



**AGENDA
CITY OF LAUREL
CITY COUNCIL WORKSHOP
TUESDAY, OCTOBER 21, 2025
6:30 PM
COUNCIL CHAMBERS**

Public Input: *Citizens may address the Council regarding any item of City business that is not on tonight's agenda. The duration for an individual speaking under Public Input is limited to three minutes. While all comments are welcome, the Council will not take action on any item not on the agenda. Because of the Rules that govern public meetings, Council is not permitted to speak in response to any issue raised that is a non-Agenda item. The Mayor may provide factual information in response, with the intention that the matter may be addressed at a later meeting. In addition, City Council may request that a particular non-Agenda item be placed on an upcoming Agenda, for consideration. Citizens should not construe Council's "silence" on an issue as an opinion, one way or the other, regarding that non-Agenda matter. Council simply cannot debate an item that is not on the Agenda, and therefore, they must simply listen to the feedback given during public input. If a citizen would like to speak or comment regarding an item that is on tonight's agenda, we ask that you wait until the agenda item is presented to the Council by the Mayor and the public is asked to comment by the Mayor.*

Be advised, if a discussion item has an upcoming public hearing, we would request members of the public to reserve your comments until the public hearing. At the public hearing, the City Council will establish an official record that will include all of your comments, testimony, and written evidence.

General Items

Executive Review

Council Issues

1. State Forensic Mental Health Facility Discussion

Other Items

Attendance at Upcoming Council Meeting

Announcements

The City makes reasonable accommodations for any known disability that may interfere with a person's ability to participate in this meeting. Persons needing accommodation must notify the City Clerk's Office to make needed arrangements. To make your request known, please call 406-628-7431, Ext. 5100, or write to City Clerk, PO Box 10, Laurel, MT 59044, or present your request at City Hall, 115 West First Street, Laurel, Montana.

File Attachments for Item:

1. State Forensic Mental Health Facility Discussion

MONTANA BEHAVIORAL HEALTH FACILITY SITE EVALUATION



OFFICE OF THE GOVERNOR
Budget and Program Planning

[\[https://budget.mt.gov/\]](https://budget.mt.gov/)



DEPARTMENT OF
PUBLIC HEALTH &
HUMAN SERVICES

[\[https://dphhs.mt.gov/\]](https://dphhs.mt.gov/)

MONTANA

BOARD OF INVESTMENTS

[\[https://investmentmt.com/\]](https://investmentmt.com/)

Montana's Department of Public Health and Human Services (DPHHS) and the Board of Investments (BOI) are seeking proposals from eastern Montana communities interested in partnering on a new, state-of-the-art 32-bed forensic mental health facility. This project represents a focused effort to expand access to high-quality mental health services, improve patient outcomes, and strengthen eastern Montana's public health infrastructure.

The new facility is designed for long-term flexibility—providing immediate help for forensic populations, with the ability to adapt its modular design to meet future civil commitment or psychiatric service needs as they evolve. With legislative support and \$26.5 million in funding secured through House Bill 5, this initiative will add capacity to serve more Montanans, with the goal of reducing wait times and enhancing access to restoration services throughout the state.

Stakeholder input and local engagement are priorities. DPHHS and BOI will work collaboratively with communities to ensure informed planning and responsible site selection. For additional details, the Department's guidance letter and analysis—outlining the project vision and needs—are available [here](#).

SUBMIT SITE PROPOSALS HERE [\[HTTPS://MT.ACCESSGOV.COM/BOI/FORMS/PAGE/BOI/MONTANA-BEHAVIORAL-HEALTH-FACILITY-SITE-EVALUATION/\]](https://mt.accessgov.com/boi/forms/page/boi/montana-behavioral-health-facility-site-evaluation/)

MONTANA

BOARD OF INVESTMENTS

Statement of Board of Investments Executive Director Dan Villa August 20, 2025, Meeting

"I received a call Monday from the Executive that, in my opinion, necessitates a pause by the Board. The Executive and Legislative branches currently hold differing interpretations of the Board's authority under Section 17 of House Bill 5 relating to the construction of a Behavioral Health Facility. In respect of both branches, in compliance with the Act, and to avoid acting without clear direction, I recommend the Board suspend any further consideration and forgo further implementation of House Bill 5 until we receive written guidance specifying services to be provided at the facility, the general location desired for the facility, and confirmation that the facility is to be built as an investment security held in trust for the State. The Board must avoid being placed between coequal branches to which we owe legal and fiduciary duties.

