, in accordance with 17-2-107;
- 9 (ff) a report of local government entities that have balances contrary to limitations provided for in
- 10 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;
- 11 (gg) an annual report from the board of investments in accordance with 17-5-1650(2);
- 12 (hh) a quarterly report from the office of budget and program planning to the legislative finance
- 13 committee identifying the amount and the type of debt payoff or other expenditure from the debt and liability
- 14 free account in accordance with 17-6-214;
- 15 (ii) a report on retirement system trust investments and benefits from the board of investments in
- 16 accordance with 17-6-230;
- 17 (jj) recommendations for reductions in spending and related analysis, if required, from the office of
- 18 budget and program planning in accordance with 17-7-140;
- 19 (kk) a statewide facility inventory and condition assessment from the department of administration
- 20 in accordance with 17-7-202;
- 21 (ll) actuary reports and investigations for public retirement systems from the public employees'
- 22 retirement board in accordance with 19-2-405;
- 23 (mm) a work report from the public employees' retirement board in accordance with 19-2-407;
- 24 (nn) annual actuarial reports and evaluations from the teachers' retirement board in accordance with
- 25 19-20-201;
- 26 (oo) reports from the state director of K-12 career and vocational and technical education, as
- 27 requested, in accordance with 20-7-308;

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- 1 (pp) 5-year state plan for career and technical education reports from the board of regents in
2 accordance with 20-7-330;
- 3 (qq) a gifted and talented students report from the office of public instruction in accordance with 20-
4 7-904;
- 5 (rr) status changes for at-risk students from the office of public instruction in accordance with 20-9-
6 328;
- 7 (ss) status changes for American Indian students from the office of public instruction in accordance
8 with 20-9-330;
- 9 (tt) reports regarding the Montana Indian language preservation program from the office of public
10 instruction in accordance with 20-9-537;
- 11 (uu) proposals for funding community colleges from the board of regents in accordance with 20-15-
12 309;
- 13 (vv) expenditures and activities of the Montana agricultural experiment station and extension
14 service, as requested, in accordance with 20-25-236;
- 15 (ww) reports, if requested by the legislature, from the president of each of the units of the higher
16 education system in accordance with 20-25-305;
- 17 (xx) reports, if prepared by a public postsecondary institution, regarding free expression activities on
18 campus in accordance with 20-25-1506;
- 19 (yy) reports from the Montana historical society trustees in accordance with 22-3-107;
- 20 (zz) state lottery reports in accordance with 23-7-202;
- 21 (aaa) state fund reports, if required, from the commissioner in accordance with 33-1-115;
- 22 (bbb) reports from the department of labor and industry in accordance with 39-6-101;
- 23 (ccc) victim unemployment benefits reports from the department of labor and industry in accordance
24 with 39-51-2111;
- 25 (ddd) state fund business reports in accordance with 39-71-2363;
- 26 (eee) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;
- 27 (fff) child custody reports from the office of the court administrator in accordance with 41-3-1004;

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(ggg) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

(hhh) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

(iii) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

(jjj) an annual report on chemical abortion data from the department of public health and human services in accordance with 50-20-709;

(kkk) Montana criminal justice oversight council reports in accordance with 53-1-216;

(lll) ~~medicaid block grant reports from the department of public health and human services~~ department of health services department of public health and human services in accordance with 53-1-611;

(mmm) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

(nnn) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(ooo) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

(ppp) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

(qqq) reports on toxicology and prescription drug registry information from the suicide prevention officer in accordance with 53-21-1101;

(rrr) ~~suicide reduction plans from the department of public health and human services~~ department of health services department of public health and human services in accordance with 53-21-1102;

(sss) annual compliance reports from certifying organizations to the criminal justice oversight council in accordance with 53-24-311;

(ttt) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

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(uuu) emergency medical services grants from the department of transportation in accordance with 61-2-109;

(vvv) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

(www) a report from the land board, if prepared, in accordance with 76-12-109;

(xxx) an annual state trust land report from the land board in accordance with 77-1-223;

(yyy) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

(zzz) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(aaaa) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

(bbbb) water storage projects from the governor's office in accordance with 85-1-704;

(cccc) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

(dddd) upland game bird enhancement program reports in accordance with 87-1-250;

(eeee) private land/public wildlife advisory committee reports in accordance with 87-1-269;

(ffff) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

(gggg) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

(hhhh) reports from the department of fish, wildlife, and parks on conservation licenses sold and revenue received in accordance with 87-2-201;

(iiii) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

(jjjj) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

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- 1 (kkkk) an annual report from the pacific northwest electric power and conservation planning council in
2 accordance with 90-4-403;
- 3 (llll) community property-assessed capital enhancements program reports from the Montana facility
4 finance authority in accordance with 90-4-1303;
- 5 (mmmm) veterans' home loan mortgage loan reports from the board of housing in accordance
6 with 90-6-604;
- 7 (nnnn) matching infrastructure planning grant awards by the department of commerce in accordance
8 with 90-6-703(3); and
- 9 (oooo) Montana coal endowment program reports from the department of commerce in accordance
10 with 90-6-710.
- 11 (3) Reports to the legislature include reports made to an interim committee as follows:
- 12 (a) reports to the law and justice interim committee, including:
- 13 (i) a report on fentanyl-related mandatory minimums from the attorney general in accordance with
14 2-15-505;
- 15 (ii) findings of the domestic violence fatality review commission in accordance with 2-15-2017;
- 16 (iii) the report from the missing indigenous persons review commission in accordance with 2-15-
17 2018;
- 18 (iv) reports from the department of justice and public safety officer standards and training council in
19 accordance with 2-15-2029;
- 20 (v) reports on district court judge caseload and substitutions from the office of court administrator
21 in accordance with 3-1-713;
- 22 (vi) information on the Montana False Claims Act from the department of justice in accordance with
23 17-8-416;
- 24 (vii) annual case status reports from the attorney general in accordance with 41-3-210;
- 25 (viii) an annual report from the department of public health and human services on the number of
26 referrals to county attorneys pursuant to 41-3-202(1)(b)(i) in accordance with 41-3-211;
- 27 (ix) office of court administrator reports in accordance with 41-5-2003;

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- 1 (x) reports on pending investigations from the public safety officer standards and training council in
2 accordance with 44-4-408;
- 3 (xi) statewide public safety communications system activities from the department of justice in
4 accordance with 44-4-1606;
- 5 (xii) the annual report on the activities of the sexual assault response network program and the
6 sexual assault response team committee from the department of justice in accordance with 44-4-1705;
- 7 (xiii) reports on the status of the crisis intervention team training program from the board of crime
8 control in accordance with 44-7-110;
- 9 (xiv) restorative justice grant program status and performance from the board of crime control in
10 accordance with 44-7-302;
- 11 (xv) law enforcement agency facial recognition technology use reports from the department of
12 justice in accordance with 44-15-111(3);
- 13 (xvi) reports on third-party vendors providing facial recognition services to state agencies reports in
14 accordance with 44-15-111(4)(b);
- 15 (xvii) reports on offenders under supervision with new offenses or violations from the department of
16 corrections in accordance with 46-23-1016;
- 17 (xviii) supervision responses grid reports from the department of corrections in accordance with 46-
18 23-1028;
- 19 (xix) statewide public defender reports and information from the office of state public defender in
20 accordance with 47-1-125;
- 21 (xx) every 5 years, a percentage change in public defender funding report from the legislative fiscal
22 analyst in accordance with 47-1-125;
- 23 (xxi) every 5 years, statewide public defender reports on the percentage change in funding from the
24 office of state public defender in accordance with 47-1-125; and
- 25 (xxii) a report from the quality assurance unit from the department of corrections in accordance with
26 53-1-211;
- 27 (b) reports to the state administration and veterans' affairs interim committee, including:

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- 1 (i) a report that includes information technology activities and additional information from the
- 2 information technology board in accordance with 2-17-512 and 2-17-513;
- 3 (ii) a report from the capitol complex advisory council in accordance with 2-17-804;
- 4 (iii) a report on the employee incentive award program from the department of administration in
- 5 accordance with 2-18-1103;
- 6 (iv) a board of veterans' affairs report in accordance with 10-2-102;
- 7 (v) a report on the decennial veterans' long-term care needs study from the department of public
- 8 health and human services and the Montana veterans' affairs division in accordance with 10-2-903;
- 9 (vi) a report on grants to the Montana civil air patrol from the department of military affairs in
- 10 accordance with 10-3-802;
- 11 (vii) annual reports on statewide election security from the secretary of state in accordance with 13-
- 12 1-205;
- 13 (viii) reports on money received in the special account for implementing the Help America Vote Act
- 14 from the secretary of state in accordance with 13-1-209;
- 15 (ix) a report regarding the youth voting program, if requested, from the secretary of state in
- 16 accordance with 13-22-108;
- 17 (x) a report from the commissioner of political practices in accordance with 13-37-120;
- 18 (xi) a report on retirement system trust investments from the board of investments in accordance
- 19 with 17-6-230;
- 20 (xii) actuarial valuations and other reports from the public employees' retirement board in
- 21 accordance with 19-2-405 and 19-3-117;
- 22 (xiii) actuarial valuations and other reports from the teachers' retirement board in accordance with
- 23 19-20-201 and 19-20-216;
- 24 (xiv) a report on the reemployment of retired members of the teachers' retirement system from the
- 25 teachers' retirement board in accordance with 19-20-732; and
- 26 (xv) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the
- 27 secretary of state in accordance with 30-9A-527;

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(c) reports to the children, families, health, and human services interim committee, including:

(i) a report from the ~~department of public health and human services~~ department of health

services department of public health and human services on the programs, grants, and services funded under the healing and ending addiction through recovery and treatment account in 16-12-122;

(ii) Montana foster youth higher education assistance program grant reports from the commissioner of higher education in accordance with 20-26-633;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) reports from the department of public health and human services on the department's efforts regarding the volunteer program to support child protective services activities in accordance with 41-3-132;

(vi) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vii) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(viii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(ix) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report from the department of public health and human services on home and community-based services provider information in 53-6-406;

(xii) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xiii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiv) annual Montana developmental center reports from the ~~department of public health and human~~

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- 1 ~~services~~department of health services in accordance with 53-20-225; and
- 2 (xv) annual children's mental health outcomes from the ~~department of public health and human~~
- 3 ~~services~~department of health services department of public health and human services in accordance with 53-
- 4 21-508;
- 5 (xvi) suicide reduction plans from the ~~department of public health and human services~~department of
- 6 health services department of public health and human services in accordance with 53-21-1102;
- 7 (d) reports to the economic affairs interim committee, including:
- 8 (i) the annual state compensation insurance fund budget from the board of directors in
- 9 accordance with 5-5-223 and 39-71-2363;
- 10 (ii) medical marijuana registry reports from the department of revenue in accordance with 16-12-
- 11 110;
- 12 (iii) general marijuana regulation reports from the department of revenue in accordance with 16-12-
- 13 110(3);
- 14 (iv) annual reports on complaints against physicians certifying medical marijuana use from the
- 15 board of medical examiners in accordance with 16-12-110(6);
- 16 (v) an annual report on the administrative rate required from the department of commerce from the
- 17 Montana heritage preservation and development commission in accordance with 22-3-1002;
- 18 (vi) biennial reports from the department of labor and industry on weighing device license fees and
- 19 cost increases in accordance with 30-12-203;
- 20 (vii) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;
- 21 (viii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-
- 22 71-2375;
- 23 (ix) annual reinsurance reports from the Montana reinsurance association board required in
- 24 accordance with 33-22-1308;
- 25 (x) reports from the department of labor and industry concerning board attendance in accordance
- 26 with 37-1-107;
- 27 (xi) annual reports on physician complaints related to medical marijuana from the board of medical

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- 1 examiners in accordance with 37-3-203;
- 2 (xii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;
- 3 (xiii) status reports on the special revenue account and fees charged as a funding source from the
- 4 board of funeral service in accordance with 37-19-204;
- 5 (xiv) unemployment insurance program integrity act reports from the department of labor and
- 6 industry in accordance with 39-51-706;
- 7 (xv) law enforcement agency facial recognition technology use reports from the department of
- 8 justice in accordance with 44-15-111(3);
- 9 (xvi) reports on third-party vendors providing facial recognition services to state agencies reports in
- 10 accordance with 44-15-111(4)(b);
- 11 (xvii) status reports on the distressed wood products industry revolving loan program from the
- 12 department of commerce in accordance with 90-1-503;
- 13 (e) reports to the education interim committee, including:
- 14 (i) reemployment of retired teachers, specialists, and administrators reports from the retirement
- 15 board in accordance with 19-20-732;
- 16 (ii) a report on participation in the interstate compact on educational opportunity for military
- 17 children in accordance with 20-1-231;
- 18 (iii) grow your own grant program reports from the commissioner of higher education in accordance
- 19 with 20-4-601;
- 20 (iv) reports on out-of-district attendance from the superintendent of public instruction in accordance
- 21 with 20-5-324;
- 22 (v) reports from the education and workforce data governing board in accordance with 20-7-138;
- 23 (vi) state-level strengthening career and technical student organizations program reports from the
- 24 superintendent of public instruction in accordance with 20-7-320;
- 25 (vii) a report from the superintendent of public instruction concerning educational programs for
- 26 eligible children receiving in-state inpatient treatment of serious emotional disturbances in accordance with 20-
- 27 7-435;

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- 1 (viii) reports from the Montana digital academy governing board in accordance with 20-7-1201;
- 2 (ix) advanced opportunity program reports from the board of public education in accordance with
- 3 20-7-1506;
- 4 (x) progress on transformational learning plans from the board of public education in accordance
- 5 with 20-7-1602;
- 6 (xi) reports on early literacy targeted interventions from the superintendent of public instruction in
- 7 accordance with 20-7-1804;
- 8 (xii) budget amendments, if needed, from school districts in accordance with 20-9-161;
- 9 (xiii) reports regarding the Montana Indian language preservation program from the office of public
- 10 instruction in accordance with 20-9-537;
- 11 (xiv) annual Montana resident student financial aid program reports from the commissioner of higher
- 12 education in accordance with 20-26-105;
- 13 (xv) Montana foster youth higher education assistance program grant reports from the
- 14 commissioner of higher education in accordance with 20-26-633;
- 15 (xvi) a historic preservation office report from the historic preservation officer in accordance with 22-
- 16 3-423; and
- 17 (xvii) interdisciplinary child information agreement reports from the office of public instruction in
- 18 accordance with 52-2-211;
- 19 (f) reports to the energy and telecommunications interim committee, including:
- 20 (i) the high-performance building report from the department of administration in accordance with
- 21 17-7-214;
- 22 (ii) an annual report from the consumer counsel in accordance with 69-1-222;
- 23 (iii) annual universal system benefits reports from utilities, electric cooperatives, and the
- 24 department of revenue in accordance with 69-8-402;
- 25 (iv) small-scale hydroelectric power generation reports from the department of natural resources
- 26 and conservation in accordance with 85-1-501; and
- 27 (v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-

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- 1 1301;
- 2 (g) reports to the revenue interim committee, including:
- 3 (i) use of the qualified endowment tax credit report from the department of revenue in accordance
- 4 with 15-1-230;
- 5 (ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with
- 6 15-7-111;
- 7 (iii) information about job growth incentive tax credits from the department of revenue in
- 8 accordance with 15-30-2361;
- 9 (iv) student scholarship contributions from the department of revenue in accordance with 15-30-
- 10 3112;
- 11 (v) media production tax credit economic impact reports from the department of commerce in
- 12 accordance with 15-31-1011; and
- 13 (vi) reports that actual or projected receipts will result in less revenue than estimated from the office
- 14 of budget and program planning, if necessary, in accordance with 17-7-140;
- 15 (h) reports to the transportation interim committee, including:
- 16 (i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;
- 17 (ii) cooperative agreement negotiations from the department of transportation in accordance with
- 18 15-70-450; and
- 19 (iii) a special fuels inspection report from the department of transportation in accordance with 61-
- 20 10-154;
- 21 (i) reports to the environmental quality council, including:
- 22 (i) compliance and enforcement reports required in accordance with 75-1-314;
- 23 (ii) the state solid waste management and resource recovery plan, every 5 years, from the
- 24 department of environmental quality in accordance with 75-10-111;
- 25 (iii) annual orphan share reports from the department of environmental quality in accordance with
- 26 75-10-743;
- 27 (iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

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- 1 (v) annual subdivision sanitation reports from the department of environmental quality in
- 2 accordance with 76-4-116;
- 3 (vi) quarterly reports from the department of environmental quality on the number and percentage
- 4 of overdue files in accordance with 76-4-116;
- 5 (vii) state trust land accessibility reports from the department of natural resources and conservation
- 6 in accordance with 77-1-820;
- 7 (viii) biennial land banking reports and annual state land cabin and home site sales reports from the
- 8 department of natural resources and conservation in accordance with 77-2-366;
- 9 (ix) biennially invasive species reports from the departments of fish, wildlife, and parks and natural
- 10 resources and conservation in accordance with 80-7-1006;
- 11 (x) annual invasive species council reports in accordance with 80-7-1203;
- 12 (xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;
- 13 (xii) reports from the western Montana conservation commission in accordance with 85-1-904;
- 14 (xiii) annual sage grouse population reports from the department of fish, wildlife, and parks in
- 15 accordance with 87-1-201;
- 16 (xiv) annual gray wolf management reports from the department of fish, wildlife, and parks in
- 17 accordance with 87-1-901;
- 18 (xv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in
- 19 accordance with 87-2-702;
- 20 (xvi) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in
- 21 accordance with 87-5-807; and
- 22 (xvii) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;
- 23 (j) reports to the water policy interim committee, including:
- 24 (i) drought and water supply advisory committee reports in accordance with 2-15-3308;
- 25 (ii) total maximum daily load reports from the department of environmental quality in accordance
- 26 with 75-5-703;
- 27 (iii) state water plans from the department of natural resources and conservation in accordance

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- 1 with 85-1-203;
- 2 (iv) small-scale hydroelectric power generation reports from the department of natural resources
- 3 and conservation in accordance with 85-1-501;
- 4 (v) renewable resource grant and loan program reports from the department of natural resources
- 5 and conservation in accordance with 85-1-621;
- 6 (vi) reports from the western Montana conservation commission in accordance with 85-1-904;
- 7 (vii) quarterly adjudication reports from the department of natural resources and conservation and
- 8 the water court in accordance with 85-2-281;
- 9 (viii) water reservation reports from the department of natural resources and conservation in
- 10 accordance with 85-2-316;
- 11 (ix) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-
- 12 436; and
- 13 (x) ground water investigation program reports from the bureau of mines and geology in
- 14 accordance with 85-2-525;
- 15 (k) reports to the local government interim committee, including:
- 16 (i) reports from the local government center on petitions received that resulted in the development
- 17 and delivery of training in accordance with 7-1-206;
- 18 (ii) sand and gravel, if an investigation is completed, in accordance with 82-2-701;
- 19 (iii) assistance to local governments on federal land management proposals from the department
- 20 of commerce in accordance with 90-1-182; and
- 21 (iv) emergency financial assistance to local government reports from the department of commerce,
- 22 if requests are made, in accordance with 90-6-703(2);
- 23 (l) reports to the state-tribal relations committee, including:
- 24 (i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;
- 25 (ii) the Montana Indian language preservation program report from the office of public instruction in
- 26 accordance with 20-9-537;
- 27 (iii) reports from the missing indigenous persons task force in accordance with 44-2-411;

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(iv) a report from the department of justice on missing persons response team training grants awarded in accordance with 44-2-416;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) Reports to the legislature include multistate compact and agreement reports, including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with 20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(5) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), (2)(gg), (2)(ii), and (3)(b)(xi) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 16. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst may

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1 investigate and examine the costs and revenue of state government activities and may examine and obtain
2 copies of the records, books, and files of any state agency, including confidential records.

3 (2) When confidential records and information are obtained from a state agency, the legislative
4 fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential
5 records and information provided for under the laws administered by the state agency. The legislative fiscal
6 analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information
7 obtained from state agencies and may not disclose confidential records or information to legislators.

8 (3) (a) The department of revenue shall make Montana individual income tax information available
9 by removing names, addresses, and social security numbers and substituting in their place a state accounting
10 record identifier number. Except for the purposes of complying with federal law, the department may not alter
11 the data in any other way.

12 (b) The department of revenue shall provide the name and address of a taxpayer on written
13 request of the legislative fiscal analyst when the values on the requested return, including estimated payments,
14 are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a
15 sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to
16 evaluate the effect of the return or payments on the analysis being performed.

17 (4) (a) The department of public health and human services and the department of health services
18 shall provide the legislative fiscal analyst direct access to ~~the each department's~~ department's secure data
19 warehouse as the phases of the secure data warehouse project are implemented.

20 (b) The department of public health and human services and the department of health services
21 shall consult with the legislative fiscal analyst and shall establish user requirements to ensure the legislative
22 fiscal analyst does not have access to direct identifiers stored on ~~the each department's~~ department's secure data
23 warehouse. The department of public health and human services and the department of health services shall
24 consult with the legislative fiscal analyst and shall establish requirements to ensure the legislative fiscal analyst
25 does not have access to direct identifiers stored in other data systems where the data is not available through
26 the secure data warehouse after the phases of the secure data warehouse project are implemented.

27 (c) The data must be made available to the legislative fiscal analyst in a format that complies with

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1 the regulations of the respective federal programs.

2 (d) The department of public health and human services and the department of health services
3 shall provide the legislative fiscal analyst with a summary of the data available in the each department's secure
4 data warehouse and shall provide an update when new data sets are added. The summary must include the list
5 of fields available for the legislative fiscal analyst to access.

6 (5) The board of crime control shall provide the legislative fiscal analyst direct access to the
7 criminal justice warehouse established in 44-7-126 in a manner that complies with the regulations of the
8 respective federal programs.

9 (6) Within 1 day after the legislative finance committee presents its budget analysis to the
10 legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement
11 recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This
12 information must be filed in the respective offices and be made available to the legislature and the public. In
13 preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal
14 analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

15 (7) This section does not authorize publication or public disclosure of information if the law
16 prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified
17 records or information may contain confidential information."

18

19 **Section 17.** Section 5-12-501, MCA, is amended to read:

20 **"5-12-501. Interim budget committees.** (1) During an interim when the legislature is not in session,
21 the committees listed in subsection (2) are the interim budget committees of the legislature. They are
22 empowered to sit as committees and may act in their respective areas of responsibility.

23 (2) The following are the interim budget committees of the legislature:

24 (a) general government budget committee to oversee the budget activities of the department of
25 administration, department of military affairs, department of commerce, state auditor's office, governor's office,
26 secretary of state, commissioner of political practices, department of revenue, department of labor and industry,
27 legislative branch, and consumer counsel;

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(b) health and human services budget committee to oversee the budget activities of the department of public health and human services and the department of health services;

(c) natural resources and transportation budget committee to oversee the budget activities of the department of livestock, department of environmental quality, department of agriculture, department of natural resources and conservation, department of transportation, and department of fish, wildlife, and parks;

(d) judicial branch, law enforcement, and justice budget committee to oversee the budget activities of the judicial branch, department of justice, public service regulation, office of state public defender, and department of corrections; and

(e) education budget committee to oversee budget activities related to the Montana arts council, Montana historical society, board of public education, office of public instruction, school for the deaf and blind, Montana state library, and commissioner of higher education; and

(f) long-range planning budget committee to oversee the budget activities related to long-range program implementation issues considered by the subcommittee during the session.

(3) An interim budget committee may refer an issue to an interim committee provided for in 5-5-202 that the referring committee determines to be more appropriate for the consideration of the issue.

(4) If there is a dispute between interim committees and an interim budget committee as to which committee has proper jurisdiction over a subject, the legislative council and legislative finance committee shall consult and determine the most appropriate committee and assign the subject to that committee.

(5) Interim budget committees may not be assigned interim studies pursuant to 5-5-217."

Section 18. Section 7-22-2151, MCA, is amended to read:

"7-22-2151. Cooperative agreements. (1) A state agency that controls land within a district, including the department of transportation; the department of fish, wildlife, and parks; the department of corrections; the department of health services; the department of natural resources and conservation; and the university system, shall enter into a written agreement with the board. The agreement must specify mutual responsibilities for integrated noxious weed management on state-owned or state-controlled land within the district. The agreement must include the following:

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- 1 (a) an integrated noxious weed management plan, which must be updated biennially;
- 2 (b) a noxious weed management goals statement;
- 3 (c) a specific plan of operations for the biennium, including a budget to implement the plan; and
- 4 (d) a provision requiring a biennial performance report by the board to the state weed coordinator
- 5 in the department of agriculture, on a form to be provided by the state weed coordinator, regarding the success
- 6 of the plan.

7 (2) The board and the governing body of each incorporated municipality within the district shall

8 enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the

9 boundaries of the municipality. The board may implement management procedures described in the plan within

10 the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality

11 remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.

12 (3) A board may develop and carry out its noxious weed management program in cooperation with

13 boards of other districts, with state and federal governments and their agencies, or with any person within the

14 district. The board may enter into cooperative agreements with any of these parties.

15 (4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all

16 noxious weed actions that are subject to the agreement required under subsection (1) to the state weed

17 coordinator and shall post a copy of the statement or summary on a state digital access system."

18

19 **Section 19.** Section 10-2-401, MCA, is amended to read:

20 **"10-2-401. Location and function of homes -- persons admitted.** The institutions at Columbia

21 Falls, in eastern Montana, and in southwestern Montana are the Montana veterans' homes, and their primary

22 function is to provide a home and subsistence for veterans. The ~~department of public health and human~~

23 ~~services~~ department of health services may also admit spouses or surviving spouses of veterans to the homes

24 if space allows."

25

26 **Section 20.** Section 10-2-402, MCA, is amended to read:

27 **"10-2-402. Superintendent to be given veterans' preference.** In the selection of the superintendent

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1 of each of the Montana veterans' homes, the ~~department of public health and human services~~ department of
2 health services shall apply the preference granted to veterans and disabled veterans under 39-29-102, but not
3 the preference granted to other persons under 39-29-102 or Title 39, chapter 30."

4
5 **Section 21.** Section 10-2-403, MCA, is amended to read:

6 **"10-2-403. Eligibility for residence in home.** To be eligible for residence in a Montana veterans'
7 home under rules prescribed by the ~~department of public health and human services~~ department of health
8 services, a person must be a veteran or the spouse or surviving spouse of a veteran. Consideration must also
9 be given to:

- 10 (1) the person's age;
11 (2) the person's physical and mental status;
12 (3) the person's ability or inability to locate suitable alternative accommodations;
13 (4) the person's term of residence in Montana;
14 (5) the person's gender as it relates to availability of appropriate living space;
15 (6) the ability of the Montana veterans' home to meet the person's needs; and
16 (7) other admission requirements established by the department."

17
18 **Section 22.** Section 10-2-404, MCA, is amended to read:

19 **"10-2-404. Acceptance and deposit of federal money.** The ~~department of public health and human~~
20 ~~services~~ department of health services may accept money from the federal government that becomes available
21 to the state as a result of operating the Montana veterans' homes and shall deposit the money in the state
22 treasury for the benefit of the homes. If a resident of a home is transferred to another institution, the ~~department~~
23 ~~of public health and human services~~ department of health services shall continue to draw from the federal
24 government any money available for the maintenance of the former resident."

