

SENATE BILL NO. 311

INTRODUCED BY HARDING, MAZUREK, REGAN,
DRISCOLL, GAGE, STICKNEY, BROOKE, THOMAS

IN THE SENATE

FEBRUARY 1, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS. FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0. TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING. FIRST READING.
MARCH 16, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 27, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 97; NOES, 0. RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *311*
 2 INTRODUCED BY *Deirdre Maguire*
 3 *Disini Rep. Attorney Brooke Thomas*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A
 5 SELF-SUFFICIENCY TRUST ACCOUNT TO BE ADMINISTERED BY THE
 6 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO PROVIDE
 7 CARE AND TREATMENT FOR CERTAIN DEVELOPMENTALLY DISABLED,
 8 MENTALLY ILL, OR PHYSICALLY HANDICAPPED PERSONS."
 9

10 STATEMENT OF INTENT

11 This bill requires a statement of intent because
 12 [section 3] grants rulemaking authority to the department of
 13 social and rehabilitation services to administer the
 14 self-sufficiency trust account.

15 The rules should provide for the orderly administration
 16 of the trust account. Because the department of social and
 17 rehabilitation services will be administering the trust
 18 account for the department of institutions, contractual
 19 arrangements must be made between these departments. These
 20 arrangements must include but are not limited to:

21 (1) provision for the department of institutions to
 22 review and approve life care agreements for mentally ill
 23 beneficiaries;

24 (2) provision for the approval of payments from the
 25 trust account for mentally ill beneficiaries; and

1 (3) procedures for reporting to the department of
 2 institutions on the financial condition of the trust
 3 account.

4 The rules should also provide for the development of
 5 procedures and criteria for reviewing and approving the life
 6 care agreements between the self-sufficiency trust and the
 7 department of social and rehabilitation services. These
 8 procedures and criteria should also provide for the
 9 termination of the agreements.

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

12 NEW SECTION. **Section 1. Definitions.** As used in [this
 13 act], the following definitions apply:

14 (1) "Department" means the department of social and
 15 rehabilitation services provided for in Title 2, chapter 15,
 16 part 22.

17 (2) "Self-sufficiency trust" means a trust created by
 18 a nonprofit corporation that is a 501-C-3 organization under
 19 the United States Internal Revenue Code of 1954, as amended,
 20 and that was organized under the Montana Nonprofit
 21 Corporation Act, Title 35, chapter 2, for the purpose of
 22 providing for the care and treatment of one or more persons
 23 who are residents of this state and are developmentally
 24 disabled, mentally ill, physically handicapped, or otherwise
 25 eligible for department services.

NEW SECTION. Section 2. Creation of self-sufficiency

trust account. (1) There is created a self-sufficiency trust account in the state treasury. The state treasurer shall deposit to the credit of the trust account money received from the department for that purpose. The state auditor shall direct payments from the trust account upon claims certified by the director of the department.

(2) The assets of the trust account must be preserved, invested, and expended in the manner and for the purposes provided in [section 3]. At the end of each fiscal year, the unexpended account balance must carry forward to the next fiscal year and may not revert to the state general fund.

NEW SECTION. Section 3. Administration of trust

account. (1) The department may accept money from a self-sufficiency trust for deposit in the self-sufficiency trust account pursuant to an agreement with the self-sufficiency trust naming one or more beneficiaries who are residents of this state and are developmentally disabled, mentally ill, physically handicapped, or otherwise eligible for department services. The agreement must specify the care or treatment to be provided for each named beneficiary. Money in the trust account must be accounted for separately for each named beneficiary. The department of institutions shall contract with the department to administer the trust account for beneficiaries who are

mentally ill.

(2) (a) The department shall adopt rules to administer the trust account.

(b) The money in the trust account may be spent by the department, pursuant to its rules, only to provide care or treatment for the named beneficiary in accordance with the terms of the agreement.

(c) If the director of the department determines that the money in the trust account for a named beneficiary cannot be used for the care and treatment of the beneficiary in a manner consistent with the rules of the department and the agreement or upon request of the self-sufficiency trust, the remaining money in the trust account for the named beneficiary, together with any accumulated interest, must be promptly returned to the self-sufficiency trust that provided the money for deposit in the trust account.