I thank local leaders of Billings and Laurel for their candid input, especially Councilmen Aspenlieder and Kennedy, Billings City Administrator Chris Kukulski, Laurel City Administrator Kurt Markegard, Director Brereton and staff at DPHHS, Budget Director Osmundson and staff at OBPP, as well as Senators Esp, Yakawich, Lenz, Ricci, and Representatives Etchart, Brewster and Schomer. Their efforts reflect a shared commitment to expanding behavioral health service capacity while protecting community safety and interests.

If due diligence resumes upon receipt of written guidance, no previously reviewed sites—including those on Skyway Drive—are viable, given local feedback, infrastructure costs, local zoning regulations, impacts on targeted economic development districts, and state land leasing processes. If BOI is to engage further, our future work must begin with clarity on services and siting from our partners, while still meeting our obligations to secure profits and cost savings for Montanans."

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

September 10, 2025

Montana Board of Investments
PO Box 200126
Helena, MT 59620-0126

Dear Members of the Montana Board of Investments,

Thank you for the brief pause you have placed on developing and constructing the behavioral health facility contemplated by House Bill 5, which the Legislature passed and I signed into law. At the most recent meeting of the Board of Investments (BOI), the Board requested written guidance from my office about how to best proceed with implementing House Bill 5 so that we can continue addressing the behavioral health challenges across our state.

As you know, House Bill 5 provided \$26.5 million to BOI to prepare and build a behavioral health facility in Eastern Montana in coordination with the Department of Public Health and Human Services (DPHHS) as an investment for the State. Under the law, the Legislature directed BOI and DPHHS to prepare a plan for facility type and location subject to approval by the Director of the Governor's Office of Budget and Program Planning.

Over the course of the last few months, this project has gained the attention of many in the public, both because of the great need for the proposed facility and because its location impacts their communities. In proceeding with this project, public participation should play a critical role as it moves forward. Engaging the public and stakeholders will ensure that these decisions are made in the open, allowing Montanans to have a voice in how their hard-earned tax dollars are spent.

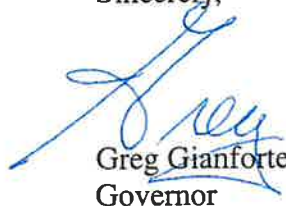
As the Board moves expeditiously to resume implementation of House Bill 5, I encourage BOI to work closely with DPHHS during the development of the behavioral health facility plan to specify services to be provided at the facility and ensure that the public has an opportunity to be heard. While the building is to be constructed by BOI, it is important that DPHHS work closely alongside the Board so that the facility meets the behavioral health needs of Montanans. To ensure that all interested communities have the opportunity to provide feedback, I also encourage the Board to work with DPHHS to consider additional locations beyond the previously reviewed sites.

This project is of great importance to the State of Montana, as DPHHS must continue to build out capacity to take care of Montanans in need of behavioral health services. I share the goals of

the Legislature to complete this project quickly while also ensuring transparency, fairness, and public involvement.

Thank you to each member of the Board for their work on this important project. Should you have any additional questions, please do not hesitate to reach out to my office.

Sincerely,



Greg Gianforte
Governor



October 6, 2025

Dan Villa
Executive Director
Montana Board of Investments
2401 Colonial Drive, 3rd Floor
PO Box 200126
Helena, MT 59620-0126

Executive Director Villa,

I write regarding the following language from House Bill 5, passed by the 2025 Montana Legislature and signed into law by Governor Gianforte on June 19, 2025:

Section 17. Transfer of funds -- plan and reporting. (1) *By June 30, 2026, the state treasurer shall transfer \$26.5 million from the capital developments long-range building program account established in 17-7209 to the board of investments for the purposes of building a behavioral health facility.*

(2) *Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.*

(3) *Any unspent funds must revert to the capital developments long-range building program account.*

Pursuant to these statutory requirements, the Department of Public Health and Human Services (DPHHS) looks forward to continuing our collaboration with the Board of Investments (BOI) to build a much-needed behavioral health facility for Montanans. As we enter the next phase of this critical project, I am providing you with the following guidance concerning DPHHS's preferred location for the facility, as well as the type and purpose of the facility that we believe should be built based on our observed demand for state psychiatric services.