25
26 **Section 23.** Section 10-2-416, MCA, is amended to read:

27 **"10-2-416. Pledge to continue operation and maintenance.** Pursuant to 38 U.S.C. 8134 and

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8135(a)(6), the state shall appropriate funds either from the general fund or from funds generated under 16-11-111 to the ~~department of public health and human services~~ department of health services for financial support necessary to provide for continued operation and maintenance of the state homes for veterans in eastern Montana and southwestern Montana. The ~~department of public health and human services~~ department of health services shall contract with a private vendor to provide for the operation of the eastern Montana veterans' home and the southwestern Montana veterans' home and may charge the contract vendor a rental fee for the maintenance and upkeep of the facility."

Section 24. Section 10-2-417, MCA, is amended to read:

"10-2-417. Use of funds generated by taxation on cigarettes. (1) Revenue generated by 16-11-119 and allocated to the ~~department of public health and human services~~ department of health services for veterans' homes must be used to support the operation and maintenance of the Montana veterans' homes programs.

(2) The legislature shall appropriate from the account established in 16-11-119(2)(a) the funds required for the operation and maintenance of the Montana veterans' homes."

Section 25. Section 10-2-901, MCA, is amended to read:

"10-2-901. Decennial veterans' long-term care needs study. (1) On receipt of the most recent federal census, the department of public health and human services, in consultation with the Montana veterans' affairs division and the department of health services, shall perform an analysis of the long-term care needs of veterans in the state, known as the decennial veterans' long-term care needs study.

(2) The study must determine the demographics of the Montana veteran population, including the number and age of veterans in each county and the type of long-term care needs of the population. The long-term care assessment for veterans must include evaluation of the need for nursing home, domiciliary, and Alzheimer's disease support services, as well as the various types of community and in-home care that are needed.

(3) The study must include a personal survey of the Montana veteran population, including online

1 and paper options. This study must be conducted in collaboration with veterans' outreach organizations and
2 other local groups that work directly with the Montana veteran population.

3 (4) The study must evaluate existing veterans' home services and the configuration of those
4 services with respect to the needs identified.

5 (5) The study must include an analysis of the need for additional state veterans' cemeteries,
6 including their placement within the state."

7
8 **Section 27.** Section 16-1-404, MCA, is amended to read:

9 ~~"16-1-404. License tax on liquor -- amount -- distribution of proceeds. (1) Except as provided in~~
10 ~~subsection (4), the department shall collect at the time of sale and delivery of any liquor under any provisions of~~
11 ~~the laws of the state of Montana a license tax of:~~

12 ~~(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that~~
13 ~~manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor~~
14 ~~nationwide in the calendar year preceding imposition of the tax pursuant to this section;~~

15 ~~(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that~~
16 ~~manufactured, distilled, rectified, bottled, or processed and that sold more than 50,000 proof gallons but not~~
17 ~~more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax~~
18 ~~pursuant to this section;~~

19 ~~(c) 2% of the retail selling price on all liquor sold and delivered in the state by a company that~~
20 ~~manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of~~
21 ~~liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.~~

22 ~~(2) The license tax must be charged and collected on all liquor produced in or brought into the~~
23 ~~state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor~~
24 ~~the state markup of 40.5% for all liquor other than sacramental wine, for which the markup must be 20%, and~~
25 ~~fortified wine containing more than 16% but not more than 24% alcohol by volume, for which the markup must~~
26 ~~be 51%. The license tax must be figured in the same manner as the state excise tax and is in addition to the~~
27 ~~state excise tax. The department shall retain in a separate account the amount of the license tax received. The~~

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department, in accordance with the provisions of 17-2-124, shall allocate the revenue as follows:

(a) — Thirty-four and one-half percent is allocated to the state general fund.

(b) — Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services department of health services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(3) — The license tax proceeds that are allocated to the department of public health and human services department of health services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited quarterly to the department of public health and human services department of health services. The legislature may appropriate a portion of the license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed as provided in 53-24-206.

(4) — The following are exempt from the tax and markup imposed by this section:

(a) — flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and

(b) — necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312."

Section 28. Section 16-1-406, MCA, is amended to read:

"16-1-406. Taxes on beer. (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in Montana by a wholesaler or by a licensed brewer directly to retailers, special permittees, or the public. The tax is based on the total number of barrels of beer produced by a brewer in a year. A brewer who produces fewer than 10,000 barrels of beer a year is taxed on the following increments of production:

(i) — up to 5,000 barrels, \$1.30;

(ii) — 5,001 barrels to 10,000 barrels, \$2.30.

(b) — The tax on beer sold for a brewer who produces over 10,000 barrels is \$4.30.

(2) — The tax imposed pursuant to subsection (1) on a wholesaler and an electronic beer tax return is due at the end of each quarter from the wholesaler on beer sold by the wholesaler during that quarter. The tax imposed pursuant to subsection (1) on a licensed brewer and an electronic beer tax return is due at the end of

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~~each quarter from the brewer for beer sold during the previous quarter. The department shall compute the tax due on beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons.~~

~~(3) — Each quarter, in accordance with the provisions of 17-2-124, of the tax collected pursuant to subsection (1), an amount equal to:~~

~~(a) — 23.26% must be deposited in the state treasury to the credit of the department of public health and human services department of health services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency; and~~

~~(b) — the balance must be deposited in the state general fund."~~

Section 29. Section 16-1-411, MCA, is amended to read:

~~"**16-1-411. Tax on wine and hard cider -- penalty and interest.** (1) (a) A tax of 27 cents a liter is imposed on sacramental wine and table wine, except hard cider, sold by:~~

~~(i) — a table wine distributor to licensed retailers, agency liquor stores, and special permit holders;~~

~~(ii) — a licensed winery directly to licensed retailers, special permit holders, or the public; and~~

~~(iii) — a registered winery directly to the public.~~

~~(b) — A tax of 3.7 cents a liter is imposed on hard cider sold by:~~

~~(i) — a table wine distributor to licensed retailers, agency liquor stores, and special permit holders;~~

~~(ii) — a licensed winery directly to retailers, special permit holders, or the public; and~~

~~(iii) — a registered winery directly to the public.~~

~~(2) — The tax imposed in subsection (1) must be paid as follows:~~

~~(a) — A winery registered pursuant to 16-4-107 that sells more than 1,000 liters of sacramental wine, table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th day of each quarter during the following period that begins October 1 and ends September 30.~~

~~(b) — A winery registered pursuant to 16-4-107 that sells 1,000 liters or less of sacramental wine, table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1~~

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~~and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on or before October 15 of the following period that begins October 1 and ends September 30.~~

~~(c) — A winery licensed pursuant to 16-4-107 that sells sacramental wine, table wine, or hard cider to consumers or licensed retailers in the state or that sells table wine to agency liquor stores for sale to consumers in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th of each quarter for sales in the previous quarter.~~

~~(d) — A table wine distributor that sells sacramental wine, table wine, or hard cider in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th day of each quarter for sales in the previous quarter.~~

~~(3) — The tax paid by a winery or by a table wine distributor in accordance with subsection (2) must, in accordance with the provisions of 17-2-124, be distributed as follows:~~

~~(a) — 69% to the state general fund; and~~

~~(b) — 31% to the state special revenue fund to the credit of the department of public health and human services department of health services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.~~

~~(4) — The tax computed and paid in accordance with this section is the only tax imposed by the state or any of its subdivisions, including cities and towns.~~

~~(5) — For the purposes of this section, "table wine" has the meaning assigned in 16-1-106 but does not include hard cider."~~

Section 26. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes -- statutory appropriation. (1) A sum equal to the amount necessary to purchase cigarette tax stamps must be deposited to or allocated from the state special revenue fund to the credit of the department from cigarette taxes collected under the provisions of 16-11-111, as provided in subsection (5) of this section.

(2) After the deposit or allocation in subsection (1), cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

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(a) 8.3% or \$5 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services department of health services for the operation and maintenance of state veterans' nursing homes;

(b) 2.6% in the major repair long-range building program account provided for in 17-7-221;

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201;

(d) \$150,000 in the veterans and surviving spouses state special revenue account provided for in 10-2-108; and

(e) the remainder to the state general fund.

(3) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(4) The taxes collected on tobacco products other than cigarettes must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201.

(5) Each fiscal year, a sum equal to the amount of money necessary to purchase cigarette tax stamps is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund allocation in subsection (1) to the department for tax administration responsibilities."

Section 31. ~~Section 16-12-122, MCA, is amended to read:~~

~~"16-12-122. Healing and ending addiction through recovery and treatment account -- report. (1)~~

~~There is a healing and ending addiction through recovery and treatment account in the state special revenue fund. The account consists of money transferred to the account pursuant to 16-12-111.~~

~~(2) Revenue in the account must be used to provide statewide programs for:~~

~~(a) substance use disorder prevention;~~

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~~(b) — youth suicide prevention;~~

~~(c) — mental health promotion; and~~

~~(d) — crisis, treatment, and recovery services for substance use and mental health disorders. The services include but are not limited to crisis stabilization services as defined in 53-21-1401 and provided under Title 53, chapter 6, or Title 53, chapter 21, part 14.~~

~~(3) — The programs must be designed to:~~

~~(a) — increase the number of individuals choosing treatment over incarceration;~~

~~(b) — improve access to, utilization of, and engagement and retention in prevention, treatment, and recovery support services;~~

~~(c) — expand the availability of community-based services that reflect best practices or are evidence-based;~~

~~(d) — leverage additional federal funds when available for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11, and the medicaid program provided for in Title 53, chapter 6, for the purposes of this section;~~

~~(e) — provide funding for programs and services that are described in subsections (2)(a) through (2)(d) and provided on an Indian reservation located in this state; or~~

~~(f) — provide funding for grants and services to tribes for use in accordance with this section.~~

~~(4) — (a) An amount not to exceed \$500,000, including eligible federal matching sources when applicable, must be used to provide funding for grants and services to tribes for tobacco prevention and cessation, substance use disorder prevention, mental health promotion, and substance use disorder and mental health crisis, treatment, and recovery services.~~

~~(b) — The department of public health and human services department of health services shall:~~

~~(i) — manage the programs funded by the special revenue account;~~

~~(ii) — adopt rules to implement the programs; and~~

~~(iii) — provide a written report to the children, families, health, and human services interim committee, in accordance with 5-11-210, no later than September 1 of each year on the programs, grants, and services funded under this section. The report must include the amount of funding each program received.~~

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~~(5) — The legislature shall appropriate money from the state special revenue account provided for in this section for:~~

~~(a) — the chemical dependency treatment room and board voucher program provided for in 53-24-218; and~~

~~(b) — the programs referred to in this section.~~

~~(6) — Programs funded under this section must be funded through contracted services with service providers. (Subsection (5)(a) terminates June 30, 2027—sec. 7, Ch. 187, L. 2023.)"~~

Section 32. Section 17-2-108, MCA, is amended to read:

"17-2-108. — Expenditure of nongeneral fund money first. (1) Except for the exemptions applicable to the Montana historical society in 22-3-114(5), the Montana state library in 22-1-226(5), the Montana school for the deaf and blind in 20-8-107(5), and the department of public health and human services department of health services in 53-1-612, an office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money whenever possible before using general fund appropriations.

(2) — Except as provided in 53-1-612, the approving authority, as defined in 17-7-102, shall authorize the decrease of the general fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation in an appropriation act unless the decrease is contrary to federal law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If directed by an appropriation act, the approving authority shall decrease the general fund appropriation of an agency by the amount of money received from nonfederal sources in excess of the appropriation unless the decrease is contrary to state law, state rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If the general fund appropriation of an agency is decreased pursuant to this section, the appropriation for the fund in which the money is received is increased in the amount of the general fund decrease.

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~~(3) — If directed by an appropriation act, the approving authority may decrease a state special revenue, proprietary, or other fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation unless the decrease is contrary to state or federal law or federal rule. The appropriation for the fund in which the money is received is decreased by the amount of the federal special revenue increase allowed by law, rule, or contract and approved for the purpose."~~

Section 27. Section 17-3-1001, MCA, is amended to read:

"17-3-1001. State institutions which may take by gift, bequest, or grant -- restriction. (1) The state of Montana, units of the Montana university system, the Montana school for the deaf and blind, all institutions in the department of corrections and the ~~department of public health and human services~~ department of health services, and any institutions now created or established or which may be created or established and supported in whole or in part by the state for any purpose may accept gifts, donations, grants, devises, or bequests of real or personal property from any source. Gifts, donations, grants, bequests, or devises may be made directly to the state, in the name of any of the institutions, to any officer or board of the institutions, or to any person in trust for the institutions.

(2) In the event it is made directly to any institution or to any officer or board of any institution, the gift, donation, grant, devise, or bequest is a gift, donation, grant, devise, or bequest to the state and must be administered and used by the state for the particular purpose for which it was given, donated, granted, bequeathed, or devised. In the event that a particular purpose is not mentioned in the gift, grant, devise, or bequest, then it must be used for the general support, maintenance, or improvement of the institution by the state.

(3) A gift, donation, grant, devise, or bequest may not be accepted or used in contravention of 13-35-238."

Section 28. Section 17-3-1002, MCA, is amended to read:

"17-3-1002. Persons who may make gifts to state institutions. (1) A donation, gift, grant, bequest, devise, or testamentary disposition of property, real or personal, may be made by any person over the age of

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1 18 years and of sound mind to the state, a unit of the Montana university system, the state school for deaf and
2 blind, an institution in the department of corrections or the ~~department of public health and human services~~
3 department of health services, and any and all institutions now created or established or that may be created or
4 established and supported, in whole or in part, by the state for any purpose. Any person, corporation, or
5 association of persons may make any gift, donation, or grant of property, real or personal, to the state, or to any
6 of the institutions referred to in this section.

7 (2) In the event that any gift, donation, grant, devise, or bequest is made to any institution or to any
8 officer or board of any institution, the same must be construed as a gift, donation, grant, devise, or bequest to
9 the state and must be administered and used for the state for the particular purpose for which the same was
10 given, donated, granted, bequeathed, or devised. In the event that a particular purpose is not mentioned in the
11 gift, grant, devise, or bequest, then the same must be used for the general support, maintenance, or
12 improvement of the institution by the state."

13
14 **Section 29.** Section 17-7-111, MCA, is amended to read:

15 **"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and**
16 **contents.** (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state
17 need information that is consistent and accurate. Necessary information includes detailed disbursements by
18 fund type for each agency and program for the appropriate time period, recommendations for creating a
19 balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

20 (b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst
21 shall by agreement:

22 (i) establish necessary standards, formats, and other matters necessary to share information
23 between the agencies and to ensure that information is consistent and accurate for the preparation of the
24 state's budget; and

25 (ii) provide for the collection and provision of budgetary and financial information that is in addition
26 to or different from the information otherwise required to be provided pursuant to this section.

27 (2) In the preparation of a state budget, the budget director shall, not later than the date specified

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1 in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of
2 budget estimates by the budget director. These forms must be prescribed by the budget director to procure the
3 information required by subsection (3). The forms must be submitted to the budget director by the date provided
4 in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-
5 112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or
6 the instructions given for completing the forms.

7 (3) The agency budget request must set forth a balanced financial plan for the agency completing
8 the forms for each fiscal year of the ensuing biennium. The plan must consist of:

9 (a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-
10 101, for the current base budget expenditures, including statutory appropriations, and for each present law
11 adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel
12 positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total
13 anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing
14 biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in
15 progress;

16 (b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for
17 the current biennium and estimated for the subsequent biennium;

18 (c) a statement of the agency mission and a statement of goals and objectives for each program of
19 the agency. The goals and objectives must include, in a concise form, sufficient specific information and
20 quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and
21 its programs and to allow a determination, at some future date, on whether the agency has succeeded in
22 attaining its goals and objectives. An agency that has complied with the requirements provided in Title 2,
23 chapter 12, part 1, is exempt from the provision of this subsection (3)(c).

24 (d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated
25 FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by
26 program;

27 (e) actual disbursements for the completed fiscal year of the current biennium, estimated

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disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by
disbursement category;

(f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the
general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if
directed by the budget director. Each agency plan must include base budget reductions that reflect the required
percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the
calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their
own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or
fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination
or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is
included in the approved agency information technology plan as required in 2-17-523;

(h) energy cost saving information as required by 90-4-616; and

(i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with
17-7-112:

(a) detailed recommendations for capital developments for:

(i) local infrastructure projects;

(ii) funding for energy development-impacted areas; and

(iii) the state long-range building program. Each recommendation for the capital developments
long-range building program must be presented by institution, agency, or branch, by funding source, with a
description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by

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1 fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule
2 under this subsection is not an unfair labor practice under 39-31-401.

3 (d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2,
4 part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and
5 development grants program under Title 90, chapter 2, part 11, and the Montana coal endowment program
6 under Title 90, chapter 6, part 7.

7 (5) The board of regents shall submit, with its budget request for each university unit in accordance
8 with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this
9 subsection (5). The report must include the following information for each year of the biennium, contrasted with
10 the same information for the last-completed fiscal year and the fiscal year in progress:

11 (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

12 (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each
13 outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal
14 funding requirements for each bond indenture; and

15 (c) a schedule showing the total funds available from each bond indenture and its associated
16 accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source
17 and project for each year of the current and ensuing bienniums.

18 (6) (a) The department of revenue shall make Montana individual income tax information available
19 by removing names, addresses, and social security numbers and substituting in their place a state accounting
20 record identifier number. Except for the purposes of complying with federal law, the department may not alter
21 the data in any other way.

22 (b) The department of revenue shall provide the name and address of a taxpayer on written
23 request of the budget director when the values on the requested return, including estimated payments, are
24 considered necessary by the budget director to properly analyze state revenue and are of a sufficient
25 magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the
26 effect of the return or payments on the analysis being performed.

27 (7) The following provisions apply to the development of the budget request for the department of

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1 public health and human services:

2 (a) Adjustments to the present law base must be separated by each category described in 17-7-
3 102(11) in order for the legislature to determine the changes that are attributable to legally mandated workload,
4 caseload, or enrollment increases or decreases, constitutional or statutory schedules or formulas, inflationary or
5 deflationary adjustments, and elimination of nonrecurring appropriations.

6 (b) Inflation adjustments to the present law base for the institutions or services described in
7 subsection (7)(c) must be based on a reliable national index for the particular service or a similar service or the
8 consumer price index for urban wage earners and workers. An inflation adjustment that is greater than the
9 applicable national index or consumer price index must be presented as a new proposal.

10 (c) Subsection (7)(b) applies to inflation adjustments for:

11 (i) ~~the department-operated institutions described in 53-1-602; and~~

12 (ii) ~~services provided by private sector businesses and other entities that provide direct services to~~
13 beneficiaries in medicaid programs that are administered by the department divisions responsible for
14 overseeing services for the elderly and for persons with mental illness, physical disabilities, or developmental
15 disabilities.

16 (8) In the development of the budget request for the department of health services, inflation
17 adjustments to the present law base for department-operated institutions described in 53-1-602 must be based
18 on a reliable national index for the particular service or a similar service or the consumer price index for urban
19 wage earners and workers. An inflation adjustment that is greater than the applicable national index or
20 consumer price index must be presented as a new proposal."

21

22 **Section 30.** Section 18-4-133, MCA, is amended to read:

23 **"18-4-133. Purchases exempt from general requirements.** (1) ~~When immediate delivery of~~
24 articles or performance of service is required by the public exigencies, the articles or service required may be
25 procured by open purchase or contract at the place and in the manner in which the articles are usually bought
26 and sold or the services engaged between individuals but under the direction of the department.

27 (2) (a) The department may exempt the department of corrections, ~~and the department of public~~

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health and human services, and the department of health services from the provisions of this chapter for the purchase of suitable clothing by the department of corrections, ~~and the department of public health and human services, and the department of health services~~ for residents of its institutions and community-based programs.

(b) As used in this section, "suitable clothing" means styled, seasonable clothing, which will allow the resident to make a normal appearance in the community.

(3) When none of the bids or proposals received in response to a valid solicitation are from a responsible bidder or offeror or responsive bidder or offeror, as defined in 18-4-301, the procurement officer may:

(a) cancel and reissue the solicitation. If the procurement officer reissues the solicitation, the procurement officer shall attempt to increase the number of potential vendors and may modify any specification in the original solicitation.

(b) directly negotiate with a vendor if the procurement officer determines that a second or subsequent solicitation would also be unsuccessful.

(4) The department shall adopt rules describing the conditions under which a procurement officer may negotiate directly with a vendor. The rules must reflect the purposes described in 18-4-122.

(5) When a state department, agency, or official administers a grant of public funds and contracts with a landowner to carry out a recreational or environmental remediation, reclamation, or conservation project that benefits the state, the department may exempt the landowner from the provisions of chapter 1 and this chapter if the landowner conducts the work or conducts a form of competitive procurement allowed by the terms of the contract."

Section 37. ~~Section 33-22-702, MCA, is amended to read:~~

~~"33-22-702. Definitions. For purposes of this part, the following definitions apply:~~

~~(1) "Inpatient benefits" are as set forth in 33-22-705.~~

~~(2) "Mental health benefits" means benefits with respect to items or services for mental health conditions, as defined under the terms of the plan or health insurance coverage and in accordance with applicable federal and state law. Any condition defined by the plan or coverage as being or as not being a~~

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~~mental health condition must be defined to be consistent with generally recognized independent standards of current medical practice, including but not limited to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.~~

~~(3) "Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness or severe mental illness through multiple modalities or techniques pursuant to a written treatment plan approved and monitored by a qualified health care provider and a treatment facility that is:~~

~~(a) licensed as a mental health treatment center by the state;~~

~~(b) funded or eligible for funding under federal or state law; or~~

~~(c) affiliated with a hospital under a contractual agreement with an established system for patient referral.~~

~~(4) (a) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that occurs in a person and that is associated with:~~

~~(i) present distress or a painful symptom;~~

~~(ii) a disability or impairment in one or more areas of functioning; or~~

~~(iii) a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.~~

~~(b) Mental illness must be considered as a manifestation of a behavioral, psychological, or biological dysfunction in a person.~~

~~(c) Mental illness does not include:~~

~~(i) a developmental disorder;~~

~~(ii) a speech disorder;~~

~~(iii) a psychoactive substance use disorder;~~

~~(iv) an eating disorder, except for bulimia and anorexia nervosa; or~~

~~(v) an impulse control disorder, except for intermittent explosive disorder and trichotillomania.~~

~~(5) "Outpatient benefits" are as set forth in 33-22-705.~~

~~(6) "Primary care behavioral health model" means an evidence-based, integrated behavioral health care service delivery model delivered in primary or specialty care settings that recognizes licensed~~

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~~psychologists as consultants as well as direct service providers.~~

~~(7) "Psychiatric collaborative care model" means the evidence-based, integrated behavioral health service delivery method in which care:~~

~~(a) is delivered by a primary care team consisting of a primary care provider and a care manager who work in collaboration with a psychiatric consultant, including but not limited to a psychiatrist;~~

~~(b) is directed by the primary care team;~~

~~(c) includes structured care management with regular assessments of clinical status using validated tools and modification of treatment as appropriate; and~~

~~(d) involves regular consultations between the psychiatric consultant and the primary care team to review the clinical status and care of patients and to make recommendations.~~

~~(8) "Qualified health care provider" means a person licensed as a physician, psychologist, social worker, clinical professional counselor, marriage and family therapist, or addiction counselor or another appropriate licensed health care practitioner.~~

~~(9) "Severe mental illness" means the following disorders as defined by the American psychiatric association:~~

~~(a) schizophrenia;~~

~~(b) schizoaffective disorder;~~

~~(c) bipolar disorder;~~

~~(d) major depression;~~

~~(e) panic disorder;~~

~~(f) obsessive-compulsive disorder; and~~

~~(g) autism.~~

~~(10) "Substance use disorder" means the uncontrollable or excessive use of an addictive substance, including but not limited to alcohol, morphine, cocaine, heroin, opium, cannabis, barbiturates, amphetamines, tranquilizers, or hallucinogens, and the resultant physiological or psychological dependency that develops with continued use of the addictive substance and that requires medical care or other appropriate treatment as determined by a licensed addiction counselor or other appropriate medical practitioner.~~

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~~(11) — "Substance use disorder benefits" means benefits with respect to items or services for substance use disorders, as defined under the terms of the plan or health insurance coverage and in accordance with applicable federal and state law. Any disorder defined by the plan as being or as not being a substance use disorder must be defined to be consistent with generally recognized independent standards of current medical practice, including but not limited to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.~~

~~(12) — "Substance use disorder treatment center" means a treatment facility that:~~
~~(a) — provides a program for the treatment of substance use disorders pursuant to a written treatment plan approved and monitored by a qualified health care provider; and~~
~~(b) — is licensed by the department of public health and human services or approved by the department of public health and human services department of health services under 53-24-208 or is licensed or approved by the state where the facility is located."~~

Section 31. Section 44-5-302, MCA, is amended to read:

"44-5-302. Dissemination of criminal history record information that is not public criminal justice information. (1) Criminal history record information may not be disseminated to agencies or entities other than criminal justice agencies unless:

- (a) the information is disseminated with the consent or at the request of the individual about whom it relates according to procedures specified in 44-5-214 and 44-5-215;
- (b) a district court considers dissemination necessary;
- (c) the information is disseminated in compliance with 44-5-304;
- (d) the information is disseminated on the written request of an entity providing residential treatment or care for an individual that is:
 - (i) licensed as a long-term care facility as defined in 50-5-101;
 - (ii) licensed as a community residential facility as defined in 76-2-411(1) or (3); or
 - (iii) providing a home-like setting for individuals working on maintaining their sobriety; or
- (e) the agency receiving the information is authorized by law to receive it.

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(2) The department of justice and other criminal justice agencies may accept fingerprints of applicants for admission to the state bar of Montana and shall, with respect to a bar admission applicant whose fingerprints are given to the department or agency by the state bar, exchange available state, multistate, local, federal (to the extent allowed by federal law), and other criminal history record information with the Montana supreme court and its commission on character and fitness for licensing purposes.

(3) An entity meeting the requirements of subsection (1)(d) may receive the information on an individual who:

(a) is receiving or has requested services from an entity meeting the requirements of subsection (1)(d);

(b) is under a current order of commitment to the Montana state hospital or another mental health facility pursuant to 46-14-202 or 46-14-221 in connection with a prosecution in which the individual has been charged with a sexual offense or a violent offense, as defined in 46-23-502; or

(c) has been committed to the custody of the director of the ~~department of public health and human services~~ department of health services pursuant to 46-14-301 after being found not guilty of a sexual offense or a violent offense, as defined in 46-23-502, for the reason that due to a mental disease or disorder the defendant could not have a particular state of mind that is an essential element of the offense charged.