(3) The state treasurer shall direct the investment of trust account money and shall credit earnings to the trust account.

NEW SECTION. Section 4. Benefits not affected.

Receipt by a beneficiary of money from the self-sufficiency trust account or of care and treatment provided with that money may not in any way reduce, impair, or diminish the benefits to which the beneficiary is otherwise entitled by law.

1 NEW SECTION. **Section 5.** Special account. There is
2 created within the self-sufficiency trust account a special
3 account for the disabled. The director of the department may
4 accept money from any source for deposit into the special
5 account. The money in the special account must be used by
6 the department, subject to appropriation, for the purpose of
7 providing for the care and treatment of low-income
8 developmentally disabled, mentally ill, and physically
9 handicapped persons or low-income persons otherwise eligible
10 for department services, as defined by the department.

11 NEW SECTION. **Section 6.** Extension of authority. Any
12 existing authority to make rules on the subject of the
13 provisions of [this act] is extended to the provisions of
14 [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB311, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act creating a self-sufficiency trust account to be administered by the Department of Social and Rehabilitation Services to provide care and treatment for certain Developmentally Disabled, Mentally Ill, or Physically Handicapped Persons."

ASSUMPTIONS:

1. Self-sufficiency trust is a trust created by a nonprofit corporation for the purpose of providing a Life Care Plan to one or more persons who are residents of this state and are developmentally disabled, mentally ill, or physically handicapped.
2. The trust will be a separate account within the state treasury.
3. The Department of Institutions shall contract with the Department of Social and Rehabilitation Services to administer the trust account for beneficiaries who are mentally ill (assume no cost to the Department of Institutions for this contract).
4. Receipt by a beneficiary of money from the self-sufficiency trust account will be used mainly for enhanced services to the patient and may not in any way reduce or diminish the benefits to which the beneficiary is otherwise entitled.
5. Assume no effect on the amount of reimbursement collected for care and maintenance at the Institution.
6. Transfers from the primary trust account to the self-sufficiency will not occur during the 1991 biennium. Minimal transfers could occur in the 1993 biennium with the transfer amount growing each year.
7. A PC data base program will be developed by SRS to track individual client receipts and disbursements (60 hours).
8. 1/4 FTE will be needed to process receipts, invoices, and payments for the first 300 recipients. FTE needs will increase proportionately with increase in recipients. The FTE will not be needed until payments from the trust begins.
9. There is no fiscal impact during the 1991 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The major outlay of effort in the early years of implementation will be in staff time to write and implement rules and program guidelines. As the fund grows, however, the disabled individuals served the state will receive direct benefit in terms of supplemental services that would not otherwise be available to them. The fund could not be used to reduce the state's commitment but could be used to enhance clients' quality of life. For every 300 individuals receiving trust benefits, a .25 FTE will be needed to administer and track payments.

Ray Shackleford 2/8/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Ethel M. Harding 2/8/89
ETHEL M. HARDING, PRIMARY SPONSOR DATE

Fiscal Note for SB311, as introduced

SB 311

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

SENATE BILL NO. 311

INTRODUCED BY HARDING, MAZUREK, REGAN,
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MENTALLY ILL, OR PHYSICALLY HANDICAPPED PERSONS."

STATEMENT OF INTENT

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[section 3] grants rulemaking authority to the department of
social and rehabilitation services to administer the
self-sufficiency trust account.

The rules should provide for the orderly administration
of the trust account. Because the department of social and
rehabilitation services will be administering the trust
account for the department of institutions, contractual
arrangements must be made between these departments. These
arrangements must include but are not limited to:

(1) provision for the department of institutions to
review and approve life care agreements for mentally ill
beneficiaries;

(2) provision for the approval of payments from the

trust account for mentally ill beneficiaries; and

(3) procedures for reporting to the department of
institutions on the financial condition of the trust
account.

The rules should also provide for the development of
procedures and criteria for reviewing and approving the life
care agreements between the self-sufficiency trust and the
department of social and rehabilitation services. These
procedures and criteria should also provide for the
termination of the agreements.