Site Location

While DPHHS remains interested in site opportunities in Yellowstone County, it is important that all Eastern Montana communities equipped with adequate infrastructure and a potential workforce are afforded the opportunity to submit proposals for hosting our new facility. As

we've agreed, a Due Diligence Questionnaire process would help solicit input from all communities in Eastern Montana, and the Department authorizes BOI to proceed on our behalf with that process. In light of anticipated future demand for state psychiatric services, communities and stakeholders should be aware that any site selected must allow for potential expansion in future years. Working together, I am confident that both of our agencies will facilitate robust engagement with local stakeholders when appropriate and prior to final site selection.

Facility Type and Purpose

As demonstrated in the enclosed analysis, DPHHS seeks to construct and operationalize a 32-bed forensic mental health facility. The facility would be designed with scalability in mind should the agency determine a need to leverage beds for the civil population in the future. From our perspective, it is most appropriate to "build up" to forensic facility standards and be able to scale down as deemed necessary. As many Montanans know, DPHHS has experienced surging demand for forensic psychiatric services over the past several years, resulting in a problematic statewide waitlist that adversely impacts local communities. While we have taken a variety of steps to try to address this issue operationally, our bed capacity remains severely limited, and the agency believes that the funds granted to us by the Legislature must be prioritized for the forensic population.

I thank you and BOI for your partnership and support of our work on behalf of the Montanans we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Brereton", with a large, stylized "C" at the beginning and a long horizontal stroke extending to the right.

Charles T. Brereton
Director

Enclosure: Building a Foundation for Future Generations: Montana's New Behavioral Health Facility

BUILDING A FOUNDATION FOR FUTURE GENERATIONS: MONTANA'S NEW BEHAVIORAL HEALTH FACILITY

Prioritizing Forensic Capacity to Resolve a Systemic Bottleneck

October 2025



**DEPARTMENT OF
PUBLIC HEALTH &
HUMAN SERVICES**

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
BACKGROUND	3
SYSTEMS OF CARE.....	4
WHY PRIORITIZE THE FORENSIC POPULATION VS. THE CIVIL POPULATION?	6
SYSTEM BOTTLENECK	6
RAPID GROWTH IN FORENSIC DEMAND AND WAITLIST	6
OPERATIONAL CONSTRAINTS AT THE FMHF IN GALEN	9
LEGAL RISKS OF FORENSIC BED SHORTAGES	10
ADDITIONAL RATIONALE.....	11
PROJECTED IMPACT OF THE 32-BED EXPANSION	12
WHY THE INTEREST IN EASTERN MONTANA?	12
THE IMPORTANCE OF A FLEXIBLE DESIGN	13
CONCLUSION	13

EXECUTIVE SUMMARY

Montana's behavioral health system is facing an ongoing and critical challenge: a growing forensic psychiatric population is overwhelming the state's limited capacity, resulting in delayed treatment and adjudication, as well as admission waitlists that adversely impact local detention facilities. In response to this issue, the Montana Department of Public Health and Human Services (DPHHS) seeks to prioritize the construction of a 32-bed forensic psychiatric facility in Eastern Montana. This expansion will address urgent legal, clinical, and operational needs while improving geographic equity and system efficiency. Importantly, the facility will be strategically designed to allow DPHHS to convert wings or pods for civil commitment use if demand shifts in the future.

BACKGROUND

DPHHS is responsible for providing inpatient psychiatric care to individuals who require involuntary treatment due to severe mental illness. These individuals fall into two primary categories: forensic and civil patients.

- **Forensic patients** are individuals who are involved in the criminal justice system. They may be:
 - Awaiting trial but in need of a mental health evaluation to determine if they are competent to stand trial.
 - Found Unfit to Proceed (UTP) and in need of inpatient restoration services.
 - Sentenced under Montana Code Annotated (MCA) 46-14-312, which mandates DPHHS to provide treatment for individuals found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness (NGMI).
- **Civil patients** are individuals who, due to a mental illness, pose a danger to themselves or others, and/or are unable to care for their basic needs. These individuals are typically admitted through civil commitment proceedings.

To meet the needs of both populations, the Gianforte administration has secured funding for renovations and expansions at Montana State Hospital (MSH), MSH Grasslands, and the Montana Mental Health Nursing Care Center (MMHNCC), which will increase total state psychiatric bed capacity to 307 beds, with a potential net increase of 40 beds.

In addition to funding provided to MSH during the 2025 Legislative Session, the Gianforte administration secured funding to reopen the D wing at MMHNCC. Reopening the D wing will add 24 civil beds to serve the geriatric psychiatric population, including some patients previously served on the Spratt Unit.