(4) In making a request for criminal history record information, the entity requesting the information shall:

(a) obtain written consent to receive criminal history record information from the individual who is the subject of the proposed inquiry; and

(b) submit the written request for criminal history record information and any written consent from the individual about whom the information relates to the prosecutor or county attorney responsible for the prosecution, commitment, or disposition referenced in subsections (3)(b) and (3)(c).

(5) The prosecutor shall disseminate the requested criminal history record information to an entity meeting the requirements of subsection (1)(d) when the individual about whom the information relates has provided written consent to the dissemination.

(6) If an individual about whom the information relates and who meets the criteria described in

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subsection (3)(a), (3)(b), or (3)(c) objects to the dissemination of the information to an entity meeting the requirements of subsection (1)(d), the procedure described in 44-5-303(1) applies.

(7) (a) Confidential criminal justice information received pursuant to subsections (1)(d) and (3) may be shared only with employees of the entity requesting the information to make treatment-related decisions, including decisions related to the safety of the individual for whom criminal history record information was obtained and for other persons in the treatment setting. Any person receiving criminal history record information shall maintain the confidentiality of the information.

(b) A person who obtains confidential criminal justice information pursuant to subsections (1)(d) and (3) by misrepresenting the purpose of the request or who shares criminal history record information or any other confidential criminal justice information received pursuant to subsections (1)(d) and (3) with persons not authorized to receive the information is guilty of a misdemeanor and, on conviction, is punishable by a fine of not more than \$1,000 or imprisonment in a county jail for a term not to exceed 1 year, or both."

Section 32. Section 45-5-513, MCA, is amended to read:

"45-5-513. Geographic restrictions applicable to high-risk sexual offenders. (1) A high-risk sexual offender as provided in this section may not:

(a) establish a residence within 300 feet of a school, day-care center, playground, developed or improved park, athletic field or facility that primarily serves minors, or business or facility having a principal purpose of caring for, educating, or entertaining minors. This subsection (1)(a) does not apply if the residence was established on or before May 5, 2015.

(b) establish a residence or any other living accommodation in a place where a minor resides, except that the offender may reside with a minor if the offender is the parent, grandparent, or stepparent of the minor unless:

(i) the offender's parental rights were terminated or are in the process of being terminated as provided by law;

(ii) the offender was convicted of a sexual offense in which any of the offender's minor children, grandchildren, or stepchildren were the victim; or

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(iii) the offender was convicted of a sexual offense in which a minor was the victim and the minor resided with the offender at the time of the offense;

(c) knowingly make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to a former victim or a member of the victim's immediate family;

(d) knowingly come within 300 feet of a former victim of the offender without the prior written permission of the victim or the victim's legal guardian;

(e) accept, maintain, or carry on regular employment at or within 300 feet of a school, day-care center, playground, developed or improved park, athletic field or facility that primarily serves minors, or business or facility having a principal purpose of caring for, educating, or entertaining minors.

(2) A high-risk sexual offender who knowingly violates a provision of this section is guilty of a felony and upon conviction shall be punished as provided in 46-18-213.

(3) For high-risk sexual offenders who are no longer under the supervision of the department of corrections, the residential and geographic restrictions provided in subsections (1)(a) and (1)(e) do not apply if the high-risk sexual offender possesses an approved safety plan from a sexual offender evaluator to mitigate the risk of reoffending and protect public safety. The safety plan must be reevaluated annually by a sexual offender evaluator to ensure any conditions or requirements are adequate and protect public safety.

(4) This section does not apply to offenders who are placed in a facility in operation by the department of corrections, the ~~department of public health and human services~~ department of public health and human services, ~~the department of health services~~, or a contractor with either ~~department~~ a state department before October 1, 2015. The department of corrections, the department of public health and human services, and the ~~department of public health and human services~~ department of health services shall adopt rules specifying the type of facility to which this section applies.

(5) The department of corrections, ~~and the department of public health and human services~~, and the department of public health and human services, and the ~~department of public health and human services~~ department of health services may also exempt from the requirements of this section offenders who are placed in a facility to be operated by ~~either department~~ a state department or a contractor with either department beginning on or after October 1, 2015. The department of corrections, the department of public health and human services, and the ~~department of public health and~~

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1 ~~human-services~~ department of health services shall adopt rules specifying facilities to which this subsection
2 applies. As part of the process of granting an exemption to a facility constructed or designated after October 1,
3 2015, the department of corrections, the department of public health and human services, and the ~~department~~
4 ~~of public health and human services~~ department of health services shall hold at least one public hearing in the
5 community where the facility is to be located.

6 (6) As used in this section, the following definitions apply:

7 (a) "Day-care center" has the meaning provided in 52-2-703.

8 (b) "High-risk sexual offender" means a person 18 years of age or older who is designated as a
9 sexually violent predator under 46-23-509 and has committed a sexual offense against a victim 12 years of age
10 or younger.

11 (c) "Minor" means a person under 18 years of age.

12 (d) "Regular employment" means employment for which a sexual offender has a reasonable
13 expectation of employment for longer than 90 days.

14 (e) "Sexual offense" has the meaning provided in 46-23-502."

15
16 **Section 33.** Section 45-8-356, MCA, is amended to read:

17 **"45-8-356. Where concealed weapon may be carried -- exceptions.** A person with a current and
18 valid permit issued pursuant to 45-8-321 or 45-8-312 or recognized pursuant to 45-8-329 may not be prohibited
19 or restricted from exercising that permit anywhere in the state, except:

20 (1) in a correctional, detention, or treatment facility operated by or contracted with the department
21 of corrections or a secure treatment facility operated by the ~~department of public health and human services~~
22 department of public health and human services or the department of health services;

23 (2) in a detention facility or secure area of a law enforcement facility owned and operated by a city
24 or county;

25 (3) at or beyond a security screening checkpoint regulated by the transportation security
26 administration in a publicly owned, commercial airport;

27 (4) in a building owned and occupied by the United States;

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(5) on a military reservation owned and managed by the United States;

(6) on private property where the owner of the property or the person who possesses or is in control of the property, including a tenant or lessee of the property, expressly prohibits firearms;

(7) within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of a justice of the peace or judge; or

(8) in a school building as determined by a school board pursuant to 45-8-361."

Section 34. Section 46-1-1103, MCA, is amended to read:

"46-1-1103. Definitions. As used in this part, the following definitions apply:

(1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is a drug offender under this part and would benefit from the provisions of this part.

(2) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(3) "Drug" includes:

(a) a controlled substance, which is a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession;

(b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by law; or

(c) a harmful substance, which is a misused substance otherwise legal to possess, including alcohol.

(4) "Drug offender" means a person charged with a drug-related offense or an offense in which substance abuse is determined to have been a significant factor in the commission of an offense.

(5) "Drug treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs and to cease criminal behavior associated with drug use and addiction.

(6) "Drug treatment court coordinator" means an individual who, under the direction of the drug

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1 treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and
2 integrity of the drug treatment court.

3 (7) "Drug treatment court team" means a group of individuals appointed by the drug treatment
4 court that may consist of the following members:

5 (a) the judge, which may include a magistrate or other hearing officer;

6 (b) the prosecutor;

7 (c) the defense attorney;

8 (d) a law enforcement officer;

9 (e) the drug treatment court coordinator;

10 (f) a probation and parole officer;

11 (g) substance abuse treatment providers;

12 (h) a representative from the department of public health and human services;

13 ~~(i) a representative from the department of health services; and~~

14 ~~(i)(j)~~ any other person selected by the drug treatment court.

15 (8) "Memorandum of understanding" means a written document setting forth an agreed-upon
16 procedure.

17 (9) "Recidivism" has the meaning provided in 1-1-207.

18 (10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court
19 in which the drug treatment court team discusses a coordinated response to the drug offender's behavior.

20 (11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this
21 section.

22 (12) "Substance abuse treatment" means a program designed to provide prevention, education, and
23 therapy directed toward ending substance abuse and preventing a return to substance use."
24

25 **Section 35.** Section 46-14-202, MCA, is amended to read:

26 **"46-14-202. Examination of defendant.** (1) If the defendant or the defendant's counsel files a written
27 motion requesting an examination or if the issue of the defendant's fitness to proceed is raised by the court,

1 prosecution, or defense counsel, the court shall appoint at least one qualified psychiatrist, licensed clinical
2 psychologist, or advanced practice registered nurse or shall request the superintendent of the Montana state
3 hospital to designate at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice
4 registered nurse, who may be or include the superintendent, to examine and report upon the defendant's
5 mental condition.

6 (2) The court may order the defendant to be committed to a hospital or other suitable facility for the
7 purpose of the examination for a period not exceeding 60 days or a longer period that the court determines to
8 be necessary for the purpose and may direct that a qualified psychiatrist, licensed clinical psychologist, or
9 advanced practice registered nurse retained by the defendant be permitted to witness and participate in the
10 examination.

11 (3) In the examination, any method may be employed that is accepted by the medical or
12 psychological profession for the examination of those alleged to be suffering from mental disease or disorder.

13 (4) (a) The costs incurred for an examination ordered under subsection (2) must be paid as
14 follows:

15 (i) if the issue of the defendant's fitness to proceed was raised by the court or the examination
16 was requested by the prosecution, the cost of the examination and other associated expenses must be paid by
17 the court or, in district court proceedings, by the office of court administrator, except as provided in subsection
18 (4)(a)(iv);

19 (ii) if the examination was requested by the defendant or the defendant's counsel, the cost of the
20 examination and other associated expenses must be paid by the defendant or, if the defendant was
21 represented by an attorney pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of
22 state public defender, except as provided by subsection (4)(a)(iv);

23 (iii) if the examination was jointly requested by the prosecution and defense counsel or the need
24 for the examination was jointly agreed to by the prosecution and defense, the cost of the examination and other
25 associated expenses must be divided and paid equally by the court or, in district court proceedings, by the
26 office of court administrator, and the defendant or, if the defendant was represented by an attorney assigned
27 pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except

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as provided in subsection (4)(a)(iv);

(iv) any costs for an examination performed by an employee of the ~~department of public health and human services~~ department of health services, any other associated expenses at a facility of the ~~department of public health and human services~~ department of health services, and any other associated expenses for which the legislature has made a general fund appropriation to the ~~department of public health and human services~~ department of health services may not be charged to the office of court administrator or the office of state public defender.

(b) For purposes of this subsection (4), "other associated expenses" means the following costs incurred in association with the commitment to a hospital or other suitable facility for the purpose of examination, regardless of whether the examination is done at the Montana state hospital or any other facility:

(i) the expenses of transporting the defendant from the place of detention to the place where the examination is performed and returning the defendant to detention, including personnel costs of the law enforcement agency by whom the defendant is detained;

(ii) housing expenses of the facility where the examination is performed; and

(iii) medical costs, including medical and dental care, including costs of medication."

Section 36. Section 46-14-221, MCA, is amended to read:

"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses. (1)

The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence upon the issue.

(2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant must be suspended, except as provided in subsection (4), and the court shall commit the

1 defendant to the custody of the director of the ~~department of public health and human services~~ department of
2 health services to be placed in an appropriate mental health facility, as defined in 53-21-102, or residential
3 facility, as defined in 53-20-102, of the ~~department of public health and human services~~ department of health
4 services department of public health and human services for so long as the unfitness endures or until
5 disposition of the defendant is made pursuant to this section, whichever occurs first.

6 (b) The facility shall develop an individualized treatment plan to assist the defendant to gain fitness
7 to proceed. The treatment plan may include a physician's prescription of reasonable and appropriate
8 medication that is consistent with accepted medical standards. If the defendant refuses to comply with the
9 treatment plan, the facility may petition the court for an order requiring compliance. The defendant has a right to
10 a hearing on the petition. The court shall enter into the record a detailed statement of the facts upon which an
11 order is made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into
12 the record specific findings that the state has proved an overriding justification for the order and that the
13 treatment being ordered is medically appropriate.

14 (3) (a) The committing court shall, within 90 days of commitment, review the defendant's fitness to
15 proceed. If the court finds that the defendant is still unfit to proceed and that it does not appear that the
16 defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the
17 defendant must be dismissed, except as provided in subsection (4).

18 (b) If the court determines that the defendant lacks fitness to proceed because the defendant has
19 a mental disorder, the proceeding against the defendant must be dismissed and the prosecutor shall petition
20 the court in the manner provided in Title 53, chapter 21, to determine the disposition of the defendant pursuant
21 to those provisions.

22 (c) If the court determines that the defendant lacks fitness to proceed because the defendant has
23 a developmental disability as defined in 53-20-102, the proceeding against the defendant must be dismissed
24 and the prosecutor shall petition the court in the manner provided in Title 53, chapter 20, to determine the
25 disposition of the defendant pursuant to those provisions.

26 (4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the
27 prosecution that is susceptible to fair determination prior to trial and that is made without the personal

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1 participation of the defendant.

2 (5) Except as provided in subsection (6), the expenses of transporting the defendant to the
3 custody of the director of the ~~department of public health and human services~~ department of health services to
4 be placed in an appropriate facility of the ~~department of public health and human services~~ department of health
5 services or the department of public health and human services, of the care, custody, and treatment of the
6 defendant at the facility, and of transporting the defendant back are payable by the court or, in district court
7 proceedings, by the office of court administrator.

8 (6) The cost of care, custody, and treatment at a facility for which the legislature has made a
9 general fund appropriation to the ~~department of public health and human services~~ department of health
10 services or the department of public health and human services may not be charged to the office of court
11 administrator."

12

13 **Section 37.** Section 46-14-222, MCA, is amended to read:

14 **"46-14-222. Proceedings if fitness regained.** When the court, on its own motion or upon the
15 application of the director of the ~~department of public health and human services~~ of health services, the
16 prosecution, or the defendant or the defendant's legal representative, determines, after a hearing if a hearing is
17 requested, that the defendant has regained fitness to proceed, the proceeding must be resumed. If, however,
18 the court is of the view that so much time has elapsed since the commitment of the defendant that it would be
19 unjust to resume the criminal proceedings, the court may dismiss the charge and may order the defendant to be
20 discharged or, subject to the law governing the civil commitment of persons suffering from serious mental
21 illness, order the defendant committed to an appropriate facility of the ~~department of public health and human~~
22 services department of health services or the department of public health and human services."

23

24 **Section 38.** Section 46-14-301, MCA, is amended to read:

25 **"46-14-301. Commitment upon finding of not guilty by reason of lack of mental state -- hearing**
26 **to determine release or discharge -- limitation on confinement.** (1) When a defendant is found not guilty for
27 the reason that due to a mental disease or disorder the defendant could not have a particular state of mind that

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1 is an essential element of the offense charged, the court shall order a predisposition investigation in
2 accordance with 46-18-112 and 46-18-113, which must include an investigation of the present mental condition
3 of the defendant. If the trial was by jury, the court shall hold a hearing to determine the appropriate disposition
4 of the defendant. If the trial was by the court, the court may hold a hearing to obtain any additional testimony it
5 considers necessary to determine the appropriate disposition of the defendant. In either case, the testimony
6 and evidence presented at the trial must be considered by the court in making its determination.

7 (2) The court shall evaluate the nature of the offense with which the defendant was charged. If the
8 offense:

9 (a) involved a substantial risk of serious bodily injury or death, actual bodily injury, or substantial
10 property damage, the court may find that the defendant suffers from a mental disease or disorder that renders
11 the defendant a danger to the defendant or others. If the court finds that the defendant presents a danger to the
12 defendant or others, the defendant may be committed to the custody of the director of the ~~department of public~~
13 ~~health and human services~~ department of health services to be placed in an appropriate mental health facility
14 for custody, care, and treatment. However, if the court finds that the defendant is seriously developmentally
15 disabled, as defined in 53-20-102, the prosecutor shall petition the court in the manner provided in Title 53,
16 chapter 20.

17 (b) charged did not involve a substantial risk of serious bodily injury or death, actual bodily injury,
18 or substantial property damage, the court shall release the defendant. The prosecutor may petition the court in
19 the manner provided in Title 53, chapter 20 or 21.

20 (3) A person committed to the custody of the director of the ~~department of public health and~~
21 ~~human services~~ department of health services must have a hearing within 180 days of confinement to
22 determine the person's present mental condition and whether the person must be discharged or released or
23 whether the commitment may be extended because the person continues to suffer from a mental disease or
24 disorder that renders the person a danger to the person or others. The hearing must be conducted by the court
25 that ordered the commitment unless that court transfers jurisdiction to the district court in the district in which
26 the person has been placed. The court shall cause notice of the hearing to be served upon the person, the
27 person's counsel, the prosecutor, and the court that originally ordered the commitment. The hearing is a civil

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1 proceeding, and the burden is upon the state to prove by clear and convincing evidence that the person may
2 not be safely released because the person continues to suffer from a mental disease or disorder that causes
3 the person to present a substantial risk of:

4 (a) serious bodily injury or death to the person or others;

5 (b) an imminent threat of physical injury to the person or others; or

6 (c) substantial property damage.

7 (4) According to the determination of the court upon the hearing, the person must be discharged or
8 released on conditions the court determines to be necessary or must be committed to the custody of the
9 director of the ~~department of public health and human services~~ department of health services to be placed in an
10 appropriate mental health facility for custody, care, and treatment. The period of commitment may not exceed
11 the maximum sentence determined under 46-14-214(2). At the time that the period of the maximum sentence
12 expires, involuntary civil commitment proceedings may be instituted in the manner provided in Title 53, chapter
13 21.

14 (5) A professional person shall review the status of the person each year. At the time of the annual
15 review, the director of the ~~department of public health and human services~~ department of health services or the
16 person or the representative of the person may petition for discharge or release of the person. Upon request for
17 a hearing, a hearing must be held pursuant to the provisions of subsection (3)."

18
19 **Section 39.** Section 46-14-302, MCA, is amended to read:

20 **"46-14-302. Discharge or release upon motion of director.** (1) If the director of the department of
21 ~~public health and human services~~ department of health services believes that a person committed to the
22 director's custody under 46-14-301 may be discharged or released on condition without danger to the person or
23 others because the person no longer suffers from a mental disease or disorder that causes the person to
24 present a substantial risk of serious bodily injury or death to the person or others, a substantial risk of an
25 imminent threat of physical injury to the person or others, or a substantial risk of substantial property damage,
26 the director shall make application for the discharge or release of the person in a report to the district court by
27 which the person was committed unless that court transfers jurisdiction to the court in the district in which the

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1 person has been placed and shall send a copy of the application and report to the prosecutor of the county from
2 which the person was committed.

3 (2) Either the director of the ~~department of public health and human services~~ department of health
4 services or the person may also make application to the court for discharge or release as part of the person's
5 annual treatment review.

6 (3) The court shall then appoint at least one person who is a qualified psychiatrist, licensed clinical
7 psychologist, or advanced practice registered nurse to examine the person and to report as to the person's
8 mental condition within 60 days or a longer period that the court determines to be necessary for the purpose.
9 To facilitate the examinations and the proceedings on the examinations, the court may have the person
10 confined in any mental health facility located near the place where the court sits that may be designated by the
11 director of the ~~department of public health and human services~~ department of health services as suitable for the
12 temporary detention of persons suffering from mental disease or disorder.

13 (4) The committed person or the person's attorney may secure a professional person of the
14 committed person's choice to examine the committed person and to testify at the hearing. If the person wishing
15 to secure the testimony of a professional person is unable to do so because of financial reasons, the court shall
16 appoint an additional professional person to perform the examination. Whenever possible, the court shall allow
17 the committed person or the person's attorney a reasonable choice of an available professional person qualified
18 to perform the requested examination. The professional person must be compensated by the ~~department of~~
19 ~~public health and human services~~ department of health services.

20 (5) If the court is satisfied by the report filed under subsection (1) and the testimony of the
21 reporting psychiatrist, licensed clinical psychologist, or advanced practice registered nurse that the committed
22 person may be discharged or released on condition because the person no longer suffers from a mental
23 disease or disorder that causes the person to present a substantial risk of serious bodily injury or death to the
24 person or others, a substantial risk of an imminent threat of physical injury to the person or others, or a
25 substantial risk of substantial property damage, the court shall order the person's discharge.

26 (6) (a) If the court is not satisfied, it shall promptly order a hearing to determine whether the person
27 may safely be discharged or released on the grounds that the person no longer suffers from a mental disease

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or disorder that causes the person to present a substantial risk of:

(i) serious bodily injury or death to the person or others;

(ii) an imminent threat of physical injury to the person or others; or

(iii) substantial property damage.

(b) A hearing is considered a civil proceeding, and the burden is upon the state to prove by clear and convincing evidence that the person may not be safely discharged or released because the person continues to suffer from a mental disease or disorder that causes the person to present a substantial risk of:

(i) serious bodily injury or death to the person or others;

(ii) an imminent threat of physical injury to the person or others; or

(iii) substantial property damage.

(c) According to the determination of the court upon the hearing, the committed person must then be discharged or released on conditions that the court determines to be necessary or must be recommitted to the custody of the director of the ~~department of public health and human services~~ department of health services, subject to discharge or release only in accordance with the procedures provided in 46-14-303 and this section."

Section 40. Section 46-14-303, MCA, is amended to read:

"46-14-303. Application for discharge or release by committed person. A committed person may make application for discharge or release to the district court by which the person was committed unless that court transfers jurisdiction to the court in the district in which the person has been placed, and the procedure to be followed upon the application is the same as that prescribed in 46-14-302 in the case of an application by the director of the ~~department of public health and human services~~ department of health services. However, an application by a committed person need not be considered until the person has been confined for a period of not less than 6 months from the date of the order of commitment, and if the determination of the court is adverse to the application, the person may not be permitted to file a further application until 1 year has elapsed from the date of any preceding hearing on an application for the person's release or discharge."

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Section 41. Section 46-14-304, MCA, is amended to read:

"46-14-304. Conditional release -- revocation. (1) A person who has been conditionally released remains under the supervision of the ~~department of public health and human services~~ department of health services until the committing court discharges the person.

(2) When the person is conditionally released, the director of the ~~department of public health and human services~~ department of health services shall provide written notice of the conditions of the person's release to any community facility or program that is treating the person, the county attorney of the county in which the person was committed, and the county attorney of the county in which the person is required to receive treatment.

(3) On motion of a county attorney or the ~~department of public health and human services~~ department of health services, the court may order revocation of a person's conditional release if the court determines after hearing evidence that:

(a) the conditions of release have not been fulfilled; and
(b) based on the violations of the conditions and the person's past mental health history, there is a substantial likelihood that the person continues to suffer from a mental disease or disorder that causes the person to present a substantial risk of:

(i) serious bodily injury or death to the person or others;
(ii) a threat of physical injury to the person or others; or
(iii) substantial property damage.

(4) If the court finds that the conditional release should be revoked, the court shall immediately order the person to be recommitted to the custody of the director of the ~~department of public health and human services~~ department of health services, subject to discharge or release only in accordance with the procedures provided in 46-14-302 and 46-14-303."

Section 42. Section 46-14-311, MCA, is amended to read:

"46-14-311. Consideration of mental disease or disorder or developmental disability in sentencing. (1) Whenever a defendant is convicted on a verdict of guilty or a plea of guilty or nolo contendere

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1 and claims at the time of the omnibus hearing held pursuant to 46-13-110 or, if no omnibus hearing is held, at
2 the time of any change of plea by the defendant that at the time of the commission of the offense of which
3 convicted the defendant was suffering from a mental disease or disorder or developmental disability that
4 rendered the defendant unable to appreciate the criminality of the defendant's behavior or to conform the
5 defendant's behavior to the requirements of law, the sentencing court shall consider any relevant evidence
6 presented at the trial and may also consider the results of the presentence investigation requested pursuant to
7 subsection (2).

8 (2) Under the circumstances referred to in subsection (1), the sentencing court may order a
9 presentence investigation and a report on the investigation pursuant to 46-18-111. If requested, the
10 investigation must include a mental evaluation by a person appointed by the director of the ~~department of public~~
11 ~~health and human services~~ department of health services or the director's designee. The evaluation must
12 include an opinion as to whether the defendant suffered from a mental disease or disorder or developmental
13 disability with the effect as described in subsection (1). If the opinion concludes that the defendant did suffer
14 from a mental disease or disorder or developmental disability with the effect as described in subsection (1), the
15 evaluation must also include a recommendation as to the care, custody, and treatment needs of the defendant."

16
17 **Section 43.** Section 46-14-312, MCA, is amended to read:

18 **"46-14-312. Sentence to be imposed.** (1) If the court finds that the defendant at the time of the
19 commission of the offense of which the defendant was convicted did not suffer from a mental disease or
20 disorder as described in 46-14-311, the court shall sentence the defendant as provided in Title 46, chapter 18.

21 (2) If the court finds that the defendant at the time of the commission of the offense suffered from a
22 mental disease or disorder or developmental disability as described in 46-14-311, any mandatory minimum
23 sentence prescribed by law for the offense need not apply. The court shall sentence the defendant to be
24 committed to the custody of the director of the ~~department of public health and human services~~ department of
25 health services to be placed, after consideration of the recommendations of the professionals providing
26 treatment to the defendant and recommendations of the professionals who have evaluated the defendant, in an
27 appropriate correctional facility, mental health facility, as defined in 53-21-102, residential facility, as defined in

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53-20-102, or developmental disabilities facility, as defined in 53-20-202, for custody, care, and treatment for a definite period of time not to exceed the maximum term of imprisonment that could be imposed under subsection (1). The director may, after considering the recommendations of the professionals providing treatment to the defendant and recommendations of the professionals who have evaluated the defendant, subsequently transfer the defendant to another correctional, mental health, residential, or developmental disabilities facility that will better serve the defendant's custody, care, and treatment needs. The authority of the court with regard to sentencing is the same as authorized in Title 46, chapter 18, if the treatment of the individual and the protection of the public are provided for.

(3) Either the director or a defendant whose sentence has been imposed under subsection (2) may petition the sentencing court for review of the sentence if the professional person certifies that:

- (a) the defendant no longer suffers from a mental disease or disorder;
- (b) the defendant's mental disease or disorder no longer renders the defendant unable to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law;
- (c) the defendant suffers from a mental disease or disorder or developmental disability but is not a danger to the defendant or others; or
- (d) the defendant suffers from a mental disease or disorder that makes the defendant a danger to the defendant or others, but:
 - (i) there is no treatment available for the mental disease or disorder;
 - (ii) the defendant refuses to cooperate with treatment; or
 - (iii) the defendant will no longer benefit from active inpatient treatment for the mental disease or disorder.

(4) The sentencing court may make any order not inconsistent with its original sentencing authority, except that the length of confinement or supervision must be equal to that of the original sentence. The professional person shall review the defendant's status each year."

Section 44. Section 46-19-202, MCA, is amended to read:

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"46-19-202. Proceedings following determination regarding fitness. (1) If it is found that

defendant is mentally fit as provided in 46-19-201, the warden of the Montana state prison shall execute the judgment.

(2) If it is found that the defendant lacks fitness, the execution of judgment must be suspended and the court shall commit the defendant to the custody of the superintendent of the Montana state hospital to be placed in an appropriate facility of the ~~department of public health and human services~~ department of health services or the department of public health and human services for as long as the lack of fitness endures.