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

NEW SECTION. **Section 1. Definitions.** As used in [this
act], the following definitions apply:

(1) "Department" means the department of social and
rehabilitation services provided for in Title 2, chapter 15,
part 22.

(2) "Self-sufficiency trust" means a trust created by
a nonprofit corporation that is a 501-C-3 organization under
the United States Internal Revenue Code of 1954, 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 developmentally
disabled, mentally ill, physically handicapped, or otherwise

1 eligible for department services, AS DEFINED BY THE
2 DEPARTMENT.

3 **NEW SECTION. Section 2. Creation of self-sufficiency**
4 **trust account.** (1) There is created a self-sufficiency trust
5 account in the state treasury. The state treasurer shall
6 deposit to the credit of the trust account money received
7 from the--department A SELF-SUFFICIENCY TRUST for that
8 purpose. The state auditor shall direct payments from the
9 trust account upon claims certified by the director of the
10 department.

11 (2) The assets of the trust account must be preserved,
12 invested, and expended in the manner and for the purposes
13 provided in [section 3]. At the end of each fiscal year, the
14 unexpended account balance must carry forward to the next
15 fiscal year and may not revert to the state general fund.

16 **NEW SECTION. Section 3. Administration of trust**
17 **account.** (1) The department may accept money from a
18 self-sufficiency trust for deposit in the self-sufficiency
19 trust account pursuant to an agreement with the
20 self-sufficiency trust naming one or more beneficiaries who
21 are residents of this state and are developmentally
22 disabled, mentally ill, physically handicapped, or otherwise
23 eligible for department services, AS DEFINED BY THE
24 DEPARTMENT. The agreement must specify the care or treatment
25 to be provided for each named beneficiary. Money in the

1 trust account must be accounted for separately for each
2 named beneficiary. The department of institutions shall
3 contract with the department to administer the trust account
4 for beneficiaries who are mentally ill.

5 (2) (a) The department shall adopt rules to administer
6 the trust account.

7 (b) The money in the trust account may be spent by the
8 department, pursuant to its rules, only to provide care or
9 treatment for the named beneficiary in accordance with the
10 terms of the agreement.

11 (c) If the director of the department determines that
12 the money in the trust account for a named beneficiary
13 cannot be used for the care and treatment of the beneficiary
14 in a manner consistent with the rules of the department and
15 the agreement or upon request of the self-sufficiency trust,
16 the remaining money in the trust account for the named
17 beneficiary, together with any accumulated interest, must be
18 promptly returned to the self-sufficiency trust that
19 provided the money for deposit in the trust account.

20 (3) The state treasurer shall direct the investment of
21 trust account money and shall credit earnings to the trust
22 account.

23 **NEW SECTION. Section 4. Benefits not affected.**
24 **Receipt by a beneficiary of money from SUPPLEMENTAL SERVICES**
25 **AS A RESULT OF** the self-sufficiency trust account or of care

1 and treatment provided with-that-money BY THE TRUST may not
2 in any way reduce, impair, or diminish the benefits to which
3 the beneficiary is otherwise entitled by law.

4 NEW SECTION. Section 5. Special account. There is
5 created within the self-sufficiency trust account a special
6 account for the disabled. The director of the department may
7 accept money from any source for deposit into the special
8 account. The money in the special account must be used by
9 the department, subject to appropriation, for the purpose of
10 providing for the care and treatment of low-income
11 developmentally disabled, mentally ill, and physically
12 handicapped persons or low-income persons otherwise eligible
13 for department services, as defined by the department.

14 NEW SECTION. Section 6. Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

-End-

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6 the trust account.

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10 terms of the agreement.

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15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

-End-

STANDING COMMITTEE REPORT

March 16, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 311 (third reading copy -- blue) be concurred in as amended .

Signed:


Stella Jean Hansen, Chairman

[REP. STELLA JEAN HANSEN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 4, lines 20 through 22.

Following: "(3)" on line 20

Strike: remainder of line 20 through line 22

Insert: "The trust account money must be deposited in the state treasury and invested as required by law and the earnings credited to the trust account."

HOUSE

SB 311

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