This ultimately maintains the existing number of civil beds in the civil care continuum.

Wing/Unit	Type	Current	Proposed	Difference
Alpha	Civil	31	41	10
Bravo	Civil	26	34	8
Echo	Civil	25	23	-2
Grasslands	Civil	0	20	20
Spratt	Civil	60	0	-60
MMHNCC-D-Wing	Civil	0	24	24
TOTAL		142	142	0
Delta	Forensic	31	41	10
Galen	Forensic	54	54	0
Group Homes	Forensic	40	40	0
Former Spratt	Forensic	0	30	30
TOTAL		125	165	40

SYSTEMS OF CARE

Forensic

At MSH, individuals involved in the criminal justice system may be admitted for forensic psychiatric evaluation or treatment. The typical process for a forensic patient includes the following steps:

1. Fitness Evaluation/Court-Ordered Evaluation (COE)

A court may order a mental health evaluation, frequently referred to as a COE, to determine whether a defendant is fit to proceed to trial. This is an initial "fitness" evaluation and is restricted to a diagnosis of the mental condition of the defendant, including opinions as to: a) whether the defendant suffers from a mental disorder and may require commitment or is seriously developmentally disabled, and b) if the defendant suffers from a mental disease or disorder or developmental disability, whether the defendant has the capacity to: i) understand the proceedings against the defendant, and ii) assist in the defendant's own defense.

- This evaluation can be conducted in the community through an investment made possible by the Behavioral Health System for Future Generations (BHSFG) Commission or may require inpatient admission to the Forensic Mental Health Facility (FMHF) in Galen.
- If the individual is found competent, they are returned to the county of origin to proceed with trial.

2. **Unfit to Proceed (UTP)**

If the initial fitness evaluation (COE) determines the individual is not fit to proceed to trial, they must be ordered to be admitted to the FMHF in Galen for inpatient restoration treatment.

- These individuals do not go to the Delta Unit at this stage.

3. **Non-Restorable Cases**

If the individual cannot be restored to fitness due to a persistent mental illness, their criminal case may be dismissed.

- They may then be ordered to be civilly involuntarily committed for ongoing treatment.

4. **Pre-Sentence Evaluation (PSE)**

In some cases, a PSE is ordered to determine whether the individual met the legal criteria for GBMI at the time of the offense as part of a sentencing proceeding.

5. **Sentenced Forensic Patients (GBMI)**

Individuals found "Guilty but Mentally Ill" are initially admitted to the FMHF in Galen and placed on a waitlist for transfer to the Delta Unit, which houses sentenced forensic patients.

- These patients progress through a Level 1–10 privilege system at MSH.
- Those reaching Level 6 or higher may be eligible for placement in on-campus group homes or, in the future, the converted Spratt Unit.

Civil

MSH also serves individuals who are civilly involuntarily committed. These are individuals who, due to a mental illness, are considered a danger to themselves or others, and/or are unable to meet their basic needs.

The typical process for a civil patient at MSH or MSH Grasslands is as follows:

1. **Admission through Civil Commitment**

A court orders the individual to receive inpatient psychiatric care based on clinical evidence of risk and/or inability to care for themselves.

2. **Evaluation and Stabilization**

Upon arrival, the patient is admitted to the admissions wing (Echo) at MSH, where they undergo evaluation and receive initial stabilization treatment.

3. **Discharge or Continued Treatment**

- If the patient stabilizes quickly, they may be discharged and returned to their home or community with appropriate supports.

- If further care is needed, the patient is transferred to a treatment wing (Alpha or Bravo) for continued therapy and rehabilitation, with the goal of eventual discharge.

Note: This is a simplified overview intended to illustrate the general continuum of care. Individual treatment plans and legal processes may vary based on clinical needs and statutory requirements.

WHY PRIORITIZE THE FORENSIC POPULATION VS. THE CIVIL POPULATION?

SYSTEM BOTTLENECK

The FMHF in Galen is currently the only facility in the state equipped to restore individuals who a court has determined are UTP. It also serves as the admission point for defendants sentenced as GBMI, and those committed to the custody of the director of DPHHS to be placed in an appropriate mental health facility for custody, care, and treatment after the court has determined they present a danger to themselves or others. This set of defendants, as distinguished from GBMI defendants, is referred to as NGMI patients.