(3) When the court, on its own motion or upon application of the superintendent of the Montana state hospital, the county prosecuting officer, or the defendant or the defendant's legal representative, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the warden must be directed by the court to carry out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant that it would be unjust to proceed with execution of the sentence, the court may suspend the execution of the sentence and may order the defendant to be discharged."

Section 45. Section 46-23-201, MCA, is amended to read:

"46-23-201. Prisoners eligible for nonmedical parole. (1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

(b) sentenced to the state prison and confined in a prerelease center;

(c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a correctional facility as defined in 41-5-103;

(d) sentenced to be committed to the custody of the director of the ~~department of public health and human services~~ department of health services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed

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by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for any other offense before a hearing panel conducts another hearing or review.

(6) Nothing in this section prohibits the department from transferring a prisoner who is within 14 months of parole eligibility to a prerelease or treatment center for the purposes of preparing the prisoner for release into the community."

Section 46. Section 46-23-208, MCA, is amended to read:

"46-23-208. Nonmedical parole criteria -- information board may consider. (1) The board may release an eligible prisoner on nonmedical parole only when:

(a) there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community;

(b) release is in the best interests of society;

(c) the prisoner is able and willing to fulfill the obligations of a law-abiding citizen; and

(d) the prisoner does not require:

(i) continued correctional treatment that cannot be found in the community; or

(ii) other programs available only in a correctional facility that will substantially enhance the prisoner's capability to lead a law-abiding life if released, including mental health therapy or vocational training.

(2) Parole may not be ordered as an award of clemency or a reduction of sentence or pardon.

(3) For a prisoner sentenced to be committed to the custody of the director of the ~~department of public health and human services~~ department of health services as provided in 46-14-312:

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(a) the board may require as a condition of parole participation in a supervised mental health treatment program, if consistent with mental health services recommendations provided by a mental health professional, as that term is defined in 53-21-102, to ensure that the prisoner continues to treat the prisoner's mental disorder; and

(b) parole may be revoked if a prisoner fails to comply with the terms of a supervised mental health treatment program described in subsection (3)(a), in which case the prisoner must be recommitted to the custody of the director of the ~~department of public health and human services~~ department of health services pursuant to 46-14-312.

(4) In making its determination regarding nonmedical parole release, a hearing panel shall consider all available and pertinent information regarding the prisoner, including the following factors:

(a) the circumstances of the offense;

(b) the prisoner's social history and prior criminal record, including the nature and circumstances of the offense, date of offense, and frequency of previous offenses;

(c) the prisoner's conduct, employment, and attitude in prison, including particularly whether the prisoner has taken advantage of opportunities for treatment and whether the prisoner is clear of major disciplinary violations prior to the hearing;

(d) the reports of any physical, psychological, and mental evaluations that have been made;

(e) the prisoner's maturity, stability, sense of responsibility, and development of traits and behaviors that increase the likelihood the prisoner will conform the prisoner's behavior to the requirements of law;

(f) the adequacy of the prisoner's release plan;

(g) the prisoner's ability and readiness to assume obligations and undertake responsibilities;

(h) the prisoner's education and training;

(i) the prisoner's family status and whether the prisoner has relatives who display an interest or whether the prisoner has other close and constructive associations in the community;

(j) the prisoner's employment history and occupational skills and the stability of the prisoner's past employment;

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- 1 (k) the type of residence, neighborhood, or community in which the prisoner plans to live;
- 2 (l) the prisoner's past use of chemicals, including alcohol, and past habitual or abusive use of
- 3 chemicals;
- 4 (m) the prisoner's mental health needs;
- 5 (n) the prisoner's attitude toward law and authority;
- 6 (o) the prisoner's behavior and attitude during any previous experience of supervision and the
- 7 recency of the supervision;
- 8 (p) written or oral statements from criminal justice authorities or any other interested person or the
- 9 interested person's legal representative, including written or oral statements from a victim regarding the effects
- 10 of the crime on the victim. A victim's statement may also include but is not limited to the circumstances
- 11 surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the
- 12 offender should be paroled.
- 13 (q) whether parole at this time would diminish the seriousness of the offense; and
- 14 (r) any and all other factors that the hearing panel determines to be relevant.
- 15 (5) A victim's statement may be kept confidential."
- 16

17 **Section 47.** Section 50-3-102, MCA, is amended to read:

18 **"50-3-102. Powers and duties of department regarding state fire prevention and investigation --**

19 **rules.** (1) For the purpose of reducing the state's fire loss, the department shall:

20 (a) inspect each unit of the Montana university system and other state buildings, including state

21 institutions, as often as duties allow, but no more frequently than once each year unless requested by the

22 commissioner of higher education for buildings in the university system, by the department of corrections or the

23 ~~department of public health and human services~~ department of health services for state institutions, or by the

24 department of administration for all other state buildings. A copy of the inspection report for units of the

25 university system must be given to the commissioner of higher education, a copy of the inspection report for

26 state institutions must be given to the department of corrections and the ~~department of public health and human~~

27 ~~services~~ department of health services, and a copy of the inspection report for all other state buildings must be

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1 given to the department of administration. The department of justice shall advise the commissioner of higher
2 education and the directors of the departments of corrections, ~~public health and human services~~ health
3 services, and administration concerning fire prevention, fire protection, and public safety when it distributes the
4 reports.

5 (b) inspect public, business, or industrial buildings, as provided in chapter 61, and require
6 conformance to law and rules promulgated under the provisions of this chapter;

7 (c) assist local governmental fire agencies organized under Title 7, chapter 33, in fire
8 investigations and may initiate or supervise these investigations when, in its judgment, the initiation or
9 supervision is necessary;

10 (d) provide fire prevention and fire protection information to public officials and the general public;

11 (e) serve as the state entity primarily responsible for promoting fire safety at the state level;

12 (f) encourage coordination of all services and agencies in fire prevention matters to reduce
13 duplication and fill voids in services; and

14 (g) establish rules concerning responsibilities and procedures to be followed when there is a threat
15 of explosive material in a building housing state offices.

16 (2) The department may adopt rules necessary for safeguarding life and property from the hazards
17 of fire and carrying into effect the fire prevention laws of this state if the rules do not conflict with building
18 regulations adopted by the department of labor and industry.

19 (3) The department shall adopt rules based on nationally recognized standards necessary for
20 safeguarding life and property from the hazards associated with the manufacture, transportation, storage, sale,
21 and use of explosive materials.

22 (4) If necessary to safeguard life and property under rules promulgated pursuant to this section,
23 the department may maintain an action to enjoin the use of all or a portion of an existing building or restrain a
24 specific activity until there is compliance with the rules.

25 (5) Except for statements of witnesses given during an investigation, information that may be held
26 in confidence under 50-63-403, and criminal justice information subject to restrictions on dissemination in
27 accordance with Title 44, chapter 5, all records maintained by the department must be open at all times to

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1 public inspection."

2

3 **Section 48.** Section 50-21-103, MCA, is amended to read:

4 **"50-21-103. Limitations on right to perform autopsy or dissection.** The right to perform an

5 autopsy, dissect a human body, conduct surgical demonstration or training on a human body, or make any

6 postmortem examination involving dissection of any part of a body is limited to cases:

7 (1) which are specifically authorized by law;

8 (2) in which a coroner is authorized to hold an inquest and then only to the extent that the coroner
9 may authorize dissection or autopsy;

10 (3) authorized by a written statement of the deceased, whether the statement is of a testamentary
11 character or otherwise;

12 (4) authorized by the husband, wife, or next of kin responsible by law for burial to determine the
13 cause of death and then only to the extent authorized;

14 (5) in which the decedent died in a hospital operated by the United States department of veterans
15 affairs, Montana school for the deaf and blind, or an institution in the department of corrections or the
16 ~~department of public health and human services~~ department of health services, leaving no surviving husband,
17 wife, or next of kin responsible by law for burial and the manager or superintendent of the hospital or institution
18 where death occurred obtains authority on order of the district court to determine the cause of death and then
19 only to the extent authorized by court order;

20 (6) in which the decedent died in the state, was a resident, but left no surviving husband, wife, or
21 next of kin charged by law with the duty of burial and the attending physician obtains authority on order of the
22 district court for the purpose of ascertaining the cause of death and then only to the extent authorized by court
23 order after it has been shown that the physician made diligent search for the next of kin responsible by law for
24 burial."

25

26 **~~Section 56.~~** ~~Section 53-1-211, MCA, is amended to read:~~

27 **~~"53-1-211. Quality assurance unit --- program standards --- evaluation --- cooperation with~~**

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~~department of public health and human services and the department of health services -- report. (1)~~

~~There is a quality assurance unit in the department of corrections.~~

~~(2) — In addition to duties assigned to it by the department director or otherwise required by law, the unit shall:~~

~~(a) — adopt an evidence-based program evaluation tool that measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.~~

~~(b) — conduct evaluations of programs to reduce recidivism that are funded by the state; and~~

~~(c) — enforce standards to ensure that programs are using best practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation.~~

~~(3) — Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.~~

~~(4) — The unit shall work jointly with the department of public health and human services and the department of health services to develop standards for quality assurance in behavioral health programs or other clinical programs.~~

~~(5) — The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.~~

~~(6) — The department shall:~~

~~(a) — develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and~~

~~(b) — report the results of all initial and ongoing program evaluations to the law and justice interim committee in accordance with 5-11-210, including any identified program deficiencies and the department's plan to correct those deficiencies.~~

~~(7) — After May 19, 2017, the department shall ensure that contracts signed or renewed with providers contain:~~

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(a) ~~minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);~~

(b) ~~offender eligibility criteria for program entry with the contractor; and~~

(c) ~~program dosage requirements that conform to evidence-based practices."~~

Section 49. Section 53-1-216, MCA, is amended to read:

"53-1-216. Montana criminal justice oversight council -- duties -- membership. (1) (a) There is a Montana criminal justice oversight council. The council consists of ~~18-19~~ members as follows:

(i) two members of the house of representatives, one selected by the speaker of the house and one selected by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(iii) one district court judge and one municipal court judge selected by the chief justice of the Montana supreme court;

(iv) the attorney general or the attorney general's designee;

(v) the director of the department of corrections;

(vi) the director of the office of state public defender;

(vii) the director of the ~~department of public health and human services~~ department of health services department of public health and human services;

(viii) the director of the department of health services;

~~(viii)(ix)~~ a county sheriff and a county attorney appointed by the attorney general; and

~~(ix)(x)~~ the following individuals appointed by the governor:

(A) one member of a federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

(B) one member of the board of pardons and parole;

(C) one representative of crime victims who also serves on the board of crime control established in 2-15-2008;

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1 (D) one representative of civil rights advocates; and

2 (E) two representatives of community corrections providers, one of whom must represent a
3 treatment facility and one of whom must represent a prerelease center.

4 (b) When appointing members as required in subsection (1)(a), the governor and attorney general
5 shall consider appointing individuals who also serve on the board of crime control established in 2-15-2008.

6 (2) The legislative services division shall provide clerical and administrative staff services to the
7 council.

8 (3) The council shall elect a presiding officer, who must be a legislator.

9 (4) The council shall:

10 (a) provide direction and recommendations to the board of crime control regarding data to be
11 included in the criminal justice data warehouse established in 44-7-126 and policies to govern the use of and
12 priorities for the criminal justice data warehouse;

13 (b) study and recommend solutions to address issues facing the criminal justice system and its
14 constituent state and local agencies;

15 (c) monitor the functioning of the criminal justice system; and

16 (d) make recommendations to the legislature to address system issues proactively, manage limited
17 resources, improve workloads, make improvements to state and local criminal justice systems, meaningfully
18 address crime, and enhance public safety.

19 (5) The council shall submit a report to the governor and legislature, as provided in 5-11-210. The
20 report must include a description of the council's proceedings since the previous report.

21 (6) The council may request legislation to enact changes to the state's criminal justice system that
22 the council finds necessary.

23 (7) The judicial branch, the department of corrections, the ~~department of public health and human~~
24 ~~services~~ department of public health and human services, the department of health services, the board of
25 pardons and parole, and the legislative services and fiscal divisions shall provide information and assistance as
26 requested by the council.

27 (8) A vacancy on the council must be filled in the manner of the original appointment. If a vacancy

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1 on the council remains unfilled by the appropriate appointing authority for more than 60 days, the council may
2 vote to appoint a member to serve on the council until the appropriate appointing authority makes an
3 appointment.

4 (9) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-
5 18-503. Members of the council who are full-time salaried officers or employees of this state or any political
6 subdivision are entitled to their regular compensation. Legislative members must be compensated as provided
7 in 5-2-302.

8 (10) The council shall provide updates to the law and justice interim committee and the legislative
9 finance committee as requested."

10
11 **Section 50.** Section 53-1-401, MCA, is amended to read:

12 **"53-1-401. Definitions.** As used in this part, unless the context requires otherwise, the following
13 definitions apply:

14 (1) "All-inclusive rate" means a fixed charge that is computed on a daily basis or on the basis of
15 another time period for inpatients, that is computed on a per visit basis for outpatients, and that is applicable
16 uniformly to each patient without regard to the extent of the services required by the patient and without regard
17 to a distinction between physician services and hospital services.

18 (2) "Ancillary charge" means the expense of providing identifiable, direct, resident services,
19 including but not limited to:

- 20 (a) physicians' services;
21 (b) x-ray and laboratory services;
22 (c) dental services;
23 (d) speech-language pathology and audiology services;
24 (e) occupational and physical therapy;
25 (f) medical supplies;
26 (g) prescribed drugs; and
27 (h) specialized medical equipment.

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(3) "Care" means the care, treatment, support, maintenance, and other services rendered by the department to a resident.

(4) "Cost of care" means the applicable all-inclusive rate charges or per diem charges and ancillary charges for a resident's care that are determined as provided in this part.

(5) "Department" means the ~~department of public health and human services~~ department of health services provided for in ~~2-15-2204~~ [section 1].

(6) "Financially responsible person" means a spouse of a resident, the natural or adoptive parents of a resident under 18 years of age, or a guardian or conservator to the extent of the guardian's or conservator's responsibility for the financial affairs of the person who is a resident under applicable Montana law establishing the duties and limitations of guardianships or conservatorships.

(7) "Full-time equivalent resident load" means the total daily resident count for the fiscal year divided by the number of days in the year.

(8) "Gross daily budgeted cost" means the total cost of operating a facility as budgeted through the legislative appropriation process less the budgeted amount of federal grant revenue for the institution for a fiscal year.

(9) "Long-term resident" means a resident in an institution listed in 53-1-402 for a continuous period in excess of 120 days. The absence of a resident from the institution due to a temporary or trial visit may not be counted as interrupting the accrual of the 120 days required to attain the status of a long-term resident.

(10) "Per diem charge" means the gross daily budgeted cost of operating an institution or an individual unit of an institution (including but not limited to contracted medical services, depreciation, and associated department costs but excluding the cost of educational programs, ancillary charges, and costs not directly identified with patient care) divided by the full-time equivalent resident load for the previous state fiscal year.

(11) "Resident" means any person who is receiving care from or who is a resident of an institution listed in 53-1-402.

(12) (a) "Third party" means any third-party individual or entity that is or may be liable to pay all or part of the charges for a resident's cost of care, including but not limited to applicable medicare, medicaid, and

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1 personal insurance or other similar health care benefits.

2 (b) Third party does not include:

3 (i) a managed care organization administering a mental health managed care program under
4 contract with the department; or

5 (ii) a financially responsible person."
6

7 **Section 51.** Section 53-1-601, MCA, is amended to read:

8 **"53-1-601. Purpose of department of public health and human services department of health**
9 **services department of public health and human services.** The department of public health and human
10 services ~~department of health services the department of public health and human services~~ shall use to
11 maximum efficiency the resources of state government in a coordinated effort to:

12 (1) — develop and maintain comprehensive services and programs in the fields of:

13 (a)(1) mental health; and

14 (b)(2) chemical dependency;

15 (2) — provide, according to the requirements of Title 53, chapter 20, inpatient institutional care for
16 persons with developmental disabilities who require institutional care; and

17 (3) — provide nursing home care for honorably discharged veterans as provided by law."
18

19 **Section 52.** Section 53-1-602, MCA, is amended to read:

20 **"53-1-602. Department of public health and human services Department of health services**
21 **Department of public health and human services.** (1) The following components are in the department of
22 public health and human services ~~department of health services department of public health and human~~
23 ~~services~~ to carry out the purposes of the department:

24 (a)(1) mental health services, ~~consisting of the following institutional components for care and~~
25 ~~treatment of the mentally ill~~ pursuant to Title 53, chapter 21;

26 (i) — the Montana state hospital; and

27 (ii) — the Montana mental health nursing care center;

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(b)(2) a community services component, consisting of appropriate services for the care and treatment of the mentally ill pursuant to Title 53, chapter 21, part 10;

(c)(3) chemical dependency services, consisting of appropriate detoxification, ~~inpatient~~, intensive outpatient, outpatient, prevention, education, and other necessary chemical dependency services pursuant to Title 53, chapter 24; and

~~(d)(4) an institutional and a~~ residential component of the developmental disabilities system for those persons with developmental disabilities who require ~~institutional or~~ residential care according to Title 53, chapter 20, ~~which component consists of the Montana developmental center; and~~

~~(e) — the veterans' nursing homes for the nursing home and domiciliary care of honorably discharged veterans as provided by law, consisting of:~~

~~(i) — the Montana veterans' home;~~

~~(ii) — the eastern Montana veterans' home at Glendive; and~~

~~(iii) — the southwestern Montana veterans' home.~~

~~(2) — A state institution may not be moved, discontinued, or abandoned without the consent of the legislature."~~

Section 53. Section 53-1-603, MCA, is amended to read:

"53-1-603. Powers and duties of ~~department of public health and human services~~ department of health services department of public health and human services. The department of public health and human services ~~department of health services~~ department of public health and human services shall:

(1) adopt rules for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law. However, rules adopted by the department may not amend or alter the statutory powers and duties of the board of pardons and parole.

~~(2) — subject to the functions of the department of administration, lease or purchase lands for use by institutions and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the~~

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1 ~~persons confined in the institutions;~~

2 ~~(3)(2)~~ use the staff and services of other state agencies and units of the Montana university system,
3 within their respective statutory functions, to carry out its functions under this title;

4 ~~(4)(3)~~ propose programs to the legislature to meet the projected long-range needs ~~of institutions,~~
5 ~~including programs and facilities~~ for the diagnosis, treatment, care, and aftercare of persons placed in
6 ~~institutions department programs~~; and

7 ~~(5)(4)~~ encourage the establishment of programs at the local level for the prevention and rehabilitation
8 of disabilities as they relate to mental illness and chemical dependency."

9

10 **Section 54.** Section 53-1-604, MCA, is amended to read:

11 **"53-1-604. Responsibility of superintendents of institutions.** The superintendents of institutions in
12 the ~~department of public health and human services~~ department of health services are responsible for the
13 immediate management and control of their respective institutions, subject to the general policies and programs
14 established by the department."

15

16 ~~**Section 63.** Section 53-1-610, MCA, is amended to read:~~

17 ~~**"53-1-610. Refinancing by department.** The department of public health and human services~~
18 ~~department of health services shall seek federal funds to offset general fund expenditures to the maximum~~
19 ~~extent possible. The cost of administration and any supporting contract efforts to claim federal funds above~~
20 ~~historic levels must be funded from anticipated and realized savings from refinancing work in the department of~~
21 ~~public health and human services~~ department of health services. ~~To the extent that the department of public~~
22 ~~health and human services~~ department of health services is involved in refinancing work in other departments,
23 ~~the department of public health and human services~~ department of health services shall receive a share of
24 savings generated in those departments through work conducted by the department of public health and human
25 services department of health services, in an amount at least equal to the cost of conducting the work."

26

27 ~~**Section 64.** Section 53-1-611, MCA, is amended to read:~~

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~~"53-1-611.—Evaluation of proposed medicaid block grant and acceptance of grant. (1) As part of its refinancing duties, the department of public health and human services department of health services shall evaluate the proposed medicaid block grant and report its findings with respect to the criteria in subsection (2) to the legislative finance committee at each regular meeting of the committee. At the end of the interim, the department shall provide a copy of or a link to the last report provided to the finance committee to the legislature in accordance with 5-11-210.~~

~~(2)——The department shall use the following criteria in its evaluation of the proposed medicaid block grant compared to other medicaid funding alternatives from which the state may choose:~~

~~(a)——total cost to the state over the life of the block grant and during each year of the block grant compared to the state cost of maintaining medicaid eligibility and service levels funded by the legislature during the current biennium;~~

~~(b)——types of flexibility;~~

~~(c)——advantages and disadvantages; and~~

~~(d)——policy choices that may occur.~~

~~(3)——(a) The legislative finance committee shall review and analyze the department's findings and make a recommendation to the governor and to the department with regard to acceptance or rejection of the block grant if the state is required to make a decision as to whether to accept or reject the block grant prior to the next regular convening of the legislature.~~

~~(b)——The governor shall consider the recommendation of the legislative finance committee and provide a written rationale to the committee if the recommendation of the committee is not followed."~~

Section 65. Section 53-1-612, MCA, is amended to read:

~~"53-1-612.—Use of funding obtained by refinancing. (1) It is the intent of the legislature that general fund savings generated through the refinancing work described in 53-1-610 be applied in the following priority:~~

~~(a)——the savings must be applied to fund the refinancing activities;~~

~~(b)——the department of public health and human services department of health services may retain funds to maintain existing services; and~~

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~~(c) — the department of public health and human services department of health services may use funds to reinstate services that have been cut during the 2003 biennium.~~

~~(2) — Additional funds generated through refinancing savings, beyond those used pursuant to subsection (1), revert to the general fund. Prior to reinstating services pursuant to subsection (1)(c), the department shall receive approval from the office of budget and program planning of its service reinstatement plan.~~

~~(3) — The provisions of 17-2-108 that require the expenditure of nongeneral fund money prior to the expenditure of general fund money do not apply to the expenditure of revenue made available to the department because of the refinancing efforts required by 53-1-610."~~

NEW SECTION. Section 55. Purpose of department of health services. The department of health services shall use, to the maximum efficiency, the resources of state government in a coordinated effort to:

(1) provide, according to the requirements of Title 53, chapter 20, inpatient institutional care for persons with developmental disabilities who require institutional care; and

(2) provide nursing home care for honorably discharged veterans as provided by law.

NEW SECTION. Section 56. Department of health services. (1) The following components are in the department of health services to carry out the purposes of the department:

(a) the institutional components for care and treatment of the mentally ill pursuant to Title 53, chapter 21, consisting of:

(i) the Montana state hospital; and

(ii) the Montana mental health nursing care center;

(b) the Montana chemical dependency center for care and treatment of persons seeking chemical dependency services pursuant to Title 53, chapter 24;

(c) the intensive behavior center for persons with developmental disabilities who require institutional care pursuant to Title 53, chapter 20; and

(d) the veterans' nursing homes for the nursing home and domiciliary care of honorably discharged

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veterans as provided by law, consisting of:

(i) the Montana veterans' home;

(ii) the eastern Montana veterans' home at Glendive; and

(iii) the southwestern Montana veterans' home.

(2) A state institution may not be moved, discontinued, or abandoned without the consent of the legislature.

NEW SECTION. Section 57. Powers and duties of department of health services. The department of health services shall:

(1) adopt rules for the admission, custody, transfer, and release of persons in department institutions except as otherwise provided by law and except that rules adopted by the department may not amend or alter the statutory powers and duties of the board of pardons and parole;

(2) subject to the functions of the department of administration, lease or purchase lands for use by institutions and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in the institutions;

(3) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title; and

(4) propose solutions to the legislature to meet the projected long-range needs of institutions, including facilities for the treatment and care of persons placed in institutions.

~~Section 66. Section 53-6-603, MCA, is amended to read:~~

~~"53-6-603. — Long-term care service development — coordination — delivery. (1) The department of public health and human services and the department of health services shall cooperate in the development, implementation, and coordination of state programs of assistance for the elderly or persons with disabilities.~~

~~(2) — The planning and delivery systems that provide state programs of assistance for the elderly~~

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~~and persons with disabilities must be jointly coordinated to foster:~~

~~(a) — efficient and cost-effective financing, service delivery, intake, eligibility, assessment, and other measures, as appropriate; and~~

~~(b) — general development of service systems that may serve persons with either private means or public means of financing services at a reasonable cost.~~

~~(3) — State programs of assistance for the elderly or for persons with disabilities should be made available in the most appropriate, most cost-effective, and least restrictive residential setting integrated into a community.~~

~~(4) — State programs of assistance that provide services or oversight in order to maintain or to protect a person's health and social life should recognize the person's dignity and independence."~~

Section 67. Section 53-18-101, MCA, is amended to read:

"53-18-101. Definitions. As used in this part, the following definitions apply:

~~(1) — "Department" means the department of public health and human services department of health services provided for in 2-15-2201 [section 1].~~

~~(2) — "Self-sufficiency trust" means a trust created by a nonprofit corporation that is a 501(c)(3) organization under the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, and that was organized under the Montana Nonprofit Corporation Act, Title 35, chapter 2, for the purpose of providing for the care and treatment of one or more persons who are residents of this state and are persons with developmental disabilities, mental illness, or physical disabilities or are otherwise eligible for department services, as defined by the department."~~

Section 68. Section 53-19-102, MCA, is amended to read:

"53-19-102. Definitions. As used in this part, the following definitions apply:

~~(1) — "Community home for persons with severe disabilities" means a facility licensed by the department of public health and human services, as provided for in 52-4-201 through 52-4-205.~~

~~(2) — "Department" means the department of public health and human services department of health~~

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1 ~~services established in 2-15-2201 [section 1].~~

2 (3) ~~—"Disability" means a permanent physical or mental condition recognized as a disability by Title~~
3 ~~VII of the federal Rehabilitation Act of 1973, 29 U.S.C. 796, et seq., as may be amended.~~

4 (4) ~~—"Live and function independently" means to have control over one's life based upon a choice~~
5 ~~between acceptable options in a manner that minimizes reliance upon others for making decisions and~~
6 ~~conducting activities of daily living.~~

7 (5) ~~—"Person with a severe disability" means the same as "individual with a severe disability" as~~
8 ~~defined in the federal Rehabilitation Act of 1973, 29 U.S.C. 706(15)(B), as may be amended. The term includes~~
9 ~~an individual whose ability to function independently in family or community or whose ability to engage or~~
10 ~~continue in employment is so limited by the severity of the physical or mental disability that the services~~
11 ~~provided under this part are required in order for the individual to achieve a greater level of independence in~~
12 ~~functioning in family or community or in engaging in or continuing in employment."~~

13

14 **Section 69.** Section 53-20-102, MCA, is amended to read:

15 **"53-20-102. Definitions.** As used in this part, the following definitions apply:

16 (1) ~~(a) "Available" means:~~

17 (i) ~~that services of an identified provider or providers have been found to be necessary and~~
18 ~~appropriate for the habilitation of a specific person by the person's individual treatment planning team;~~

19 (ii) ~~that funding for the services has been identified and committed for the person's immediate use;~~

20 and

21 (iii) ~~that all providers have offered the necessary services for the person's immediate use.~~

22 (b) ~~A service is not available simply because similar services are offered by one or more providers~~
23 ~~in one or more locations to other individuals or because the person has been placed on a waiting list for~~
24 ~~services or funding.~~

25 (2) ~~"Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors~~
26 ~~created by 2-15-211.~~

27 (3) ~~"Case manager" means a person who is responsible for service coordination, planning, and~~

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~~crisis intervention for persons who are eligible for community-based developmental disabilities services from the department of public health and human services department of health services.~~

~~(4) "Census" means the number of residents occupying beds in a residential facility on a particular date.~~

~~(5) "Community treatment plan" means a comprehensive, individualized plan of care that addresses the habilitation needs of and the risks posed by the behaviors of a respondent who is found to be seriously developmentally disabled.~~

~~(6) "Community-based facilities" or "community-based services" means those facilities and services that are available for the evaluation, treatment, and habilitation of persons with developmental disabilities in a community setting.~~

~~(7) "Court" means a district court of the state of Montana.~~

~~(8) "Developmental disabilities professional" means a licensed psychologist, a licensed psychiatrist, or a person with a master's degree in psychology, who:~~

~~(a) has training and experience in psychometric testing and evaluation;~~

~~(b) has experience in the field of developmental disabilities; and~~

~~(c) is certified, as provided in 53-20-106, by the department of public health and human services.~~

~~(9) "Developmental disability" means a disability that:~~

~~(a) is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability;~~

~~(b) requires treatment similar to that required by intellectually disabled individuals;~~

~~(c) originated before the individual attained age 18;~~

~~(d) has continued or can be expected to continue indefinitely; and~~

~~(e) results in the person having a substantial disability.~~

~~(10) "Habilitation" means the process by which a person who has a developmental disability is assisted in acquiring and maintaining those life skills that enable the person to cope more effectively with personal needs and the demands of the environment and in raising the level of the person's physical, mental, and social efficiency. Habilitation includes but is not limited to formal, structured education and treatment.~~

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1 ~~(11) — "Individual treatment planning team" means the interdisciplinary team of persons involved in~~
2 ~~and responsible for the habilitation of a resident. The resident is a member of the team.~~

3 ~~(12) — "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers~~
4 ~~and sisters of a person.~~

5 ~~(13) — "Qualified intellectual disability professional" means a professional program staff person for the~~
6 ~~residential facility who the department of public health and human services determines meets the professional~~
7 ~~requirements necessary for federal certification of the facility.~~

8 ~~(14) — "Resident" means a person committed to a residential facility.~~

9 ~~(15) — "Residential facility" or "facility" means:~~

10 ~~(a) — the Montana developmental center; or~~

11 ~~(b) — a private, community-based facility approved by the department of public health and human~~
12 ~~services department of health services as a facility able to meet the needs of individuals committed to a~~
13 ~~residential facility pursuant to this chapter or placed in a residential facility pursuant to Title 46, chapter 14.~~

14 ~~(16) — "Residential facility screening team" means a team of persons, appointed as provided in 53-20-~~
15 ~~133, that is responsible for screening a respondent to determine if the commitment of the respondent to a~~
16 ~~residential facility or the imposition of a community treatment plan is appropriate.~~

17 ~~(17) — "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously~~
18 ~~developmentally disabled and for whom the petition requests commitment to a residential facility or imposition~~
19 ~~of a community treatment plan.~~

20 ~~(18) — "Responsible person" means a person willing and able to assume responsibility for a person~~
21 ~~who is seriously developmentally disabled or alleged to be seriously developmentally disabled.~~

22 ~~(19) — "Seriously developmentally disabled" means a person who:~~

23 ~~(a) — has a developmental disability;~~

24 ~~(b) — is impaired in cognitive functioning; and~~

25 ~~(c) — cannot be safely and effectively habilitated through voluntary use of community-based services~~
26 ~~because of behaviors that pose an imminent risk of serious harm to self or others."~~

27

Section 58. Section 53-20-104, MCA, is amended to read:

"53-20-104. Powers and duties of mental disabilities board of visitors. (1) The board is an

independent board of inquiry and review established to ensure that the treatment of all persons committed to the Montana developmental center is humane and decent and meets the requirements set forth in this part.

(2) The board shall review all plans for experimental research or hazardous treatment procedures involving persons committed to the Montana developmental center to ensure that the research project is humane and not unduly hazardous and that it complies with the principles of the statement on the use of human subjects for research of the American association on mental deficiency and with the principles for research involving human subjects required by the United States department of health and human services. An experimental research project involving Montana developmental center residents affected by this part may not begin unless it is approved by the mental disabilities board of visitors.

(3) The board shall investigate all cases of alleged mistreatment of a Montana developmental center resident.

(4) The board shall inspect the Montana developmental center at least annually. The board shall inspect the physical plant, including residential, recreational, dining, and sanitary facilities. It shall visit all wards and treatment or habilitation areas. The board shall inquire concerning all habilitation programs being implemented by the facility.

(5) The board shall inspect the file of each person committed to the Montana developmental center pursuant to this part to ensure that a habilitation plan exists and is being implemented. The board shall inquire concerning all use of restraints, isolation, or other extraordinary measures.

(6) The board may assist a Montana developmental center resident in resolving a grievance the resident may have concerning the resident's commitment or course of treatment and habilitation in the facility.

(7) If the board believes that the Montana developmental center is failing to comply with the provisions of this part in regard to its physical facilities or its treatment of a resident, it shall report its findings at once to the superintendent of the facility and the director of the ~~department of public health and human services~~ department of health services. If appropriate, after waiting a reasonable time for a response from the superintendent or the director of the department of health services, the board may notify the parents or

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guardian of the resident involved, the next of kin, if known, the responsible person appointed by the court for the resident involved, and the district court that has jurisdiction over the facility.

(8) The board shall report annually to the governor concerning the status of the Montana developmental center and its habilitation programs."

Section 71. Section 53-20-125, MCA, is amended to read:

~~"53-20-125. Outcome of screening -- recommendation for commitment or imposition of community treatment plan -- hearing.~~ (1) A court may commit a person to a residential facility or impose a community treatment plan only if the person:

(a) — is 18 years of age or older; and

(b) — ~~is determined to be seriously developmentally disabled and in need of commitment to a residential facility or imposition of a community treatment plan by the residential facility screening team, as provided in 53-20-133, and by a court, as provided in 53-20-129 or in this section.~~

(2) — ~~After the screening required by 53-20-133, the residential facility screening team shall file its written recommendation and report with the court. The report must include the factual basis for the recommendation and must describe any tests or evaluation devices that have been employed in evaluating the respondent. The residential facility screening team shall provide to the court, the county attorney, the respondent's attorney, and any other party requesting it the social and placement information that the team relied on in making its determination.~~

(3) — ~~The residential facility team may recommend commitment to a specific residential facility.~~

(4) — ~~Notice of the determination of the residential facility screening team must be mailed or delivered to:~~

(a) — ~~the respondent;~~

(b) — ~~the respondent's parents, guardian, or next of kin, if known;~~

(c) — ~~the responsible person;~~

(d) — ~~the respondent's advocate, if any;~~

(e) — ~~the county attorney;~~

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1 ~~(f) — the residential facility to which the residential facility screening team has recommended~~
2 ~~commitment;~~

3 ~~(g) — the attorney for the respondent, if any; and~~

4 ~~(h) — the attorney for the parents or guardian, if any.~~

5 ~~(5) — The respondent, the respondent's parents or guardian, the responsible person, the~~
6 ~~respondent's advocate, if any, or the attorney for any party may request that a hearing be held on the~~
7 ~~recommendation of the residential facility screening team. The request for a hearing must be made in writing~~
8 ~~within 15 days of service of the report.~~

9 ~~(6) — Notice of the hearing must be mailed or delivered to each of the parties listed in subsection (5).~~

10 ~~(7) — The hearing must be held before the court without jury. The rules of civil procedure apply.~~

11 ~~(8) — Upon receiving the report of the residential facility screening team and after a hearing, if one is~~
12 ~~requested, the court shall enter findings of fact and take one of the following actions:~~

13 ~~(a) — If both the residential facility screening team and the court find that the respondent is seriously~~
14 ~~developmentally disabled and in need of commitment to a residential facility, the court shall order the~~
15 ~~respondent committed to a residential facility for an extended course of treatment and habilitation, subject to the~~
16 ~~provisions of subsection (12).~~

17 ~~(b) — If both the residential facility screening team and the court find that the respondent is seriously~~
18 ~~developmentally disabled but either the residential facility screening team or the court finds that a less~~
19 ~~restrictive community treatment plan has been proposed, the court may impose a community treatment plan~~
20 ~~that meets the conditions set forth in 53-20-133(4). If the court finds that a community treatment plan proposed~~
21 ~~by the parties or recommended by the residential facility screening team does not meet the conditions set forth~~
22 ~~in 53-20-133(4), it may order the respondent committed to a residential facility. The court may not impose a~~
23 ~~community treatment plan unless the residential facility screening team certifies that all services in the~~
24 ~~proposed plan meet the conditions of 53-20-133(4)(c) and (4)(d).~~

25 ~~(c) — If either the residential facility screening team or the court finds that the respondent has a~~
26 ~~developmental disability but is not seriously developmentally disabled, the court shall dismiss the petition and~~
27 ~~refer the respondent to the department of public health and human services department of health services to be~~

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~~considered for placement in voluntary community-based services according to 53-20-209.~~

~~(d) — If either the residential facility screening team or the court finds that the respondent does not have a developmental disability or is not in need of developmental disabilities services, the court shall dismiss the petition.~~

~~(9) — (a) If the residential facility screening team recommends commitment to a residential facility or imposition of a community treatment plan and none of the parties notified of the recommendation request a hearing within 15 days of service of the screening team's report, the court may:~~

~~(i) — issue an order committing the respondent to the residential facility for an extended period of treatment and habilitation;~~

~~(ii) — issue an order imposing a community treatment plan that the court finds meets the conditions set forth in 53-20-133(4); or~~

~~(iii) — initiate its own inquiry as to whether an order should be granted.~~

~~(b) — The court may not impose a community treatment plan unless the residential facility screening team certifies that all services in the proposed plan meet the conditions in 53-20-133(4)(c) and (4)(d).~~

~~(10) — The court may refuse to authorize commitment of a respondent to a residential facility for an extended period of treatment and habilitation if commitment is not in the best interests of the respondent.~~

~~(11) — A court order entered in a proceeding under this part must be provided to the residential facility screening team.~~

~~(12) — (a) A court may not commit a respondent to a residential facility unless the facility has confirmed in writing that admission of the respondent will not cause the census at the residential facility to exceed its licensed capacity.~~

~~(b) — After December 31, 2016, a court may not commit a respondent to the Montana developmental center."~~

Section 72. Section 53-20-133, MCA, is amended to read:

"53-20-133. — Residential facility screening team -- referral by court -- membership -- rules. (1)

When the district court receives a petition for commitment to a residential facility or for imposition of a

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~~community treatment plan under this part, the court, prior to proceeding, shall refer the respondent to the residential facility screening team for screening to determine whether commitment to a residential facility or imposition of a community treatment plan is appropriate for the respondent.~~

~~(2) — A court may not commit a respondent to a residential facility or impose a community treatment plan under 53-20-125, 53-20-128, or 53-20-129 unless the residential facility screening team determines that commitment to a residential facility or imposition of a community treatment plan is appropriate for the respondent.~~

~~(3) — The residential facility screening team may not determine that commitment to a residential facility or imposition of a community treatment plan is appropriate on an extended basis unless the residential facility screening team determines that the respondent is seriously developmentally disabled.~~

~~(4) — The residential facility screening team may not recommend imposition of a community treatment plan unless it finds that the proposed plan:~~

~~(a) — provides adequate assurances of safety from the consequences of the behaviors of the respondent for both the respondent and the community;~~

~~(b) — provides effective habilitation services for the respondent's developmental disability;~~

~~(c) — is funded from public or private sources that are identified, committed, and available to pay for all of the proposed services to the respondent; and~~

~~(d) — ensures services from identified, qualified providers that are committed and available to provide all of the proposed services to the respondent.~~

~~(5) — For purposes of this part, the department of public health and human services department of health services shall adopt rules providing for the membership and terms of the members of the residential facility screening team and setting forth the criteria and procedures to govern the determinations made by the residential facility screening team."~~

Section 59. Section 53-20-146, MCA, is amended to read:

"53-20-146. Right not to be subjected to certain treatment procedures. (1) Residents of a residential facility have a right not to be subjected to unusual or hazardous treatment procedures without the

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1 express and informed consent of the resident, if the resident is able to give consent, and of the resident's
2 parents or guardian or the responsible person appointed by the court after opportunities for consultation with
3 independent specialists and legal counsel. Proposed procedures must first have been reviewed and approved
4 by the mental disabilities board of visitors before consent is sought.

5 (2) Physical restraint may be employed only when absolutely necessary to protect the resident
6 from injury or to prevent injury to others. Mechanical supports used to achieve proper body position and
7 balance that are ordered by a physician are not considered a physical restraint. Restraint may not be employed
8 as punishment, for the convenience of staff, or as a substitute for a habilitation program. Restraint may be
9 applied only if alternative techniques have failed and only if the restraint imposes the least possible restriction
10 consistent with its purpose. Use of restraints may be authorized by a physician, a developmental disabilities
11 professional, or a qualified intellectual disability professional. Orders for restraints must be in writing and may
12 not be in force for longer than 12 hours. Whenever physical restraint is ordered, suitable provision must be
13 made for the comfort and physical needs of the resident restrained.

14 (3) Seclusion, defined as the placement of a resident alone in a locked room for nontherapeutic
15 purposes, may not be employed. Legitimate "time out" procedures may be used under close and direct
16 professional supervision as a technique in behavior-shaping programs.

17 (4) Behavior modification programs involving the use of noxious or aversive stimuli must be
18 reviewed and approved by the mental disabilities board of visitors and may be conducted only with the express
19 and informed consent of the affected resident, if the resident is able to give consent, and of the resident's
20 parents or guardian or the responsible person appointed by the court after opportunities for consultation with
21 independent specialists and with legal counsel. These behavior modification programs may be conducted only
22 under the supervision of and in the presence of a qualified intellectual disability professional who has had
23 proper training.

24 (5) A resident may not be subjected to a behavior modification program that attempts to extinguish
25 socially appropriate behavior or to develop new behavior patterns when the behavior modifications serve only
26 institutional convenience.

27 (6) Electric shock devices are considered a research technique for the purpose of this part. Electric

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1 shock devices may be used only in extraordinary circumstances to prevent self-mutilation leading to repeated
2 and possibly permanent physical damage to the resident and only after alternative techniques have failed. The
3 use of electric shock devices is subject to the conditions prescribed by this part for experimental research
4 generally and may be used only under the direct and specific order of a physician and an individual designated
5 by the ~~department of public health and human services~~ department of health services to order the treatment for
6 an individual placed in ~~a residential facility~~ the Montana developmental center, or an individual designated by
7 the department of public health and human services to order the treatment for an individual placed in a
8 community-based facility."

9
10 **Section 60.** Section 53-20-161, MCA, is amended to read:

11 **"53-20-161. Maintenance of records.** (1) Complete records for each resident must be maintained
12 and must be readily available to persons who are directly involved with the particular resident and to the mental
13 disabilities board of visitors. All information contained in a resident's records must be considered privileged and
14 confidential. The parents or guardian, the responsible person appointed by the court, and any person properly
15 authorized in writing by the resident, if the resident is capable of giving informed consent, or by the resident's
16 parents or guardian or the responsible person must be permitted access to the resident's records. Information
17 may not be released from the records of a resident or former resident of the residential facility unless the
18 release of the information has been properly authorized in writing by:

- 19 (a) the court;
- 20 (b) the resident or former resident if the resident or former resident is over the age of majority and
21 is capable of giving informed consent;
- 22 (c) the parents or guardian in charge of a resident under the age of 12;
- 23 (d) the parents or guardian in charge of a resident over the age of 12 but under the age of majority
24 and the resident if the resident is capable of giving informed consent;
- 25 (e) the guardian of a resident over the age of majority who is incapable of giving informed consent;
- 26 or
- 27 (f) a residential facility, through an individual designated by the ~~department of public health and~~

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- 1 ~~human services department~~ of health services by rule for the Montana developmental center or an individual
- 2 designated by the department of public health and human services by rule for community-based facilities, when
- 3 the facility is the custodian of a resident:
- 4 (i) over the age of majority who is incapable of giving informed consent and for whom no legal
- 5 guardian has been appointed;
- 6 (ii) under the age of majority for whom there is no parent or legal guardian; or
- 7 (iii) of the facility whenever release is required by federal or state law or department rules.
- 8 (2) Information may not be released by a residential facility under subsection (1)(f) less than 15
- 9 days after sending notice of the proposed release of information to the resident, the resident's parents or
- 10 guardian, the attorney who most recently represented the resident, if any, the responsible person appointed by
- 11 the court, if any, the resident's advocate, if any, and the court that ordered the admission. If any of the parties
- 12 notified under this subsection objects to the release of information, the party may petition the court for a hearing
- 13 to determine whether the release of information should be allowed. Information may not be released pursuant
- 14 to subsection (1)(f) unless it is released to further a legitimate need of the resident or to accomplish a legitimate
- 15 purpose of the facility that is not inconsistent with the needs and rights of the resident. Information may not be
- 16 released pursuant to subsection (1)(f) except in accordance with written policies consistent with the
- 17 requirements of this part adopted by the facility. Persons receiving notice of a proposed release of information
- 18 must also receive a copy of the written policy of the facility governing release of information.
- 19 (3) These records must include:
- 20 (a) identification data, including the resident's legal status;
- 21 (b) the resident's history, including but not limited to:
- 22 (i) family data, educational background, and employment record; and
- 23 (ii) prior medical history, both physical and mental, including prior institutionalization;
- 24 (c) the resident's grievances, if any;
- 25 (d) an inventory of the resident's life skills, including mode of communication;
- 26 (e) a record of each physical examination that describes the results of the examination;
- 27 (f) a copy of the individual habilitation plan and any modifications to the plan and an appropriate

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summary to guide and assist the resident care workers in implementing the resident's habilitation plan;

(g) the findings made in monthly reviews of the habilitation plan, including an analysis of the successes and failures of the habilitation program and whatever modifications are necessary;

(h) a copy of the postinstitutionalization plan that includes a statement of services needed in the community and any modifications to the postinstitutionalization plan and a summary of the steps that have been taken to implement that plan;

(i) a medication history and status;

(j) a summary of each significant contact by a qualified intellectual disability professional with a resident;

(k) a summary of the resident's response to the resident's habilitation plan, prepared by a qualified intellectual disability professional involved in the resident's habilitation and recorded at least monthly. Wherever possible, the response must be scientifically documented.

(l) a monthly summary of the extent and nature of the resident's work activities and the effect of the activity on the resident's progress in the habilitation plan;

(m) a signed order by a qualified intellectual disability professional or physician for any physical restraints;

(n) a description of any extraordinary incident or accident in the facility involving the resident, to be entered by a staff member noting personal knowledge of the incident or accident or other source of information, including any reports of investigations of the resident's mistreatment;

(o) a summary of family visits and contacts;

(p) a summary of attendance and leaves from the facility; and

(q) a record of any seizures; illnesses; injuries; treatments of seizures, illnesses, and injuries; and immunizations."

Section 61. Section 53-20-163, MCA, is amended to read:

"53-20-163. Abuse of residents prohibited. (1) Any form of mistreatment, neglect, or abuse of a resident is prohibited.

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(2) A residential facility shall publish in the facility and circulate to staff a written policy statement that defines the facility's requirements for reporting and investigating allegations of mistreatment, neglect, or abuse and injuries from an unknown source.

(3) Each allegation of mistreatment, neglect, or abuse and each injury from an unknown source must be reported immediately to:

(a) ~~the department of public health and human services~~ department of health services ~~if the~~ allegation of mistreatment happened at the Montana developmental center;

(b) the department of public health and human services if the allegation of mistreatment happened in a community-based facility;

~~(b)(c)~~ a representative of the facility as designated by ~~the department of public health and human services~~ department of health services ~~by department~~ rule; and

~~(c)(d)~~ if the alleged mistreatment, neglect, or abuse or the injury occurred at the Montana developmental center, the department of justice.

(4) The residential facility shall maintain a written record that:

(a) each allegation and each injury from an unknown source has been reported as required by this section;

(b) each allegation and each injury from an unknown source has been thoroughly investigated and findings stated;

(c) the investigation into the allegation or injury from an unknown source was initiated on the next business day following the report of the incident; and

(d) the results were reported to the appropriate department director ~~of the~~ department of public health and human services department of health services.

(5) The director of the ~~department of public health and human services~~ department of health services who has oversight authority of the facility where the alleged mistreatment happened shall report the details of each reported allegation, including providing the written record created pursuant to this section, to the mental disabilities board of visitors and the state protection and advocacy program for individuals with developmental disabilities, as authorized by 42 U.S.C. 15043(a)(2), within 5 business days of the incident. The

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1 director and the residential facility may not redact any information that is provided pursuant to this subsection.
2 The mental disabilities board of visitors and the state protection and advocacy program shall maintain the
3 confidentiality of any report received under this section to the same extent that the reports are confidential
4 under state and federal laws applicable to the residential facility.

5 (6) Upon receiving a report of an allegation of mistreatment, neglect, or abuse or of an injury from
6 an unknown source at the Montana developmental center, the department of justice shall conduct a thorough
7 investigation of each allegation or each injury from an unknown source and provide a written report of its
8 investigation and findings to the superintendent of the residential facility within 5 business days of the incident.

9 (7) The Montana developmental center shall provide the department of justice with access to
10 records and other information necessary to conduct investigations under this section. The department of justice
11 shall maintain the confidentiality of any information received in the course of conducting investigations under
12 this section to the same extent that the information is confidential under state and federal laws applicable to the
13 residential facility.

14 (8) If a state licensing authority or federal medicaid certification authority issues a statement of
15 deficiency indicating that the residential facility has failed to meet licensing or certification standards due to the
16 thoroughness or timeliness of an investigation conducted under this section, the department of justice shall
17 participate in preparing a plan of correction to restore the residential facility's compliance with licensing or
18 certification standards.

19 (9) If in the course of conducting an investigation under this section the department of justice
20 develops reasonable cause to believe that a criminal offense has occurred, the department of justice shall refer
21 the matter to the appropriate local law enforcement agency.

22 (10) The department of justice may adopt rules to implement this section."
23

24 **Section 76.** ~~Section 53-20-173, MCA, is amended to read:~~

25 ~~"53-20-173. Autism facilities grant -- purpose -- eligibility -- rulemaking. (1) There is an autism~~
26 ~~facilities grant program administered by the department of public health and human services department of~~
27 ~~health services for the purpose of providing grants for the construction of autism facilities designed and~~

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~~equipped to provide services to individuals with autism spectrum disorders.~~

~~(2) — To be eligible for a grant from the department, a nonprofit or government entity shall:~~

~~(a) — match each \$1 of the grant with \$1 raised from public or private sources; and~~

~~(b) — provide the department with plans for the construction and development of autism facilities in the state.~~

~~(3) — The department shall adopt rules for administration of the grant program.~~

~~(4) — For the purposes of this section, "autism facility" is a facility in the state that provides services to children or adults, or both, with autism spectrum disorder, including but not limited to housing, therapy, and other support services."~~

Section 77. ~~Section 53-20-174, MCA, is amended to read:~~

~~**"53-20-174. — Autism facilities special revenue account.** (1) There is an autism facilities account in the state special revenue fund established in 17-2-102 to the credit of the department of public health and human services department of health services.~~

~~(2) — The purpose of the account is to provide funding for autism facilities grants awarded in accordance with 53-20-173.~~

~~(3) — The account consists of~~

~~(a) — money appropriated to or transferred into the account by the legislature;~~

~~(b) — any funds available through and identified by the department for the autism facilities grant program; and~~

~~(c) — gifts, grants, or donations made for the purposes of 53-20-173."~~

Section 78. ~~Section 53-20-202, MCA, is amended to read:~~

~~**"53-20-202. — Definitions.** As used in this part, the following definitions apply:~~

~~(1) — "Comprehensive developmental disability system" means a system of services, including but not limited to the following basic services, with the intention of providing alternatives to institutionalization:~~

~~(a) — evaluation services;~~

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- 1 ~~(b) — diagnostic services;~~
- 2 ~~(c) — treatment services;~~
- 3 ~~(d) — day-care services;~~
- 4 ~~(e) — training services;~~
- 5 ~~(f) — education services;~~
- 6 ~~(g) — employment services;~~
- 7 ~~(h) — recreation services;~~
- 8 ~~(i) — personal care services;~~
- 9 ~~(j) — domiciliary care services;~~
- 10 ~~(k) — special living arrangements services;~~
- 11 ~~(l) — counseling services;~~
- 12 ~~(m) — information and referral services;~~
- 13 ~~(n) — follow-along services;~~
- 14 ~~(o) — protective and other social and sociolegal services, including case management services as~~
- 15 ~~defined in 42 CFR 440.169; and~~
- 16 ~~(p) — transportation services.~~
- 17 ~~(2) — "Department" means the department of public health and human services department of health~~
- 18 ~~services established in [section 1].~~
- 19 ~~(3) — "Developmental disabilities" means disabilities attributable to intellectual disability, cerebral~~
- 20 ~~palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability~~
- 21 ~~and requiring treatment similar to that required by intellectually disabled individuals if the disability originated~~
- 22 ~~before the person attained age 18, has continued or can be expected to continue indefinitely, and results in the~~
- 23 ~~person having a substantial disability.~~
- 24 ~~(4) — "Developmental disabilities facility" means any service or group of services offering care to~~
- 25 ~~persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other programmatic~~
- 26 ~~basis.~~
- 27 ~~(5) — "Legal resident" means a person who maintains Montana as the person's principal~~

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1 ~~establishment, home of record, or permanent home and where, whenever absent due to military obligation, the~~
2 ~~person intends to return.~~

3 ~~(6) — "Military dependent" means a child of a military service member.~~

4 ~~(7) — "Military service" means service in the armed forces or armed forces reserves or membership~~
5 ~~in the Montana national guard.~~

6 ~~(8) — "Military service member" means a person who is currently in military service or who has~~
7 ~~separated from military service in the previous 18 months either through retirement or military separation."~~

8
9 **Section 79.** Section 53-20-213, MCA, is amended to read:

10 **"53-20-213. — Departments to cooperate.** The department of public health and human services
11 ~~department~~ and the office of superintendent of public instruction shall cooperate on all aspects of each agency's
12 ~~respective programs for persons with developmental disabilities."~~

13
14 **Section 80.** Section 53-20-224, MCA, is amended to read:

15 **"53-20-224. — Legislative findings — purpose.** (1) The legislature finds that the Montana
16 ~~developmental center has served as a placement of last resort for seriously developmentally disabled~~
17 ~~individuals, many of whom have co-occurring mental health conditions.~~

18 ~~(2) — The legislature further finds that as the department of public health and human services has~~
19 ~~been carrying out the process of closing the Montana developmental center pursuant to Chapter 444, Laws of~~
20 ~~2015, family members of Montana developmental center residents, community service providers, and~~
21 ~~community members have expressed concern that community facilities may not be equipped to provide~~
22 ~~appropriate care and treatment for some of the residents.~~

23 ~~(3) — The legislature further finds that family members have expressed concern that their~~
24 ~~developmentally disabled relatives may not maintain the progress they have made in treatment at the Montana~~
25 ~~developmental center as they move to new and unfamiliar settings.~~

26 ~~(4) — It is the intent of the legislature that the department monitor the skills, abilities, and behaviors of~~
27 ~~Montana developmental center residents while they are in the care and custody of the state and as they~~

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1 ~~transition to the community in order to ensure that the individuals remain safe, maintain or improve their skills~~
2 ~~and abilities, and find a home that provides the most appropriate services in the least restrictive setting~~
3 ~~possible."~~

4
5 **Section 81.** Section 53-20-225, MCA, is amended to read:

6 ~~"53-20-225. Department monitoring of Montana developmental center residents -- report to~~
7 ~~legislature. (1) The department shall monitor:~~

8 (a) ~~individuals released from the Montana developmental center and placed in a community home~~
9 ~~as defined in 53-20-302 for 2 years after placement in a community home; and~~

10 (b) ~~for the duration of their residency, individuals who are admitted to and residing at the Montana~~
11 ~~developmental center intensive behavior center.~~

12 (2) ~~The department shall evaluate on a quarterly basis behaviors in the following areas to~~
13 ~~determine whether the skills, abilities, and behaviors of an individual subject to this section have improved,~~
14 ~~diminished, or remained unchanged:~~

15 (a) ~~verbal or nonverbal communication, as appropriate for the individual;~~

16 (b) ~~activities of daily living;~~

17 (c) ~~emotional well-being;~~

18 (d) ~~physical aggression; and~~

19 (e) ~~sexually inappropriate behaviors.~~

20 (3) ~~The department shall report on the results of the monitoring:~~

21 (a) ~~at least quarterly to family members and guardians of the individuals if the family members and~~
22 ~~guardians are authorized to receive health care information; and~~

23 (b) ~~annually to the children, families, health, and human services interim committee in accordance~~
24 ~~with 5-11-210. The report to the interim committee may provide information only in an aggregate form and may~~
25 ~~not contain any individually identifying information."~~

26
27 **Section 82.** Section 53-20-302, MCA, is amended to read:

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~~"53-20-302.— Definition of community home— limitation on number of residents. A community home for persons with developmental disabilities is a family-oriented residence or home designed to provide facilities for two to eight persons with developmental disabilities, established as an alternative to existing state institutions. The number of persons with developmental disabilities may not exceed eight in a community home, except that the department of public health and human services department of health services may grant written approval for more than eight but not more than twelve persons."~~

~~Section 83.~~ Section 53-20-303, MCA, is amended to read:

~~"53-20-303.— Parties authorized to establish and operate community homes. (1) Nonprofit corporations or associations may be formed or organized in any community for the purposes of establishing a community home or homes for persons with developmental disabilities under this part and to receive services, facilities, and funds as the department of public health and human services department of health services and other governmental units may be authorized by law to provide.~~

~~(2) — The department may also establish a community home or homes for persons with developmental disabilities under this part and receive services, facilities, and funds as the department and other governmental units may be authorized by law to provide."~~

~~Section 84.~~ Section 53-20-304, MCA, is amended to read:

~~"53-20-304.— Department contracts with nonprofit corporations — governmental units providing for community homes. (1) The department of public health and human services department of health services may contract with nonprofit corporations or associations to provide facilities and services for persons with developmental disabilities in community homes for persons with developmental disabilities and is authorized to expend money appropriated or available for that purpose.~~

~~(2) — Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, are authorized to provide, at their own expense, funds, materials, facilities, and services for community homes for persons with developmental disabilities."~~

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Section 85. Section 53-20-306, MCA, is amended to read:

"53-20-306. Federal aid. The department of public health and human services department of health services may apply for and receive federal aid money or other assistance that is available for programs in the nature of the program created by this part."