Since 2022, the FMHF in Galen has consistently maintained a waitlist of over 70 patients, creating a significant bottleneck that affects:

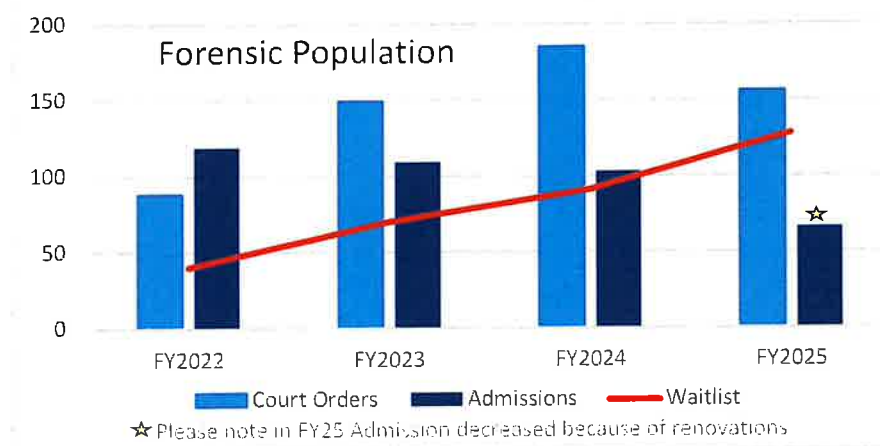
- County court proceedings
- Jail populations
- Local mental health systems

This backlog delays access to treatment, strains public safety systems, and increases the state's legal risk.

RAPID GROWTH IN FORENSIC DEMAND AND WAITLIST

Forensic court orders have surged 77% since FY 2022, with GBMI orders increasing 650%. In contrast, civil admissions have remained relatively stable, aided by the MSH Grasslands facility and other community-based supports. The forensic system, however, has no such relief valve, making the sought expansion urgent.

As noted above, Montana has experienced a sharp increase in forensic court orders over the past four years, which has consequently increased DPHHS's forensic waitlist. As the state's population grows, the number of individuals requiring forensic evaluation and treatment is expected to rise proportionally in accordance with national trends.



The following table reflects the court orders, by type, issued in each fiscal year.

TYPE	FY 2022	FY 2023	FY 2024	FY 2025	% Change FY 2022 to FY 2025	AAGR FY 2022-FY 2025
COE	55	93	81	67	21.80%	13.00%
UTP	23	42	52	43	86.90%	29.70%
PSE	6	7	13	20	333%	52.10%
GBMI	4	7	39	26	650%	166%
NGMI	0	0	0	0	N/A	N/A
TOTAL	88	149	185	156	77.20%	25.90%

Note: Not all COE orders result in admission to the FMHF in Galen. Some evaluations are being completed in the community through the aforementioned BHSFG initiative launched in 2024.

Forensic Waitlist Growth and Contributing Factors

The forensic waitlist for the FMHF in Galen has grown significantly in recent years; however, this growth is not a straightforward function of court orders minus admissions. The waitlist is shaped by a variety of operational and legal factors, including court orders from multiple fiscal years.

Why Waitlist Numbers Are Complex

Several factors contribute to the growing waitlist:

- **Community-Based Evaluations:** Some COEs and PSEs are completed by DPHHS-approved providers in the community, without requiring admission to the FMHF in Galen.
- **Dismissed Cases:** A defendant's case may be dismissed by a court due to a determination that a defendant cannot be made fit within the reasonably foreseeable future and that alternatives to forensic commitment are inappropriate, due to speedy trial violations, or due to other Constitutional considerations. This may remove the defendant from the system before admission, which is an outcome that DPHHS seeks to avoid through expanding forensic bed capacity.
- **Non-Court-Ordered/Emergency Admissions:** Some admissions are for patients who are held up to 72 hours in connection with an "emergency detention." An emergency detention is coordinated with a county attorney, the state hospital, and other mental health facilities for individuals who are experiencing acute crises, have rapidly decompensated, or require higher security, even if they are not tied to a court order.

The following table reflects the waitlist at the end of the fiscal year and the fiscal year in which the court order was initially issued.

FY	Waitlist	Year the Court Order was Issued				
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	40	4	36			
2023	70		4	66		
2024	91		1	5	85	
2025	128*			1	26	101

**Note: FY 2025 totals were impacted by renovations and pod reconfigurations that temporarily reduced forensic admissions capacity.*

The waitlist is not just a backlog. It is a dynamic, multi-year accumulation of unmet forensic service needs. This underscores the importance of expanding capacity and building flexible infrastructure that can absorb fluctuations in demand and operational disruptions.

Conversely, DPHHS has not observed a corresponding rapid increase in the waitlist for the civil population. When operating at full capacity, MSH typically admits around 650 civil patients per year. While admissions declined in FY 2025 due to limited bed space associated with renovations required for CMS certification, by the end of FY 2025, only five individuals were on the civil waitlist, and they were ultimately cleared for admission.

While infrastructure upgrades have temporarily impacted civil admissions, the system is functioning effectively and has adapted through initiatives such as opening MSH Grasslands. This reinforces the need to prioritize forensic expansion, where the misalignment between demand and capacity is more acute.

OPERATIONAL CONSTRAINTS AT THE FMHF IN GALEN

Renovations, pod closures, and gender-based housing needs have further reduced forensic capacity. Internal transfers (e.g., from Delta Unit to Galen) consume bed space without reducing the waitlist, furthering the need for dedicated additional capacity.

The following table reflects the number of admissions and the fiscal year in which the known court order was issued.

FY	Number of Admissions	Year the Court Order was Issued					
		Unknown	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	119	76	4	39			
2023	109	26		14	69		
2024	103			1	43	59	
2025	66*					47	19

Admissions Are Not Always Court-Driven

- Annual admissions include individuals with court orders from multiple fiscal years, not just the current one.
- Some admissions are not tied to new court orders. For example, patients from the Delta Unit may be temporarily transferred back to Galen if they decompensate and require a higher-security setting.

Gender-Based Pod Reconfiguration

The growth of Montana's forensic population is further complicated by the need to separate male and female patients, which is a requirement driven by both safety and clinical standards. Over the last five years, roughly 20% of forensic orders have been for female patients.

- The FMHF in Galen consists of two large pods and one small pod.
- This layout limits flexibility in managing gender-specific housing needs, especially when demand fluctuates.

To address a growing female waitlist, over the past four years, one pod has been converted from male to female housing twice. To safely complete the transition, overall male capacity is temporarily reduced, and new male admissions are paused, worsening one component of the statewide forensic waitlist.

LEGAL RISKS OF FORENSIC BED SHORTAGES

A shortage of forensic psychiatric beds poses **serious legal and constitutional risks** for the State of Montana and its counties. These risks stem from the inability to provide timely mental health treatment to individuals who are legally entitled to it.

Due Process Violations

- Defendants found incompetent to stand trial must receive treatment to restore their competency.
- Delays in admission can result in individuals spending more time in jail than they would have if convicted, violating their constitutional right to due process.
- Prolonged incarceration without treatment can lead to worsening mental health and increased suicide risk, potentially protracting treatment at the FMHF in Galen upon admission and worsening the existing bottleneck.

Risk of Federal Intervention and Litigation

- Other states, such as Washington, have faced class-action lawsuits and federal court oversight due to delays in forensic mental health services.
- Courts have required states to:
 - Expand forensic capacity
 - Improve access to treatment
 - Pay damages for constitutional violations

Montana's Current Exposure

While Montana has not yet faced federal intervention, Department leadership believes the risk is growing. The number of **court orders dismissed due to speedy trial violations** – a direct result of forensic bed shortages – demonstrates this legal vulnerability. In FY 2024 and 2025, the number of court orders dismissed totaled 12.

Why This Matters

- Forensic patients are often held in jails while awaiting admission, where they may not receive adequate psychiatric care.
- Delays in restoration can lead to constitutional violations, including speedy trial and due process concerns.
- Civil patients, while also in need, have more diversified treatment pathways (e.g., Grasslands, community-based services), whereas forensic patients rely most exclusively on the FMHF in Galen.

- Each dismissal represents a missed opportunity for treatment, a potential public safety concern, and a legal liability for the state.

ADDITIONAL RATIONALE

National and Regional Benchmarking

By early 2026, MSH is projected to operate with:

- 142 civil beds (including 24 at MMHNCC) – 13.10 civil beds per 100,000 residents
- 125 forensic beds (including those for sentenced patients) – 11.53 beds per 100,000 residents
- Total: 24.63 state psychiatric beds per 100,000 residents

National benchmarks recommend 20–40 state psychiatric beds per 100,000 population (TAC, KFF). Montana's current capacity places it at the lower end of the national benchmark for total civil and forensic beds. The Department's desired changes to system bed capacity, as described above, will ultimately increase state psychiatric beds to 339 in total, bringing Montana's per 100,000 rate to a midpoint of 31.27.