Section 86. Section 53-20-307, MCA, is amended to read:

"53-20-307. Health and safety standards for licensing. (1) (a) After initial certification by the state fire prevention and investigation section of the department of justice, community homes must be certified annually for fire and life safety by the department of justice.

(b) — The department of justice shall notify the department of public health and human services and the department of health services when a community home has been certified.

(2) — (a) Local health officers shall certify community homes for compliance with health and safety standards. If for any reason the local authority cannot complete the certification in a timely manner, the department of public health and human services is authorized to make the determination on certification.

(b) — A reasonable fee may be charged to authorized parties, as defined in 53-20-303, for the health and safety certification."

Section 87. Section 53-20-504, MCA, is amended to read:

"53-20-504. Powers and duties of department of public health and human services department of health services. The department of public health and human services department of health services:

(1) — may operate or contract with a nonprofit corporation that demonstrates expertise in and the capability of providing programs for the patient population to be served by the facility and for the operation and management of nursing homes;

(2) — shall ensure that any state-owned nursing homes are in compliance with federal and state regulations;

(3) — shall adopt rules for staffing requirements and the admission of patients;

(4) — may accept grants, gifts, bequests, and contributions in money or property or any other form

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1 ~~from individuals, corporations, associations, or federal, state, and local government agencies for the purposes~~
2 ~~of establishing and operating nursing homes."~~

3
4 **Section 88.** ~~Section 53-20-505, MCA, is amended to read:~~

5 ~~"53-20-505. **Disposition of facility.** Section 53-20-504 does not prohibit the disposition of the facility~~
6 ~~as provided in 77-2-302 if an appropriate use for the facility cannot be found by the department of public health~~
7 ~~and human services department of health services."~~

8
9 **Section 62.** Section 53-20-601, MCA, is amended to read:

10 **"53-20-601. Definitions.** As used in this part, the following definitions apply:

- 11 (1) "Center" means the intensive behavior center provided for in 53-20-602.
12 (2) "Department" means the ~~department of public health and human services~~ department of health
13 services provided for in ~~2-15-2201~~ [section 1].
14 (3) "Developmental disability" has the meaning provided in 53-20-102."

15
16 **Section 63.** Section 53-21-102, MCA, is amended to read:

17 **"53-21-102. Definitions.** As used in this chapter, unless otherwise specifically provided, the following
18 definitions apply:

- 19 (1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal
20 mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a
21 mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving
22 treatment in a mental health facility.
23 (2) "Behavioral health inpatient facility" means a facility or a distinct part of a facility of 16 beds or
24 less licensed by the department of public health and human services that is capable of providing secure,
25 inpatient psychiatric services, including services to persons with mental illness and co-occurring chemical
26 dependency.
27 (3) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors

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1 created by 2-15-211.

2 (4) "Commitment" means an order by a court requiring an individual to receive treatment for a
3 mental disorder.

4 (5) "Court" means any district court of the state of Montana.

5 (6) "Department" means the ~~department of public health and human services~~ department of health
6 services provided for in ~~2-15-2204~~ [section 1].

7 (7) "Emergency situation" means:

8 (a) a situation in which any person is in imminent danger of death or bodily harm from the activity
9 of a person who appears to be suffering from a mental disorder and appears to require commitment; or

10 (b) a situation in which any person who appears to be suffering from a mental disorder and
11 appears to require commitment is substantially unable to provide for the person's own basic needs of food,
12 clothing, shelter, health, or safety.

13 (8) "Friend of respondent" means any person willing and able to assist a person suffering from a
14 mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and
15 requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others.

16 (9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial
17 adverse effects on an individual's cognitive or volitional functions.

18 (b) The term does not include:

19 (i) addiction to drugs or alcohol;

20 (ii) drug or alcohol intoxication;

21 (iii) intellectual disability; or

22 (iv) epilepsy.

23 (c) A mental disorder may co-occur with addiction or chemical dependency.

24 (10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing
25 care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment
26 facility, or a residential treatment center licensed or certified by the department of public health and human
27 services that provides treatment to children or adults with a mental disorder. A correctional institution or facility

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1 or jail is not a mental health facility within the meaning of this part.

2 (11) "Mental health professional" means:

3 (a) a certified professional person;

4 (b) a physician licensed under Title 37, chapter 3;

5 (c) a clinical professional counselor licensed under Title 37, chapter 39;

6 (d) a psychologist licensed under Title 37, chapter 17;

7 (e) a clinical social worker licensed under Title 37, chapter 39;

8 (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
9 psychiatric mental health nursing;

10 (g) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric
11 mental health; or

12 (h) a marriage and family therapist licensed under Title 37, chapter 39.

13 (12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person
14 receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory
15 responsibilities to protect patients from abuse and neglect.

16 (b) The term includes but is not limited to:

17 (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;

18 (ii) failure to follow a prescribed plan of care and treatment; or

19 (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or
20 intention.

21 (13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers
22 and sisters of a person.

23 (14) "Patient" means a person committed by the court for treatment for any period of time or who is
24 voluntarily admitted for treatment for any period of time.

25 (15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

26 (16) "Professional person" means:

27 (a) a medical doctor;

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(b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(c) a licensed psychologist;

(d) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric mental health; or

(e) a person who has been certified, as provided for in 53-21-106, by the department of public health and human services.

(17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

(18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a mental disorder and requiring commitment.

(19) "State hospital" means the Montana state hospital."

Section 64. Section 53-21-104, MCA, is amended to read:

"53-21-104. Powers and duties of mental disabilities board of visitors. (1) The board is an independent board of inquiry and review that is responsible to ensure that the treatment of all persons either voluntarily or involuntarily admitted to a mental facility in Montana is humane, is consistent with established clinical and other professional standards, and meets the requirements set forth in this part.

(2) The board shall review all plans for experimental research involving persons admitted to a mental health facility to ensure that each research project is humane and not unduly hazardous and that it complies with the principles of the statement on the use of human subjects for research of the American association on mental deficiency and with the principles for research involving human subjects required by the United States department of health and human services. An activity considered to be an experimental research project and that involves a person or persons admitted to a mental health facility affected by this part may not be commenced unless it is approved by the mental disabilities board of visitors.

(3) (a) The board shall inspect every mental health facility that provides treatment or evaluation to any person pursuant to this part.

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(b) The board shall annually establish a schedule for the inspection of mental health facilities that enables the board to meet its obligation under subsection (1).

(c) The board's authority to inspect mental health facilities may not be waived or precluded by other treatment review, licensing, or accreditation requirements or protocols. The board may exercise the prerogative to inspect any mental health facility at any time independent of its facility inspection schedule.

(d) The board shall produce a written report of each inspection of a mental health facility that must include specific recommendations for improvements that the board concludes are necessary in order for the inspected facility to meet the requirements in this part.

(e) The board shall provide a draft of each written report within 30 calendar days of the completion of each mental health facility inspection to the professional person in charge of the inspected facility for review prior to publication.

(f) The professional person in charge of the inspected facility shall provide a written response to the board's written report within 30 calendar days of receipt of the report. The response must include one of the following for each recommendation:

(i) a specific plan for implementation of the recommended action; or

(ii) a specific rationale that explains why the recommendation cannot be implemented.

(g) The board shall include the inspected facility's written response in the board's final published written report.

(h) The board shall include in subsequent inspections an assessment of each facility's implementation of the recommendations.

(i) The board shall report in writing to the director of the department of public health and human services, or the director of the department of health services if the facility is the state hospital or the Montana mental nursing care center, and the governor when it determines that a mental health facility has not either implemented written recommendations or provided a specific rationale that explains why any recommendations cannot be implemented.

(4) (a) The board, by applying a sampling process during a scheduled inspection of a mental health facility, shall ensure that a treatment plan and a discharge plan exists and is being implemented for each

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1 patient admitted or committed to the mental health facility being inspected under this part.

2 (b) The board, during a scheduled inspection of a mental health facility, shall review all aspects of
3 the treatment of persons admitted to mental health facilities and review the use of treatment procedures that
4 involve behavior control, including but not limited to the use of any type of mechanical restraints, locked and
5 unlocked seclusion or isolation, time out, or any other procedure involving physical control.

6 (c) The board shall ensure that the use of treatment procedures described in subsection (4)(b) at
7 inspected mental health facilities is clinically justified, is monitored closely by a medical doctor and other mental
8 health professionals, is implemented only when other less restrictive measures have failed, and is implemented
9 to the least extent necessary to protect the safety and health of the affected individual or others in the
10 immediate environment.

11 (d) The board may exercise the prerogative to inquire about and ensure the existence and
12 implementation of treatment plans and discharge plans for any person admitted to a mental health facility and
13 to inquire about and ensure the appropriate use of treatment procedures described in subsection (4)(b) with any
14 person admitted to a mental health facility independent of its facility inspection schedule.

15 (5) The board may assist any person who is receiving or who has received treatment at a mental
16 health facility in resolving any grievance the person may have concerning the person's admission or course of
17 treatment in the facility.

18 (6) The board shall employ and is responsible for full-time legal counsel at the state hospital,
19 whose responsibility is to act on behalf of all patients at the state hospital. The board shall ensure that there are
20 sufficient legal staff and facilities to ensure availability to all patients and shall require that the appointed
21 counsel periodically interview every patient and examine the patient's files and records. The board may employ
22 additional legal counsel for representation of patients in a similar manner at any other mental health facility
23 having inpatient capability.

24 (7) (a) If the board believes that any facility is failing to comply with the provisions of this part in
25 regard to its physical facilities or its treatment of any person, it shall report its findings in writing to the
26 professional person in charge of the facility and, and the director of the department of public health and human
27 services, and-or the director of the department of health services if the report is on the state hospital or the

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1 Montana mental health nursing care center.

2 (b) The professional person in charge of the facility shall submit a written response to the board
3 within 10 working days of the receipt of the board's written findings provided for in subsection (7)(a) that
4 includes an explanation of the facility's point of view regarding the board's concerns, including areas of
5 disagreement and agreement. If the facility is in full or partial agreement with the board's concerns, its written
6 response must include actions that it has taken or that it plans to take to address the concerns.

7 (c) If the facility's written response does not resolve the concerns to the board's satisfaction, the
8 board and the professional person in charge of the facility shall meet in person within 15 working days of the
9 board's receipt of the facility's response to seek a mutually agreed upon resolution.

10 (8) The board shall publish standards for its inspections of mental health facilities.

11 (9) The board shall report annually to the governor concerning:

12 (a) the status of the mental health facilities and treatment programs that it has inspected since the
13 last annual report; and

14 (b) occurrences of the administration of medications against the wishes of persons receiving
15 treatment in mental health facilities and the effectiveness of the review procedure required by 53-21-127(6) in
16 protecting persons from unnecessary or excessive medication."

17

18 **Section 65.** Section 53-21-106, MCA, is amended to read:

19 **"53-21-106. Certification of professional persons.** (1) The department of public health and human
20 services shall certify professional persons as defined in 53-21-102 for the purpose of this part.

21 (2) The department of public health and human services, with reference to recognized national
22 standards in the field of mental health, shall adopt standards and rules governing the certification of
23 professional persons as defined in 53-21-102.

24 (3) The rules for certification must address but are not limited to:

25 (a) the type of education that an individual has received, including degrees;

26 (b) the type of experience or training received by the individual;

27 (c) continuing education, training, instruction, and work experience necessary to maintain

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1 certification;

2 (d) an examination instrument to be used to determine an individual's proficiency and
3 understanding of mental health laws, diagnosis, and treatment procedures;

4 (e) the procedure for categorical certification qualifying the level of professional authority and
5 responsibility of an individual; and

6 (f) specific procedures for certification, recertification, and revocation of certification."
7

8 **Section 66.** Section 53-21-107, MCA, is amended to read:

9 **"53-21-107. Abuse and neglect of persons admitted to mental health facility prohibited --**

10 **reporting -- investigations.** (1) Any form of abuse or neglect of a person admitted to a mental health facility is
11 prohibited.

12 (2) Each mental health facility shall publish policies and procedures that define the facility's
13 guidelines for detecting, reporting, investigating, determining the validity, and resolving allegations of abuse or
14 neglect.

15 (3) Each allegation of abuse or neglect must be reported as follows:

16 (a) Any employee of the mental health facility with knowledge of the allegation shall immediately
17 report the allegation to the professional person in charge of the facility.

18 (b) The professional person in charge of the mental health facility shall report the allegation by the
19 end of the next business day, in writing, to the board.

20 (c) When the allegation of abuse or neglect may constitute a criminal act, the professional person
21 in charge of the mental health facility shall immediately report the allegation to the appropriate law enforcement
22 authority.

23 (4) Each mental health facility shall provide a mechanism for reporting allegations of abuse or
24 neglect that in no way deters or discourages an individual from reporting the allegations.

25 (5) Investigations of allegations of abuse or neglect must be initiated by the professional person in
26 charge of the facility as soon as possible after the initial report of the incident, but not later than by the end of
27 the next business day. Initiation of each investigation may not be delayed in any way that adversely affects the

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1 efficacy of the investigation. However, the investigation must be initiated immediately when there is a report of
2 an alleged criminal act.

3 (6) The investigation of each allegation of abuse or neglect must be concluded within the minimum
4 period of time necessary to gather the information relative to each allegation and to come to a conclusion
5 following the initial report of the allegation.

6 (7) Each mental health facility shall document the following in writing regarding each allegation of
7 abuse or neglect:

8 (a) details of each allegation of abuse or neglect, including the names of any facility staff against
9 whom the allegation is made;

10 (b) a description of the rationale for conducting the investigation with either in-house or outside
11 personnel;

12 (c) details of the process of the investigation of each allegation of abuse or neglect;

13 (d) details of the conclusions of the investigation; and

14 (e) details of corrective action taken.

15 (8) Mental health facilities shall provide a copy of the written report described in subsections (7)(a)
16 through (7)(e) within 5 working days of the completion of each investigation to the director of the department of
17 public health and human services, or the director of the department of health services if the facility is the state
18 hospital or the Montana mental health nursing care center, and to the board.

19 (9) (a) For each allegation of abuse or neglect involving the Montana state hospital, the director of
20 the departmentdepartment of health services shall report the following information to the state protection and
21 advocacy program for individuals with mental illness authorized under 42 U.S.C. 10805(b)(2) to investigate
22 reports of abuse and neglect:

23 (i) within 5 working days of the incident, the details of the reported allegation; and

24 (ii) within 5 working days of the completion of the investigation into the report, the written record
25 created pursuant to subsection (7).

26 (b) The director may not redact any information provided pursuant to this subsection (9)."
27

Section 67. Section 53-21-145, MCA, is amended to read:

"53-21-145. Right to be free from unnecessary or excessive medication. (1) Patients have a right to be free from unnecessary or excessive medication. A medication may not be administered unless at the written order of a physician or advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing. The attending physician or advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing is responsible for all medication given or administered to a patient. The use of medication may not exceed standards of use that are advocated by the United States food and drug administration. Notation of each individual's medication must be kept in the individual's medical records.

(2) The department of public health and human services shall adopt rules governing attending physician or advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing review of the drug regimen of each patient under the physician's or the advanced practice registered nurse's care in a mental health facility, except that the drug regimen of inpatients in hospitals must be reviewed no less than weekly. Except in the case of outpatients, all prescriptions must be written with a termination date, which may not exceed 30 days. Medication may not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with the patient's treatment program."

Section 68. Section 53-21-147, MCA, is amended to read:

"53-21-147. Right not to be subjected to experimental research. (1) Patients have a right not to be subjected to experimental research without the express and informed consent of the patient, if the patient is able to give consent, and of the patient's guardian, if any, and the friend of respondent appointed by the court after opportunities for consultation with independent specialists and with legal counsel. If there is no friend of respondent or if the friend of respondent appointed by the court is no longer available, then a friend of respondent who is in no way connected with the facility, the department of health services, the department of public health and human services, or the research project must be appointed prior to the involvement of the patient in any experimental research. At least 10 days prior to the commencement of experimental research, the facility shall send notice of intent to involve the patient in experimental research to the patient, the patient's next of kin, if known, the patient's legal guardian, if any, the attorney who most recently represented the patient,

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1 and the friend of respondent appointed by the court.

2 (2) The proposed research must have been reviewed and approved by the mental disabilities
3 board of visitors before consent may be sought. Prior to approval, the board shall determine that the research
4 complies with the principles of the statement on the use of human subjects for research of the American
5 association on mental deficiency and with the principles for research involving human subjects required by the
6 United States department of health and human services for projects supported by that agency.

7 (3) A patient has the right to appropriate protection before participating in an experimental
8 treatment, including the right to a reasonable explanation of the procedure to be followed, expected benefits,
9 relative advantages, and the potential risks and discomforts of any experimental treatment. A patient has the
10 right to revoke at any time consent to an experimental treatment."

11

12 **Section 69.** Section 53-21-148, MCA, is amended to read:

13 **"53-21-148. Right not to be subjected to hazardous treatment.** Patients have a right not to be
14 subjected to treatment procedures such as lobotomy, adverse reinforcement conditioning, or other unusual or
15 hazardous treatment procedures without their express and informed consent after consultation with counsel,
16 the legal guardian, if any, the friend of respondent appointed by the court, and any other interested party of the
17 patient's choice. At least one of those consulted shall consent to the treatment, along with the patient's counsel.
18 If there is no friend of respondent or if the friend of respondent appointed by the court is no longer available,
19 then a friend of respondent who is in no way connected with the facility ~~or with~~, the department of health
20 services, or the department of public health and human services must be appointed before any enumerated
21 treatment procedure can be employed. At least 10 days prior to the commencement of the extraordinary
22 treatment program, the facility shall send notice of intent to employ extraordinary treatment procedures to the
23 patient, the patient's next of kin, if known, the legal guardian, if any, the attorney who most recently represented
24 the patient, and the friend of respondent appointed by the court."

25

26 **Section 70.** Section 53-21-152, MCA, is amended to read:

27 **"53-21-152. Department of public health and human services funding responsibility.** The

department of public health and human services shall develop a separate funding category and procedure for payment for services that are court-ordered for a commitment to a community facility or program or course of treatment. However, nothing in this chapter obligates the department of public health and human services to pay for services ordered under 53-21-127 unless the respondent is eligible for mental health services under the public mental health system funded by the department of public health and human services, the service is one that the department of public health and human services has included in its mental health program, and the department of public health and human services determines that the mental health service is medically necessary for the respondent."

Section 71. Section 53-21-161, MCA, is amended to read:

"53-21-161. Qualifications of professional persons. In every mental health facility to which a person is admitted pursuant to this part:

(1) each professional person and other staff member employed by the facility shall meet all certification requirements promulgated by the department of public health and human services;

(2) all nonprofessional staff members who have not had prior clinical experience in a mental institution shall have substantial orientation training;

(3) staff members on all levels shall have regularly scheduled inservice training;

(4) each nonprofessional staff member shall be under the direct supervision of a professional person."

Section 72. Section 53-21-162, MCA, is amended to read:

"53-21-162. Establishment of patient treatment plan -- patient's rights. (1) Each patient admitted as an inpatient to a mental health facility must have a comprehensive physical and mental examination and review of behavioral status within 48 hours after admission to the mental health facility, except as provided in 53-21-1206.

(2) Each patient must have an individualized treatment plan. This plan must be developed by appropriate professional persons, including a psychiatrist, and must be implemented no later than 10 days after

the patient's admission, except as provided in 53-21-1206. Each individualized treatment plan must contain:

(a) a statement of the nature of the specific problems and specific needs of the patient;

(b) a statement of the least restrictive treatment conditions necessary to achieve the purposes of hospitalization;

(c) a description of treatment goals, with a projected timetable for their attainment;

(d) a statement and rationale for the plan of treatment for achieving these goals;

(e) a specification of staff responsibility for attaining each treatment goal;

(f) criteria for release to less restrictive treatment conditions; and

(g) a notation of any therapeutic tasks and labor to be performed by the patient.

(3) Overall development, implementation, and supervision of the treatment plan must be assigned to an appropriate professional person.

(4) The inpatient mental health facility shall periodically reevaluate the patient and revise the individualized treatment plan based on changes in the patient's condition. At a minimum, the treatment plan must be reviewed:

(a) at the time of any transfer within the facility;

(b) at the time of discharge;

(c) upon any major change in the patient's condition;

(d) at the conclusion of the initial estimated length of stay and subsequent estimated lengths of stay;

(e) no less than every 90 days; and

(f) at each of the times specified in subsections (4)(a) through (4)(e), by a treatment team that includes at least one professional person who is not primarily responsible for the patient's treatment plan.

(5) A patient has the right:

(a) to ongoing participation, in a manner appropriate to the patient's capabilities, in the planning of mental health services to be provided and in the revision of the plan;

(b) to a reasonable explanation of the following, in terms and language appropriate to the patient's condition and ability to understand:

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(i) the patient's general mental condition and, if given a physical examination, the patient's physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, or providers of mental health services; and

(c) not to receive treatment established pursuant to the treatment plan in the absence of the patient's informed, voluntary, and written consent to the treatment, except treatment:

(i) during an emergency situation if the treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) permitted under the applicable law in the case of a person committed to a facility by a court.

(6) In the case of a patient who lacks the capacity to exercise the right to consent to treatment described in subsection (5)(c), the right must be exercised on behalf of the patient by a guardian appointed pursuant to the provisions of Title 72, chapter 5.

(7) The department of public health and human services shall develop procedures for initiating limited guardianship proceedings in the case of a patient who appears to lack the capacity to exercise the right to consent described in subsection (5)(c)."

Section 73. Section 53-21-163, MCA, is amended to read:

"53-21-163. Examination following commitment. (1) Within 30 days after a patient is committed to a mental health facility, the professional person in charge of the facility or the professional person's appointed, professionally qualified agent shall reexamine the committed patient and shall determine whether the patient continues to require commitment to the facility and whether a treatment plan complying with this part has been implemented.

(2) If the patient no longer requires commitment to the facility in accordance with the standards for

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1 commitment, the patient must be released immediately without further order of the court unless the patient
2 agrees to continue with treatment on a voluntary basis.

3 (3) If for sound professional reasons a treatment plan has not been implemented, this fact must be
4 reported immediately to the professional person in charge of the facility, to the director of the department of
5 public health and human services, or the director of the department of health services if the facility is the state
6 hospital of Montana mental health nursing care center, to the mental disabilities board of visitors, and to the
7 patient's counsel."

8
9 **Section 74.** Section 53-21-165, MCA, is amended to read:

10 **"53-21-165. Records to be maintained.** Complete patient records must be kept by the mental health
11 facility for the length of time required by rules established by the department of public health and human
12 services, or by rules established by the department of health services if the facility is the state hospital or the
13 Montana mental health nursing care center. All records kept by the mental health facility must be available to
14 any person authorized by the patient in writing to receive these records and upon approval of the authorization
15 by the board. The records must also be made available to any attorney charged with representing the patient or
16 any professional person charged with evaluating or treating the patient. These records must include:

- 17 (1) identification data, including the patient's legal status;
18 (2) a patient history, including but not limited to:
19 (a) family data, educational background, and employment record;
20 (b) prior medical history, both physical and mental, including prior hospitalization;
21 (3) the chief complaints of the patient and the chief complaints of others regarding the patient;
22 (4) an evaluation that notes the onset of illness, the circumstances leading to admission, attitudes,
23 behavior, estimate of intellectual functioning, memory functioning, orientation, and an inventory of the patient's
24 assets in descriptive rather than interpretative fashion;
25 (5) a summary of each physical examination that describes the results of the examination;
26 (6) a copy of the individual treatment plan and any modifications to the plan;
27 (7) a detailed summary of the findings made by the reviewing professional person after each

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periodic review of the treatment plan, required under 53-21-162(4), that analyzes the successes and failures of the treatment program and includes recommendations for appropriate modification of the treatment plan;

(8) a copy of the individualized discharge plan and any modifications to the plan and a summary of the steps that have been taken to implement that plan;

(9) a medication history and status that includes the signed orders of the prescribing physician or advanced practice registered nurse. The staff person administering the medication shall indicate by signature that orders have been carried out.