Note: Increase in capacity is a combination of changes referenced in the chart on page 4 and the proposed new forensic facility.

National Trends in Forensic Psychiatric Populations

Across the United States, states are experiencing a sustained surge in forensic psychiatric demand, particularly related to competency to stand trial evaluations and restorations.

Growth in Competency Cases

- From 1999 to 2014, there was a 76% increase in forensic patients in state hospitals.
- From 2017 to 2024, the number of individuals found incompetent to stand trial rose by 23%.
- National forensic waitlists have ballooned — from 883 in 2019 to approximately 2,400 by 2024 — leading to overcrowding in jails and emergency departments.

Other State Responses: Expanding Forensic Capacity

According to a July 2025 report by NRI, Inc., 11 states added over 1,300 forensic beds between 2022 and 2024, and an additional 317 beds were added in 2025 alone.

- Mississippi: Built an 83-bed maximum-security forensic unit, doubling capacity to 123 beds.
- Kansas: Constructed two new state psychiatric hospitals following a legal settlement.
- Pennsylvania: Built a 270-bed forensic facility at Norristown State Hospital.
- New York: Added 125 beds in four months, with 325 total added under the current governor's administration.

PROJECTED IMPACT OF THE 32-BED EXPANSION

- **DPHHS projects that adding 32 forensic beds would increase annual capacity to serve approximately 170 patients.**
- This represents a 60% increase in the availability of care, significantly reducing wait times and improving access to timely evaluation and restoration services.
- Montana's forensic system is under-resourced relative to national benchmarks and uniquely strained by legal sentencing practices.
- Expanding forensic capacity is a strategic, data-driven response to both current deficiencies and future needs.

WHY THE INTEREST IN EASTERN MONTANA?

Geographic Balance and Access

Because Eastern and Central Montana currently lack essential forensic infrastructure, counties are forced to transport patients long distances to the FMHF in Galen, which delays care and increases costs. Establishing a new facility in Eastern Montana would improve geographic balance.

Strategic Advantages

The proposed 32-bed forensic facility is being considered for Eastern Montana, a region with limited access to forensic psychiatric services and one that provides a growing share of the state's forensic admissions. This location is expected to:

- Improve geographic access for law enforcement, court systems, defendants, and families in Eastern and Central Montana.
- Reduce transportation burdens for counties that currently face long distances when transporting defendants to the FMHF in Galen.
- Support regional equity by expanding behavioral health infrastructure beyond the western corridor.

THE IMPORTANCE OF A FLEXIBLE DESIGN

The facility will be designed for medium- to low-security forensic care, which allows for conversion to civil use if future demand shifts and DPHHS determines a need to repurpose pods/units. Designing the new forensic facility with scalability and adaptability in mind offers significant long-term cost savings.

A modular layout and medium- to low-security infrastructure will allow the facility to be scaled up or down based on changing demand, whether that means expanding forensic capacity, converting pods/units for civil use, or adjusting gender-specific housing.

This flexibility reduces the need for costly new construction or major retrofits in the future. By investing in a facility that can evolve with Montana's behavioral health landscape, the state can maximize the return on capital investment, avoid duplication of infrastructure, and ensure that taxpayer dollars are used efficiently and effectively over time.

With the new facility, DPHHS will be better positioned to provide state psychiatric services regardless of what type of capacity (forensic or civil) is most strained in future years.

CONCLUSION

Montana's forensic psychiatric system is under significant and growing strain. Without immediate investment in expanded capacity, the state faces serious and far-reaching consequences not only for individuals with mental illness, but also for the legal system, public safety, and public finances.

County jails are increasingly housing individuals who require psychiatric care, not incarceration. These facilities are not equipped to provide appropriate treatment, leading to worsening symptoms, increased risk of self-harm, and potential violations of constitutional rights. Concurrently, the lack of available forensic beds has forced courts to dismiss charges or release individuals without treatment, contributing to a cycle of relapse, homelessness, and recidivism. These consequences often adversely impact the civil mental health system, which is not designed to manage forensic-level acuity.