(10) a summary of each significant contact by a professional person with the patient;

(11) documentation of the implementation of the treatment plan;

(12) documentation of all treatment provided to the patient;

(13) chronological documentation of the patient's clinical course;

(14) descriptions of any changes in the patient's condition;

(15) a signed order by a professional person for any restrictions on visitations and communications;

(16) a signed order by a professional person for any physical restraints and isolation;

(17) a detailed summary of any extraordinary incident in the facility involving the patient, to be entered by a staff member noting that the staff member has personal knowledge of the incident or specifying any other source of information. The summary of the incident must be initialed within 24 hours by a professional person.

(18) a summary by the professional person in charge of the facility or by an appointed agent of the determination made after the 30-day review provided for in 53-21-163."

Section 75. Section 53-21-166, MCA, is amended to read:

"53-21-166. Records to be confidential -- exceptions. All information obtained and records prepared in the course of providing any services under this part to individuals under any provision of this part are confidential and privileged matter and must remain confidential and privileged after the individual is discharged from the facility. Except as provided in Title 50, chapter 16, part 5, information and records may be disclosed only:

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(1) in communications between qualified professionals in the provision of services or appropriate referrals;

(2) when the recipient of services designates persons to whom information or records may be released or if a recipient of services is a ward and the recipient's guardian or conservator designates in writing persons to whom records or information may be disclosed. However, this section may not be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information that has been given to the physician, psychologist, social worker, nurse, attorney, or other professional person in confidence by members of a patient's family.

(3) to the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which a recipient may be entitled;

(4) for research if the department of public health and human services has promulgated rules for the conduct of research. Rules must include but are not limited to the requirement that all researchers shall sign an oath of confidentiality.

(5) to the courts as necessary for the administration of justice;

(6) to persons authorized by an order of court, after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the rules of civil procedure;

(7) to members of the mental disabilities board of visitors or their agents when necessary to perform their functions as set out in 53-21-104;

(8) to the state protection and advocacy program for individuals with mental illness when necessary to comply with 53-21-107(9); and

(9) to the mental health ombudsman when necessary to perform the ombudsman functions as provided in 2-15-210."

Section 76. Section 53-21-194, MCA, is amended to read:

"53-21-194. Department of public health and human services licensure of behavioral health inpatient facilities -- rulemaking authority -- transfer criteria. (1) The department of public health and

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1 human services may license behavioral health inpatient facilities to provide inpatient psychiatric care to persons
2 involuntarily committed or detained under this title or to persons seeking treatment voluntarily.

3 (2) The department of public health and human services shall adopt rules:

4 (a) ~~governing the qualifications for licensure of behavioral health inpatient facilities; and~~
5 and

6 (b) establishing criteria pursuant to subsection (5) for admission to a behavioral health inpatient
7 facility.

8 ~~(b) establishing criteria pursuant to subsection (4) for admission to a behavioral health inpatient~~
9 ~~facility or transfer of a patient from a behavioral health inpatient facility to the state hospital.~~

10 (3) The rules for licensure must provide standards for the protection of the health and safety of
11 persons committed to or detained in a behavioral health inpatient facility, including:

12 (a) requirements for medical stability;

13 (b) maximum length of stay;

14 (c) staffing levels and qualifications;

15 (d) building code classifications for occupancy; and

16 (e) security.

17 (4) The department of health services shall adopt rules establishing criteria pursuant to subsection
18 ~~(5) for admission to a behavioral health inpatient facility or transfer of a patient from a behavioral health~~
19 ~~inpatient facility to the state hospital.~~

20 ~~(4)(5)~~ The criteria for admission or transfer of an individual must reflect:

21 (a) individualized consideration of the patient's treatment needs and the safety of the public,
22 including the prospects for the patient's successful transition to community care within the current period of
23 commitment;

24 (b) the appropriateness of specialized programs or facilities at the state hospital; and

25 (c) the recommendations of the individual's treating professionals or state hospital staff.

26 ~~(5)(6)~~ The department of health services shall provide notice to the district courts and professional
27 persons of the designation of any mental health facility as a behavioral health inpatient facility, the facility's

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1 capacity, and the criteria for admission and transfer."

2

3 **Section 77.** Section 53-21-401, MCA, is amended to read:

4 **"53-21-401. Legislative intent -- definition.** (1) It is the intent of the legislature that geriatric patients
5 at the Montana state hospital and geriatric residents of the state who may be at risk of commitment to the
6 Montana state hospital and who do not need intensive psychiatric care receive care and treatment in nursing
7 homes located in community settings.

8 (2) It is the further intent of the legislature that nursing homes providing such care and treatment
9 be located regionally so that the residents may be near their homes and families.

10 (3) It is the further intent of the legislature that these nursing homes must be located in
11 communities with:

12 (a) a labor pool large enough to ensure adequate and qualified staffing;

13 (b) sufficient medical facilities and medical professionals to provide necessary medical services;

14 and

15 (c) if possible, an institution or institutions of higher learning with educational programs in
16 disciplines with relevance to the problems of aging.

17 (4) It is the further intent of the legislature to:

18 (a) end the involuntary commitment of individuals who have a primary diagnosis of Alzheimer's
19 disease, other forms of dementia, or traumatic brain injury when those individuals meet only the commitment
20 criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B); and

21 (b) develop, based on consultation and collaboration between providers and, the department of
22 health services, and the department, services in the community for those individuals.

23 (5) For the purposes of this part, "department" means the department of public health and human
24 services established in 2-15-2201."

25

26 **Section 78.** Section 53-21-403, MCA, is amended to read:

27 **"53-21-403. Placement of individuals with Alzheimer's disease, other forms of dementia, or**

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1 **traumatic brain injury -- direction to department.** To accomplish the intent of 53-21-401(4), the legislature
2 directs the department to:

3 (1) by June 30, 2025, develop and implement a plan to ensure the availability of community-based
4 services for individuals with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic
5 brain injury who might otherwise be at risk of involuntary commitment;

6 (2) collaborate with the ~~department of health services and the~~ transition review committee provided
7 for in 53-21-404 to identify the community-based services needed to ensure that individuals with those
8 diagnoses can be safely and effectively served in the community;

9 (3) transfer funds as authorized by 17-7-139, 53-21-406, and federal laws and regulations to
10 develop the services needed in the community; and

11 (4) by June 30, 2025, transition out of the Montana state hospital and into community services the
12 Montana state hospital patients whose primary diagnosis involves Alzheimer's disease, other forms of
13 dementia, or traumatic brain injury and who meet only the commitment criteria of 53-21-126(1)(a) or (1)(d)(i)(B).
14 As part of this transition, the legislature intends for the department to actively pursue the timely discharge of
15 those Montana state hospital patients."

16
17 **Section 79.** Section 53-21-406, MCA, is amended to read:

18 **"53-21-406. Certain transfers of funds authorized.** Funds ~~In collaboration with the department of~~
19 ~~health services department of public health and human services,~~ funds appropriated ~~to the department of health~~
20 ~~services~~ to the department for the operation of the Montana state hospital may be used for carrying out the
21 purposes of 53-21-403 if:

22 (1) Montana state hospital patients are transferred to a community-based nursing home or other
23 community setting that results in lower expenditures than allowed by legislative appropriation; and

24 (2) a transfer of appropriations between programs is:

25 (a) made as provided in 17-7-139; and

26 (b) approved by the governor."
27

Section 80. Section 53-21-407, MCA, is amended to read:

"53-21-407. Limitation on expenditures. For the biennium beginning July 1, 2023, the department of health services and the department of public health and human services may coordinate and may spend up to \$9 million a year to place individuals with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury in a community setting rather than at the Montana state hospital when those individuals meet only the commitment criteria of 53-21-126(1)(a) or (1)(d)(i)(B)."

Section 81. Section 53-21-411, MCA, is amended to read:

"53-21-411. Location and function of Montana mental health nursing care center. (1) The institution located at Lewistown is the Montana mental health nursing care center. The primary function of the center is the care and treatment of persons with mental disorders who require nursing care. Priority must be given to patients referred from the Montana state hospital.

(2) Appropriate admissions to the Montana mental health nursing care center are persons who are unable to maintain themselves in their homes or communities due to a mental disorder, as defined in 53-21-102, but who do not require the intensity of treatment available at the Montana state hospital.

(3) The ~~department of public health and human services~~ department of health services may adopt rules concerning specific admission criteria, treatment, and discharge procedures consistent with 53-21-414 and subsections (1) and (2) of this section."

Section 82. Section 53-21-413, MCA, is amended to read:

"53-21-413. Discharge and transfer of patients. (1) The superintendent of the Montana mental health nursing care center may authorize the discharge of a patient residing at the center according to rules adopted by the ~~department of public health and human services~~ department of health services. Rules adopted by the department of health services governing discharge from the center must be consistent with 53-21-111, 53-21-181, and 53-21-183.

(2) A patient in the center who requires the intensity of treatment available at the Montana state hospital may be transferred to the Montana state hospital if the patient is subject to an involuntary commitment.

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1 The department of health services shall notify the patient, the patient's next of kin, and the mental disabilities
2 board of visitors at least 15 days before the transfer. If a person or entity notified by the department of health
3 services objects to the transfer, the person or entity may petition the district court for a hearing to review
4 whether the transfer is necessary and appropriate to meet the needs of the patient. The notice required by this
5 subsection must include notification of the right to petition the district court pursuant to this subsection. Notice
6 pursuant to this subsection does not preclude transfer pursuant to 53-21-130."

7
8 **Section 83.** Section 53-21-414, MCA, is amended to read:

9 **"53-21-414. Admissions to mental health nursing care center.** (1) The Montana mental health
10 nursing care center may admit patients on a voluntary basis according to admission criteria and procedures
11 established in administrative rules and by involuntary commitment pursuant to 53-21-127(3)(c).

12 (2) A patient involuntarily committed to the Montana state hospital may be transferred by the
13 ~~department of public health and human services~~ department of health services to the Montana mental health
14 nursing care center if the patient meets the admission criteria of the center. The department of health services
15 shall notify the patient, the patient's next of kin, ~~the department~~, and the mental disabilities board of visitors at
16 least 15 days before the transfer. If a person or entity notified by the department of health services objects to
17 the transfer, the person or entity may petition the district court for a hearing to review whether the transfer is
18 necessary and appropriate to meet the needs of the patient. The notice required by this subsection must
19 include notification of the right to petition the district court pursuant to this subsection. Section 53-21-128
20 applies to extensions of involuntary commitment of patients to the center.

21 (3) Except as provided in 53-21-413(2) and subsection (2) of this section, patients involuntarily
22 transferred to the center have the rights provided in this chapter."

23
24 **Section 84.** Section 53-21-508, MCA, is amended to read:

25 **"53-21-508. Monitoring of children's mental health outcomes -- report.** (1) Each September and
26 March, the department of public health and human services shall measure factors, specific to a point in time, for
27 children receiving targeted case management services in the state-funded children's mental health system to

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1 determine the effect of the services on the likelihood the children will remain at home, in school, and out of
2 trouble.

3 (2) The department of public health and human services shall monitor the following factors to
4 determine whether children receiving targeted case management services are able to remain at home:

5 (a) the number of children placed in out-of-home mental health treatment, including the level and
6 type of care and whether the treatment is provided in state or out of state; and

7 (b) the number of children placed in a foster care setting, including kinship care, or a correctional
8 setting.

9 (3) The department of public health and human services shall monitor the following factors related
10 to the school success of a child receiving targeted case management services:

11 (a) the number of children enrolled in and attending school; and

12 (b) the number of children who advanced to the next grade level from the previous school year.

13 (4) The department of public health and human services shall monitor the following additional
14 factors for children receiving targeted case management services:

15 (a) the number of children receiving treatment for substance use;

16 (b) the number of children screened for substance use disorders by the current case management
17 provider;

18 (c) the number of children involved, formally or informally, with youth court; and

19 (d) the number of children in care or treatment related to suicide risk.

20 (5) The department of public health and human services shall report annually to the children,
21 families, health, and human services interim committee in accordance with 5-11-210 on the information
22 required under this section."

23
24 **Section 85.** Section 53-21-601, MCA, is amended to read:

25 **"53-21-601. Location and primary function of hospital.** (1) The facility providing mental health care
26 services at Warm Springs, Montana, is the Montana state hospital and as its primary function provides care and
27 treatment of mentally ill persons.

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(2) (a) The Montana state hospital is a mental health facility, as defined in 53-21-102, of the ~~department of public health and human services~~ department for the care and treatment of mentally ill persons.

(b) The role of the Montana state hospital is to provide intensive inpatient psychiatric services, including those services necessary for transition to community care, as components in a comprehensive continuum of publicly and privately provided programs that emphasize treatment in the least restrictive environment.

(c) The mission of the Montana state hospital is to stabilize persons with severe mental illness and to return them to the community as soon as possible if adequate community-based support services are available.

(3) The department shall adopt rules to manage the state hospital patient population in a manner that will ensure emergency access to services, protect public and individual safety, provide active treatment, implement effective discharge planning, and ensure access to appropriate community-based services."

Section 86. Section 53-21-701, MCA, is amended to read:

"53-21-701. Mental health managed care allowed -- contract -- definition. (1) The department of ~~public health and human services~~ may contract with one or more persons for the management of comprehensive mental health services for medicaid recipients, as provided in 53-6-116, and for persons in households not eligible for medicaid with family income that does not exceed 160% of the federal poverty threshold or that does not exceed a lesser amount determined in the discretion of the department. The department shall determine whether or not a potential contractor that will serve medicaid enrollees is a managed health care entity, as defined in 53-6-702, prior to entering into a contract and shall ensure that each contractor that qualifies as a managed health care entity complies with the provisions of Title 53, chapter 6, part 7, for the medicaid portion of the program.

(2) A managed care system is a program organized to serve the mental health needs of recipients in an efficient and cost-effective manner by managing the receipt of comprehensive mental health care and services for a geographical or otherwise defined population of recipients through appropriate health care professionals. The management of mental health care services must provide for services in the most cost-

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1 effective manner through coordination and management of the appropriate level of care and appropriate level of
2 services.

3 (3) The department may enter into one or more contracts with a managed health care entity for the
4 administration or delivery of mental health services. These contracts may be based upon a fixed monetary
5 amount or a capitated amount for each individual, and a contractor may assume all or a part of the financial risk
6 of providing and making payment for services to a set population of eligible individuals if the contractor has
7 complied with Title 33, chapter 31, and Title 53, chapter 6, part 7. The department may require the participation
8 of recipients in managed care systems based upon geographical, financial, medical, or other factors that the
9 department may determine are relevant to the development and efficient operation of the managed care
10 systems. Any contract for delivery of mental health care services that includes hospitalization or physician
11 services, or both, must include a provision that, prior to final award of a contract, a successful bidder that
12 serves adults shall enter into an agreement regarding the Montana state hospital and the Montana mental
13 health nursing care center that is consistent with 53-1-402, 53-1-413, and 90-7-312 and that includes financial
14 incentives for the development and use of community-based services, rather than the use of the state
15 institutional services.

16 (4) The department shall formally evaluate contract performance with regard to specific outcome
17 measures. The department shall explicitly identify performance and outcome measures that contractors are
18 required to achieve in order to comply with contract requirements and to continue the contract. The contract
19 must provide for progressive intermediate sanctions that may be imposed for nonperformance. The contract
20 performance evaluation must include a section concerning contract enforcement, including any sanctions
21 imposed along with the rationale for not imposing a sanction when the imposition is authorized. The evaluation
22 must be performed at least annually.

23 (5) For the purposes of this part, "department" means the department of public health and human
24 services."

26 **Section 105.** ~~Section 53-21-702, MCA, is amended to read:~~

27 ~~"53-21-702. Mental health care system -- eligibility -- services -- advisory council. (1) The~~

~~department of public health and human services shall develop a delivery system of mental health care from providers or other entities that are able to provide administration or delivery of mental health services. The public mental health care system shall:~~

~~(a) — include specific outcome and performance measures for the administration or delivery of a continuum of mental health services;~~

~~(b) — provide for local advisory councils that shall report to and meet on a regular basis with the advisory council provided for in subsection (4);~~

~~(c) — provide level-of-care appeals that are understandable and accessible; and~~

~~(d) — provide a system for tracking children who need mental health services that are provided under substantive interagency agreements between state agencies responsible for addictive and mental disorders, foster care, children with developmental disabilities, special education, and juvenile corrections.~~

~~(2) — The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services. The standards of eligibility for mental health services may provide for eligibility for households not eligible for medicaid with family income that does not exceed 160% of the federal poverty threshold or that does not exceed a lesser amount determined at the discretion of the department. The department may by rule specify under what circumstances deductions for medical expenses should be used to reduce countable family income in determining eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged recipients for services. The fees, premiums, or copayments may vary according to family income.~~

~~(3) — The department shall establish the amount, scope, and duration of services to be provided under the program. Services for nonmedicaid-eligible individuals may be more limited than those services provided to medicaid-eligible individuals. Services to nonmedicaid-eligible individuals may include a pharmacy benefit.~~

~~(4) — (a) The department shall form an advisory council, to be known as the mental health oversight advisory council, to provide input to the department in the development and management of any public mental health system. The advisory council is not subject to 2-15-122. The advisory council membership must include:~~

~~(i) — one-half of the members as consumers of mental health services, including persons with~~

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~~serious mental illnesses who are receiving public mental health services, other recipients of mental health services, former recipients of public mental health services, and immediate family members of recipients of mental health services; and~~

~~(ii)——advocates for consumers or family members of consumers, members of the public at large, providers of mental health services, legislators, and department representatives.~~

~~(b)——The advisory council under this section may be administered so as to fulfill any federal advisory council requirements to obtain federal funds for this program.~~

~~(c)——Geographic representation must be considered when appointing members to the advisory council in order to provide the widest possible representation."~~

Section 87. Section 53-21-1001, MCA, is amended to read:

"53-21-1001. Definitions. As used in this part, the following definitions apply:

(1) "Community mental health center" means a licensed mental health center that provides comprehensive public mental health services in a multicounty region under contract with the department, counties, or one or more service area authorities.

~~(2)~~ "Department" means the department of public health and human services.

~~(2)(3)~~ "Licensed mental health center" means an entity licensed by the department of public health and human services to provide mental health services and has the same meaning as mental health center as defined in 50-5-101.

~~(3)(4)~~ "Service area" means a region of the state as defined by the department by rule within which mental health services are administered.

~~(4)(5)~~ "Service area authority" means an entity, as provided for in 53-21-1006, that has incorporated to collaborate with the department for the planning and oversight of mental health services within a service area."

Section 88. Section 53-21-1101, MCA, is amended to read:

"53-21-1101. Suicide prevention officer -- duties -- definition. (1) The department shall implement

1 a suicide prevention program administered by a suicide prevention officer attached to the division responsible
2 for administering adult mental health services. The program must be informed by the best available evidence.

3 (2) The suicide prevention officer shall:

4 (a) coordinate all suicide prevention activities being conducted for both children and adults by all
5 divisions within the department and coordinate with any suicide prevention activities that are conducted by
6 other state agencies, including the office of the superintendent of public instruction, the department of
7 corrections, the department of military affairs, the university system, and other stakeholders;

8 (b) develop a biennial suicide reduction plan in accordance with 53-21-1102 that addresses
9 reducing suicides by Montanans of all ages, ethnic groups, and occupations;

10 (c) request from the prescription drug registry provided for in 37-7-1502 a list of all controlled
11 substances dispensed to each person whose death was ruled to be a suicide;

12 (d) report to the legislature annually, in accordance with 5-11-210 and subsection (3) of this
13 section, on the toxicology information submitted by county coroners and the prescription drug registry
14 information regarding the medications prescribed to individuals whose manner of death was ruled to be a
15 suicide; and

16 (e) direct a statewide suicide prevention program with activities based on the best available
17 evidence that include but are not limited to:

18 (i) conducting statewide communication campaigns aimed at normalizing the need for all
19 Montanans to address their mental health and utilizing both paid and free media, including digital and social
20 media, and including input from government agencies, school representatives from elementary schools through
21 higher education, mental health advocacy groups, veteran groups, and other relevant nonprofit organizations;

22 (ii) initiating, in partnership with Montana's tribes and tribal organizations, communication and
23 training that is culturally appropriate and utilizes the modalities best suited for Indian country;

24 (iii) seeking opportunities for research that will improve understanding of suicide in Montana and
25 provide increased suicide-related services;

26 (iv) training for medical professionals, military personnel, school personnel, social service
27 providers, and the general public on recognizing the early warning signs of suicidality, depression, and other

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1 mental illnesses as well as actions, based on the best available evidence, to take during and after a crisis;
2 (v) identifying and using available resources, which may include providing grants to entities,
3 including but not limited to tribes, tribal and urban health organizations, local governments, schools, health care
4 providers, professional associations, and other nonprofit and community organizations, for development or
5 expansion of evidence-based suicide prevention programs in accordance with the requirements of 53-21-1111;
6 (vi) building a multifaceted, lifespan approach to suicide prevention; and
7 (vii) obtaining, analyzing, and reporting program evaluation data, quality health outcomes, and
8 suicide morbidity and mortality data, subject to existing confidentiality protections for the data.

9 (3) The suicide prevention officer may coordinate with appropriate department personnel in
10 preparing the report required under subsection (2)(d). The report may contain only deidentified information.

11 (4) For the purposes of this part, "department" means the department of public health and human
12 services."

13
14 **Section 89.** Section 53-21-1202, MCA, is amended to read:

15 **"53-21-1202. Crisis intervention programs -- rulemaking authority -- definition.** (1) The
16 department shall, subject to available appropriations for the purposes of this part, establish crisis intervention
17 programs. The programs must be designed to provide 24-hour emergency admission and care of persons
18 suffering from a mental disorder and requiring commitment in a temporary, safe environment in the community
19 as an alternative to placement in jail.

20 (2) The department shall provide information and technical assistance regarding needed services
21 and assist counties and federally recognized tribal governments in developing plans for crisis intervention
22 services and for the provision of alternatives to jail placement.

23 (3) The department ~~shall coordinate with the department of public health and human services to~~
24 ~~provide crisis intervention programs. The department of public health and human services~~ may provide crisis
25 intervention programs as:

26 (a) a rehabilitative service under 53-6-101(4)(j); and

27 (b) a targeted case management service authorized in 53-6-101(4)(o).

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(4) The department shall adopt rules to:

(a) implement the grant program provided for in 53-21-1203;

(b) contract for detention beds pursuant to 53-21-1204; and

(c) pay for short-term inpatient treatment that is provided pursuant to 53-21-1205.

(5) As used in this part, "department" means the department of public health and human services."

Section 90. Section 53-21-1401, MCA, is amended to read:

"53-21-1401. Definitions. As used in this part, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Crisis" means a serious, unexpected situation resulting from an individual's apparent mental illness in which the individual's symptoms are of sufficient severity, as determined by a mental health practitioner, to require immediate care to avoid:

(a) jeopardy to the life or health of the individual; or

(b) death or bodily harm to the individual or to others.

(3) "Crisis stabilization" means development and implementation of a short-term intervention to respond to a crisis in order to:

(a) reduce the severity of an individual's symptoms of mental illness; and

(b) attempt to prevent the individual from receiving services in a more restrictive environment.

(4) "Crisis stabilization services" or "services" means the services allowed under 53-21-1403.

(5) "Department" means the department of public health and human services.

(5)(6) "Presumptive eligibility" means a period of up to 72 hours after an individual is found to be in crisis and during which the individual is presumed to be eligible for crisis stabilization services that will be reimbursed by the department."

~~**Section 107.** Section 53-22-102, MCA, is amended to read:~~

~~**"53-22-102. Compact administrator.** The director of the department of public health and human services department of health services is the compact administrator and may make any rules necessary for the~~

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~~administration of the compact. The director shall cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the Interstate Compact on Mental Health or of any supplementary agreement or agreements entered into thereunder by this state."~~

Section 108. ~~Section 53-22-104, MCA, is amended to read:~~

~~"53-22-104. Annual budget. The department of public health and human services department of health services in its annual budget shall include amounts necessary to discharge the financial obligations incurred by it to carry out the purposes of the Interstate Compact on Mental Health."~~

Section 109. ~~Section 53-24-103, MCA, is amended to read:~~

~~"53-24-103. Definitions. For purposes of this chapter, the following definitions apply:~~

~~(1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal relationships, or economic function of the individual or public health, welfare, or safety.~~

~~(2) "Approved private treatment facility" means a private agency that has as its function the treatment, rehabilitation, and prevention of chemical dependency, that meets the standards prescribed in 53-24-208(1), and that is approved under 53-24-208.~~

~~(3) "Approved public treatment facility" means:~~

~~(a) a treatment agency operating under the direction and control of the department as a state agency and approved under 53-24-208; or~~

~~(b) a treatment agency operating under the direction and control of a local government and approved under 53-24-208.~~

~~(4) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, welfare, or safety.~~

~~(5) "Commission on accreditation of rehabilitation facilities" means the organization nationally~~

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~~recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.~~

~~(6) — "Department" means the department of public health and human services department of health services provided for in 2-15-2201 [section 1].~~

~~(7) — "Family member" is the spouse, mother, father, child, or member of the household of a chemically dependent person whose life has been affected by the actions of the chemically dependent person and who may require treatment.~~

~~(8) — "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has judgment otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to a need for treatment.~~

~~(9) — "Incompetent person" means a person who has been adjudged incompetent by the district court.~~

~~(10) — "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.~~

~~(11) — "Prevention" has meaning on four levels; these are:~~

~~(a) — education to provide information to the school children and general public relating to chemical dependency treatment and rehabilitative services and to reduce the consequences of life experiences acquired by contact with a chemically dependent person;~~

~~(b) — early detection and recovery from the illness before lasting emotional or physical damage, or both, have occurred;~~

~~(c) — if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full disability has been reached;~~

~~(d) — the provision of facility requirements to meet division program standards and improve public accessibility for services.~~

~~(12) — "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services~~

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~~and in which the major portion of the services is furnished within the facility.~~

~~(13) — "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to chemically dependent persons, intoxicated persons, and family members."~~

Section 110. ~~Section 53-24-106, MCA, is amended to read:~~

"53-24-106. — Criminal laws limitation. (1) A county, municipality, or other political subdivision may not adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) — ~~This section does not affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, a boat, machinery, or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.~~

(3) — ~~This section does not prevent the department of public health and human services from imposing a sanction on or denying eligibility to applicants for or recipients of public assistance who fail or refuse to comply with all eligibility criteria and program requirements."~~

Section 111. ~~Section 53-24-108, MCA, is amended to read:~~

"53-24-108. — Use of funds generated by taxation on alcoholic beverages. (1) Revenue generated by 16-1-404, 16-1-406, and 16-1-411 and allocated to the department to be used in state-approved private or public programs whose function is the treatment, rehabilitation, and prevention of alcoholism, which for the purposes of this section includes chemical dependency, must be distributed as follows:

(a) — ~~20% is statutorily appropriated, as provided in 17-7-502, to be allocated as provided in 53-24-206(3)(b), and must be distributed as grants to state-approved private or public alcoholism programs;~~

(b) — ~~6.6% is statutorily appropriated, as provided in 17-7-502, to be distributed to state-approved~~

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~~private or public alcoholism programs that provide services for treatment and rehabilitation for persons with co-occurring serious mental illness and chemical dependency; and~~

~~(c) — the remainder of funds not statutorily appropriated in subsections (1)(a) and (1)(b) may be distributed:~~

~~(i) — as payment of fees for alcoholism services provided by state-approved private or public alcoholism programs and licensed hospitals for detoxification services; or~~

~~(ii) — as matching funds for the Montana medicaid program administered by the department of public health and human services that are used for alcoholism and chemical dependency programs.~~

~~(2) — A person operating a state-approved alcoholism program may not be required to provide matching funds as a condition of receiving a grant under subsection (1)(a).~~

~~(3) — In addition to funding received under this section, a person operating a state-approved alcoholism program may accept gifts, bequests, or the donation of services or money for the treatment, rehabilitation, or prevention of alcoholism.~~

~~(4) — A person receiving funding under this section to support operation of a state-approved alcoholism program may not refuse alcoholism treatment, rehabilitation, or prevention services to a person solely because of that person's inability to pay for those services.~~

~~(5) — A grant made under this section is subject to the following conditions:~~

~~(a) — The grant application must contain an estimate of all program income, including income from earned fees, gifts, bequests, donations, and grants from other than state sources during the period for which grant support is sought.~~

~~(b) — Whenever, during the period of grant support, program income exceeds the amount estimated in the grant application, the amount of the excess must be reported to the grantor.~~

~~(c) — The excess must be used by the grantee under the terms of the grant in accordance with one or a combination of the following options:~~

~~(i) — use for any purpose that furthers the objectives of the legislation under which the grant was made; or~~

~~(ii) — to allow program growth through the expansion of services or for capital expenditures~~

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~~necessary to improve facilities where services are provided.~~

~~(6) — Revenue generated by 16-1-404, 16-1-406, and 16-1-411 for the treatment, rehabilitation, and prevention of alcoholism that has not been encumbered for those purposes by the counties of Montana or the department must be returned to the state special revenue fund for the treatment, rehabilitation, and prevention of alcoholism within 30 days after the close of each fiscal year and must be distributed by the department the following year as provided in 53-24-206(3)(b)."~~

Section 112. ~~Section 53-24-302, MCA, is amended to read:~~

"53-24-302. — Involuntary commitment of alcoholics — rights. (1) A person may be committed to the custody of the department by the district court upon the petition of the person's spouse or guardian, a relative, the certifying physician, or the chief of any approved public treatment facility. The petition must allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages and that the person has threatened, attempted, or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another or is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition must be accompanied by a certificate of a licensed physician who has examined the person within 2 days before submission of the petition unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal must be alleged in the petition. The certificate must set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or the department is not eligible to be the certifying physician.

(2) — Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, must be served on the petitioner, the person whose commitment is sought, the person's next of kin other than the petitioner, a parent or the person's legal guardian if the person is a minor, the administrator in charge of the approved public treatment facility to which the person has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate must be delivered to each person notified.

~~(3) — At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person has a right to have a licensed physician of the person's own choosing conduct an examination and testify on the person's behalf. If the person has no funds with which to pay the physician, the reasonable costs of one examination and testimony must be paid by the county. The person must be present unless the court believes that the person's presence is likely to be injurious to the person. The court shall examine the person in open court or, if advisable, shall examine the person in chambers. If the person refuses an examination by a licensed physician and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may make a temporary order committing the person to the department for a period of not more than 5 days for purposes of a diagnostic examination.~~

~~(4) — If after hearing all relevant evidence, including the results of any diagnostic examination by the department of public health and human services, the court finds that grounds for involuntary commitment have been established by clear and convincing evidence, it shall make an order of commitment to the department. The court may not order commitment of a person unless it determines that the department is able to provide adequate and appropriate treatment for the person and that the treatment is likely to be beneficial.~~

~~(5) — A person committed under this section must remain in the custody of the department for treatment for a period of 40 days unless sooner discharged. At the end of the 40-day period, the person must automatically be discharged unless before expiration of the period the department obtains a court order from the district court of the committing district for the person's recommitment upon the grounds set forth in subsection (1) for a further period of 90 days unless sooner discharged. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists.~~

~~(6) — A person recommitted under subsection (5) who has not been discharged by the department before the end of the 90-day period must be discharged at the expiration of that period unless before expiration of the period the department obtains a court order from the district court of the committing district on the grounds set forth in subsection (1) for recommitment for a further period not to exceed 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the department~~

~~shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsections (5) and (6) are permitted.~~

~~(7) — Upon the filing of a petition for recommitment under subsection (5) or (6), the court shall fix a date for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, must be served on the petitioner, the person whose commitment is sought, the person's next of kin other than the petitioner, the original petitioner under subsection (4) if different from the petitioner for recommitment, one of the person's parents or the person's legal guardian if the person is a minor, and any other person the court believes advisable. At the hearing, the court shall proceed as provided in subsection (3).~~

~~(8) — A person committed to the custody of the department for treatment must be discharged at any time before the end of the period for which the person has been committed if either of the following conditions is met:~~

~~(a) — in case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that the person is no longer in need of treatment or the likelihood no longer exists; or~~

~~(b) — in case of an alcoholic committed on the grounds of incapacity and the need of treatment, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.~~

~~(9) — The court shall inform the person whose commitment or recommitment is sought of the person's right to contest the application, be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and have assigned counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, if the person wants the assistance of counsel and is unable to obtain private counsel. If the court believes that the person needs the assistance of counsel, the court shall order the office of state public defender, provided for in 2-15-1029, to assign counsel for the person regardless of the person's wishes. The person whose commitment or recommitment is sought must be informed of the right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.~~

~~(10) — If a private treatment facility agrees with the request of a competent patient or the patient's~~

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~~parent, sibling, adult child, or guardian to accept the patient for treatment, the department may transfer the patient to the private treatment facility.~~

~~(11)——A person committed under this section may at any time seek to be discharged from commitment by writ of habeas corpus or other appropriate means.~~

~~(12)——The venue for proceedings under this section is the place in which the person to be committed resides or is present."~~

Section 113. Section 53-24-310, MCA, is amended to read:

"53-24-310. Definitions. As used in 53-24-310 through 53-24-314, unless the context clearly indicates otherwise, the following definitions apply:

(1)——"Alcohol and drug prevention or treatment facility" means a recovery residence, hospital, health or counseling center, or other entity providing alcohol and drug services.

(2)——"Alcohol and drug services" includes evaluation, treatment, residential personal care, habilitation, rehabilitation, counseling, or supervision of persons with substance use disorders or services to persons designed to prevent substance use disorders that either receive funds from the department of public health and human services or assess fees for services provided.

(3)——"Certified recovery residence" means a recovery residence, as defined in subsection (9), that has received certification or another form of approval from a certifying organization, as defined in subsection (4).

(4)——"Certifying organization" means a recovery residence standards organization or an affiliate of a recovery residence standards organization that operates in the state of Montana and is recognized by the department of public health and human services department.

(5)——"Informed consent" means voluntary consent by an individual to a placement in a certified recovery residence only after full disclosure by a judge, justice of the peace, or magistrate of the following information:

(a)——any limitations or prohibitions against narcotic medication associated with the certified recovery residence; and

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~~(b) — whether United States food and drug administration-approved medication-assisted treatment of substance use disorders, including the use of buprenorphine and suboxone, is limited or prohibited.~~

~~(6) — "Levels of care" means the continuum of support ranging from nonclinical recovery residences to licensed clinical treatment.~~

~~(7) — "Minor" means an individual under 18 years of age without regard to sex.~~

~~(8) — "Qualified health care provider" means a person licensed as a physician, psychologist, social worker, clinical professional counselor, marriage and family therapist, addiction counselor, or another appropriate licensed health care practitioner.~~

~~(9) — "Recovery residence" means a sober living home with a safe, family-like environment that promotes recovery from substance use disorders through services including but not limited to peer support, mutual support groups, and recovery services.~~

~~(10) — "Sober" means free of alcohol and drugs, except for prescription medications taken as directed by a licensed prescriber, including medications approved by the United States food and drug administration for the treatment of opioid use disorder.~~

~~(11) — (a) "Substance use disorder" means the use of any chemical substance, legal or illegal, that creates behavioral or health problems, or both, resulting in operational impairment.~~

~~(b) — This term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, safety, or welfare."~~

Section 114. Section 53-24-311, MCA, is amended to read:

"53-24-311. — Recovery residence requirements. (1) A recovery residence shall register with the department of public health and human services department.

(2) — A recovery residence may seek certification from a certifying organization.

(3) — A recovery residence must have policies and protocols for the following:

(a) — administrative oversight;

(b) — quality standards, including if the recovery residence limits or prohibits the use of narcotic medication;

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~~(c) — its residents;~~

~~(d) — emergencies, including fire, natural disasters, and health emergencies, including overdose; and~~

~~(e) — eviction of a resident, including the return of the resident's personal effects and property.~~

~~(4) — A recovery residence must meet state and municipal requirements that apply to a residence's dwelling size and occupancy, including but not limited to safety requirements, building codes, zoning regulations, and local ordinance requirements.~~

~~(5) — A recovery residence shall keep opioid-overdose drugs on site in an easily accessible place and train staff and residents on the use of opioid-overdose drugs.~~

~~(6) — Minor children of residents may reside with their parent in a certified recovery residence if allowed in the residence's policies and protocols and if the residence maintains an environment consistent with the welfare of minor residents.~~

~~(7) — The recovery residence may not limit a resident's duration of stay to an arbitrary or fixed amount of time unless all transition and completion dates are agreed on by both parties at the time of admission. Each resident's duration of stay is determined by the resident's needs, progress, and willingness to abide by the recovery residence's protocols in collaboration with the recovery residence's owner and operator and, if appropriate, in consultation with a qualified health care provider.~~

~~(8) — The recovery residence may permit residents to receive medication-assisted treatment.~~

~~(9) — (a) Each recovery residence shall provide an annual compliance report to the certifying organization, including a description of any programming and services designed to reduce recidivism and facilitate rehabilitation among residents during the year covered by the report and the number of residents for whom such services were provided.~~

~~(b) — The certifying organization shall provide an annual compliance report, including a description of any programming and services designed to reduce recidivism and facilitate rehabilitation among residents during the year covered by the report and the number of residents for whom such services were provided, in accordance with 5-11-210, to the criminal justice oversight council."~~

Section 115. Section 53-24-313, MCA, is amended to read:

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~~"53-24-313. Powers and duties of department of public health and human services department -- annual county report. (1) The department of public health and human services department shall:~~

~~(a) — maintain a registry of recovery residences in the state;~~

~~(b) — include on its website a public-facing list of certifying organizations that operate in the state and are recognized by the department;~~

~~(c) — include on its website a public-facing list of recovery residences in the state that indicates which recovery residences are certified recovery residences; and~~

~~(d) — ensure that it supports several sets of certification standards from various certifying organizations to accommodate various program models.~~

~~(2) — (a) By the date and on a form prescribed by the department, each county shall submit to the department an annual report of known recovery residences in the county.~~

~~(b) — A report must contain the following information for each known recovery residence:~~

~~(i) — the name of the recovery residence;~~

~~(ii) — the physical and mailing addresses of the recovery residence;~~

~~(iii) — the name and contact information of the owner of the recovery residence; and~~

~~(iv) — additional information when available, including:~~

~~(A) — the name and contact information of the recovery residence manager or other leadership staff;~~

~~(B) — the population served by the recovery residence;~~

~~(C) — whether the recovery residence limits or prohibits the use of narcotic medication; and~~

~~(D) — other information the county considers pertinent.~~

~~(3) — As permitted by federal and state law, the department shall post the location or physical address of a recovery residence on the department's website."~~

Section 116. Section 53-25-103, MCA, is amended to read:

"53-25-103. Definitions. As used in this chapter, the following definitions apply:

~~(1) — "Account" means an eligible participating account established under this chapter by or on behalf of an eligible individual.~~

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(2) ~~—"Agent" means one of the following persons acting on behalf of a designated beneficiary:~~

(a) ~~—a person acting under a power of attorney; or~~

(b) ~~—if no person holds a power of attorney, a parent or legal guardian of the designated beneficiary.~~

(3) ~~—"Annual contribution limit" means the limit established in section 529A(b)(2) of the Internal Revenue Code, 26 U.S.C. 529A(b)(2).~~

(4) ~~—"Application" means a form executed by or on behalf of a prospective designated beneficiary to enter into a participating trust agreement and open an account. The application incorporates the participating trust agreement by reference.~~

(5) ~~—"Committee" means the achieving a better life experience program oversight committee established in 53-25-105.~~

(6) ~~—"Contribution" means a payment to an account for the benefit of a designated beneficiary.~~

(7) ~~—"Contributor" means a person who makes a contribution to an account for the benefit of a designated beneficiary.~~

(8) ~~—"Department" means the department of public health and human services department of health services provided for in 2-15-2201 [section 1].~~

(9) ~~—"Designated beneficiary" means the eligible individual on whose behalf an account is established.~~

(10) ~~—"Disability certifications" means disability certifications as defined in section 529A(e)(2) of the Internal Revenue Code, 26 U.S.C. 529A(e)(2).~~

(11) ~~—"Eligible individual" means an eligible individual as defined in section 529A(e)(1) of the Internal Revenue Code, 26 U.S.C. 529A(e)(1).~~

(12) ~~—"Financial institution" means a bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment adviser, or other similar entity that is authorized to do business in this state.~~

(13) ~~—"Investment products" means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.~~

(14) ~~—"Member of the family" means, with respect to a designated beneficiary, a member of the family~~

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~~of the designated beneficiary as defined in section 529A(e)(4) of the Internal Revenue Code, 26 U.S.C.~~

~~529A(e)(4).~~

~~(15) — "Nonqualified withdrawal" means a withdrawal from the account that is not:~~

~~(a) — a qualified withdrawal;~~

~~(b) — a withdrawal made as the result of the death of the designated beneficiary of an account; or~~

~~(c) — a rollover distribution or a change of designated beneficiary described in 53-25-111.~~

~~(16) — "Participating trust agreement" means an agreement between a designated beneficiary and the department or its designee that creates a trust interest in the trust and provides for participation in the program.~~

~~(17) — "Program" means the Montana achieving a better life experience program provided for in this chapter and authorized under section 529A of the Internal Revenue Code, 26 U.S.C. 529A.~~

~~(18) — "Program administrator" means the person appointed or contracted by the department to administer the daily operations of the program and provide marketing, recordkeeping, investment management, and other services for the program.~~

~~(19) — "Program manager" means a financial institution that acts on behalf of the trust as provided in 53-25-112.~~

~~(20) — "Qualified disability expenses" means qualified disability expenses as defined in section 529A(e)(5) of the Internal Revenue Code, 26 U.S.C. 529A(e)(5).~~

~~(21) — "Qualified withdrawal" means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account. A qualified withdrawal may be made by the beneficiary or the beneficiary's agent.~~

~~(22) — "Rollover distribution" means a transfer of funds made:~~

~~(a) — from one account in another state's qualified program to an account for the benefit of the same designated beneficiary or an eligible individual who is a family member of the former designated beneficiary; or~~

~~(b) — from one account to another account for the benefit of an eligible individual who is a family member of the former designated beneficiary.~~

~~(23) — "Trust" means the achieving a better life experience savings trust as provided in 53-25-121.~~

~~(24) — "Trustee" means the department in its capacity as trustee of the trust.~~

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(25) — "Trust interest" means a designated beneficiary's interest in the trust created by a participating trust agreement and held for the benefit of the designated beneficiary."

Section 117. Section 53-25-105, MCA, is amended to read:

"53-25-105. — Program oversight committee -- membership -- powers and duties. (1) The department shall establish a program oversight committee under the authority of the department.

(2) — The committee must consist of five six members as follows:

(a) — the director of the department of public health and human services or the director's designee;

(b) — the director of the department or the director's designee;

(b)(c) — the director of the department of administration or the director's designee; and

(c)(d) — three members of the general public, one of whom possesses knowledge, skill, and experience in accounting, risk management, or investment management or as an actuary, one of whom has experience working on behalf of disabled individuals, and one of whom has a disability.

(3) — (a) Except as provided in subsection (3)(b), the governor shall appoint the public members of the committee to staggered terms of 4 years. The members are not subject to senate confirmation.

(b) — The governor shall make the initial appointment of the public members as follows:

(i) — one person to serve a 2-year term;

(ii) — one person to serve a 3-year term; and

(iii) — one person to serve a 4-year term.

(4) — The committee shall select a presiding officer and a vice-presiding officer from among the committee's membership.

(5) — A majority of the membership constitutes a quorum for the transaction of business. The committee shall meet at least once a year, with additional meetings called by the presiding officer.

(6) — The committee:

(a) — shall recommend financial institutions for approval by the department to act as the managers of accounts as provided in 53-25-112; and

(b) — may submit proposed policies to the department to help implement and administer this chapter.

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~~(7) — The committee is allocated to the department for administrative purposes only, as provided in 2-15-121.~~

~~(8) — Members of the committee must be compensated as provided in 2-15-124."~~

Section 118. Section 76-2-411, MCA, is amended to read:

~~"76-2-411. Definition of community residential facility.~~ "Community residential facility" means:

~~(1) — a community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care;~~

~~(2) — a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or youth group home as defined in 52-2-602;~~

~~(3) — a halfway house operated in accordance with regulations of the department of public health and human services department of health services for the rehabilitation of alcoholics or drug dependent persons;~~

~~(4) — a licensed adult foster family care home; or~~

~~(5) — an assisted living facility licensed under 50-5-227."~~

Section 91. Section 87-2-802, MCA, is amended to read:

~~"87-2-802. Veterans in VA hospitals and residents of state institutions and long-term care facilities, nursing care facilities, assisted living facilities, and community homes for persons with disabilities.~~ (1) A veteran who is a patient residing at a hospital operated by the department of veterans affairs, within or outside the state, and residents of all institutions under the jurisdiction of the ~~department of public health and human services~~ department of health services may fish without a license. The residents shall carry a permit on a form prescribed by the department and signed by the superintendent of the institution in lieu of a license.

(2) Upon annual application by managers or directors of licensed long-term care facilities and assisted living facilities as defined in 50-5-101, community homes for persons with developmental disabilities licensed under 53-20-305, and community homes for persons with severe disabilities licensed under 52-4-203,

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1 the department shall allow supervised residents to fish without the otherwise required license during any
2 activities approved by the facilities and homes."

3
4 **Section 92.** Section 90-7-220, MCA, is amended to read:

5 **"90-7-220. Montana developmental center loan.** (1) ~~The department of public health and human~~
6 ~~services~~ department of health services may enter into a loan agreement with the Montana facility finance
7 authority for the purpose of financing the costs of acquiring, constructing, and equipping facilities for persons
8 with developmental disabilities at the Montana developmental center in Boulder, including the establishment of
9 reserves and the payment of costs of the financing. The maximum principal amount of the loan may not exceed
10 \$10.5 million for construction and related costs, plus the necessary amounts for capitalized interest, debt
11 service reserves, and financing costs, and the loan must be payable over a term not to exceed 30 years and
12 must bear interest and contain other terms and provisions with respect to prepayment or otherwise as are not
13 inconsistent with this section and as the department approves. Investment earnings on the authority's bonds or
14 on funds held for the bonds must be used to pay the principal and interest on the loan as provided in the loan
15 agreement.

16 (2) The loan may be secured by a mortgage on the Montana developmental center facility,
17 including the land on which it is located. The loan constitutes a special limited obligation of the department, and
18 the principal and interest payments required by that agreement are payable solely from the facility revenue
19 obtained by the department from the ownership and operation of and the provision of services at the Montana
20 developmental center, including payments or reimbursements from private users, insurers, and the federal
21 government. All facility revenue obtained from services provided by the Montana developmental center must be
22 deposited in a special revenue fund and must be applied to the payment of the principal and interest payments
23 as due under the loan agreement. Whenever facility revenue exceeds the amount and terms specified and
24 required to repay the loan and maintain required reserves, the excess must be used to pay the remainder of the
25 principal and interest of the loan. As long as the loan remains outstanding and the department provides
26 services for persons with developmental disabilities, the department shall use the Montana developmental
27 center for those purposes or for other purposes as permitted by the loan agreement and state law, except when

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1 foreclosure occurs under the agreement or the mortgage. Notwithstanding 77-2-302(1) and upon foreclosure of
2 a mortgage given to secure the loan agreement, there must be paid to the board of land commissioners as a
3 first and prior claim against the mortgaged land an amount equal to the full market value of the land as
4 determined by the board prior to the execution of the mortgage and after appraisal by a qualified land appraiser.
5 The loan agreement may contain other provisions or agreements that the department determines are
6 necessary and that are not inconsistent with the provisions of this chapter.

7 (3) The obligations of the department under the agreement are special limited obligations payable
8 solely from the facility revenue and do not constitute a debt of the state or obligate the state to appropriate or
9 apply any funds or revenue of the state, except the facility revenue as provided in this section."
10

11 **Section 93.** Section 90-7-221, MCA, is amended to read:

12 **"90-7-221. Montana state hospital loan.** (1) ~~The department of public health and human services~~
13 department of health services may enter into a loan agreement with the authority for the purpose of financing
14 the costs of acquiring, constructing, and equipping facilities for the mentally ill at the Montana state hospital in
15 Warm Springs, including the establishment of reserves and the payment of costs of the financing. The
16 maximum principal amount of the loan may not exceed \$21 million for construction and related costs, plus the
17 necessary amounts for capitalized interest, debt service reserves, and financing costs. The loan must be
18 payable over a term not to exceed 25 years and must bear interest and contain other terms and provisions with
19 respect to prepayment or otherwise that are not inconsistent with this section and that the department
20 approves. Investment earnings on the authority's bonds or on funds held for the bonds must be used to pay the
21 principal and interest on the loan as provided in the loan agreement.

22 (2) The loan may be secured by a mortgage on the Montana state hospital facility, including the
23 land on which it is located. The loan constitutes a special limited obligation of the department, and the principal
24 and interest payments required by that agreement are payable from the facility revenue obtained by the
25 department from the ownership and operation of and the provision of services at the Montana state hospital and
26 the Montana mental health nursing care center, including payments or reimbursements from private users,
27 insurers, and the state or federal government. All facility revenue obtained from services provided by the

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1 Montana state hospital and the Montana mental health nursing care center must be deposited in a special
2 revenue fund and must be applied to the payment of the principal and interest payments due under the loan
3 agreement. Whenever the foregoing facility revenue exceeds the amount and terms specified and required to
4 repay the loan and maintain required reserves, the excess must be deposited as provided in 53-1-413. As long
5 as the loan remains outstanding and the state provides services for the mentally ill, the department shall use
6 the Montana state hospital and the Montana mental health nursing care center for those purposes or for other
7 purposes as permitted by the loan agreement and state law, except when foreclosure occurs under the
8 agreement or the mortgage. Notwithstanding the provisions of 77-2-302(1) and upon foreclosure of a mortgage
9 given to secure the loan agreement, there must be paid to the board of land commissioners as a first and prior
10 claim against the mortgaged land an amount equal to the full market value of the land as determined by the
11 board prior to the execution of the mortgage and after appraisal by a qualified land appraiser. The loan
12 agreement may contain other provisions or agreements that the department determines are necessary and that
13 are not inconsistent with the provisions of Title 90, chapter 7.

14 (3) The obligations of the department under the agreement are special limited obligations payable
15 solely from the facility revenue of the Montana state hospital and the Montana mental health nursing care
16 center and do not constitute a debt of the state or obligate the state to appropriate or apply any funds or
17 revenue of the state, except the facility revenue as provided in this section."

18
19 **NEW SECTION. Section 94. Repealer.** The following sections of the Montana Code Annotated are
20 repealed:

21 53-1-604. Responsibility of superintendents of institutions.

22 53-20-214. Certain transfers of funds authorized.

23
24 **NEW SECTION. Section 95. Appropriation.** There is appropriated \$170,000 from the general fund
25 to the department of health services established in [section 1] for the biennium beginning July 1, 2025.

26
27 **NEW SECTION. Section 96. Transition.** (1) The provisions of 2-15-131 through 2-15-137 apply to

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1 [this act].

2 (2) The director of the department of public health and human services and the director of the
3 department of health services shall collaborate and submit a budget proposal to the governor allocating
4 appropriate functions and personnel from the department of public health and human services to the
5 department of health services established in [section 1] to serve the provisions of [this act].

6 (3) The transfer of functions, personnel, and funds from the department of public health and
7 human services to the department of health services must be completed by July 1, 2026.

8

9 **NEW SECTION. Section 97. Executive orders -- directions to code commissioner.** (1) In all
10 legislation enacted by the 2025 legislature that assigns duties or functions to the department of public health
11 and human services, the governor shall by executive order designate the department of public health and
12 human services or the department of health services as the agency to perform each duty or function.

13 (2) The governor shall provide a copy of each executive order to the code commissioner who shall
14 make the changes necessary to reflect the assignment of each duty or function. The code commissioner shall
15 recodify and rearrange material as necessary to reflect the provisions of [this act].

16 (3) (a) The code commissioner is instructed to renumber 2-15-2212 into a new section in a new
17 part in Title 2, chapter 15.

18 (b) The code commissioner is instructed to change internal references within and to the
19 renumbered section in the Montana Code Annotated, including within sections enacted or amended by the
20 2025 legislature, to reflect the new section number assigned to the section pursuant to this section.

21

22 **NEW SECTION. Section 98. Codification instruction.** (1) [Sections 1 through 3] are intended to be
23 codified as a new part in Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [sections 1
24 through 3].

25 (2) [Sections 55 through 57] are intended to be codified as a new part in Title 53, chapter 1, and
26 the provisions of Title 53, chapter 1, apply to [sections 55 through 57].

27

Amendment - 1st Reading/2nd House-blue - Requested by: John Fitzpatrick - (S) Public Health, Welfare and Safety

- 2025

69th Legislature 2025

Drafter: Laura Sherley,

HB0851.001.002

1 NEW SECTION. **Section 99. Saving clause.** [This act] does not affect rights and duties that
2 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

3

4 NEW SECTION. **Section 100. Effective date.** [This act] is effective July 1, 2025.

5

- END -

AMENDED