The proposed 32-bed forensic facility in Eastern Montana offers a strategic, flexible, and future-ready solution. It will:

- Relieve pressure on local governments and jails, as well as reduce legal exposure
- Improve access to timely, appropriate treatment
- Expand geographic equity in behavioral health services

- Increase forensic evaluation capacity by 60%
- Boost annual forensic care delivery from 106 to 170 patients (estimated)
- Provide long-term adaptability for DPHHS to shift between forensic and civil use as needed

By designing the facility with scalability in mind, Montana can avoid costly retrofits or duplicative construction in the future. This investment not only addresses today's most pressing behavioral health challenge, but it also builds a more resilient, efficient, and balanced system for the future.

Inaction carries a high cost. DPHHS's desired expansion of forensic beds is a fiscally responsible, legally sound, and clinically necessary way to continue building a stronger statewide behavioral health system for future generations.



Montana Legislative Services Division
Legal Services Office

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

To: Speaker Ler
From: Julie Johnson, Staff Attorney
Re: Securities Classification of the Construction of a Behavioral Health Unit Pursuant to
Section 17 of House Bill 5 from the 2025 Legislative Session
Date: October 1, 2025

I. Introduction and Issue

At the September meeting of the Legislative Finance Committee, legal staff was asked to work with Chair Kassmier to request an Attorney General Opinion on the following question of law:

Whether the behavioral health unit that the Legislature directed the Board of Investments to have constructed in House Bill 5 is a security under state and federal securities laws?

This memo provides basic research and points of law bearing upon the request. The memo also reaches a preliminary conclusion that the building would most likely constitute a security.

II. Factual Background

Article VIII, section 13, of the Montana Constitution mandates the creation of a “unified investment program for public funds.” This unified investment program is overseen and managed by the Board of Investments. The total market value of the Montana Board of Investments’ Unified Investment Program as of June 30, 2024, was \$29.6 billion.

Part of the board’s investment portfolio includes real estate and buildings. The Board of Investments owns several buildings that it rents to state agencies or third parties as a part of its real estate investment portfolio. This includes the workforce housing apartments that the Board of Investments had built pursuant to House Bill 819 from the 2023 legislative session. These assets are included in common investment pools and are commingled with other participants’ assets. These asset pools are managed by the staff at the Board of Investments with no individual participant control.

During the 2025 session, the Legislature passed House Bill 5, which provided for the construction of a behavioral health facility. See section 17 of HB 5. Specifically, the Legislature directed the transfer of \$26.5 million from the capital developments long-range building program account to the Board of Investments “for the purposes of building a behavioral health facility.”¹ According to section 17(2) of HB 5, prior to the transfer of funds to the Board of Investments, the budget director “shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location.”

At its September 18, 2025, meeting, the Legislative Finance Committee discussed the

¹ Rent for the behavioral health facility may be eligible for federal reimbursement.

construction of the behavioral health facility and the committee members' understanding that the building constitutes a security under Montana law. Members want to make certain this understanding is correct. Therefore, given the importance of the facility's timely construction and the legislative directive to the Board of Investments to construct this facility instead of the Department of Administration Office of Architecture and Engineering, the Legislative Finance Committee has requested an Attorney General opinion on this question of law.

III. Applicable Law

A. Federal Law

In S.E.C. v. W.J. Howey Co., 328 U.S. 293, 66 S.Ct. 1100, 90 L.Ed. (1946), the United States Supreme Court set out what is now commonly referred to as the Howey test to determine whether an investment contract exists. The Supreme Court stated that the test to determine whether an investment contract exists "is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others." Howey, 328 U.S. at 301.

The Ninth Circuit Court of Appeals distilled the Howey definition into a three-part test, which requires the following:

- (1) an investment of money
- (2) in a common enterprise
- (3) with an expectation of profits produced by the efforts of others.

Warfield v. Alaniz, 569 F.3d 1015, 1020 (9th Cir. 2009). The Montana Supreme Court has also noted that "[t]he leading case for determining the existence of an investment contract security is S.E.C. v. W.J. Howey Co." and has similarly reiterated that the "established three criteria to the determination of an investment contract security" under Howey is: "an investment, a common enterprise, and the expectation of profits *solely* from the efforts of others." State v. Duncan, 181 Mont. 382, 390-91, 593 P.2d 1026, 1031-32 (1979) (Emphasis in original).

B. State Law

As discussed above, the three-part Howey test determines whether an investment contract exists. Under Montana law, an investment contract is a security pursuant to § 30-10-103(24)(xiii), MCA.

C. Law Governing the Board of Investments

The Board of Investments is charged with the creation of a "unified investment program for public funds" under Article VIII, section 13, of the Montana Constitution. §17-6-201, MCA,

provides that the Board of Investments must administer public funds “in accordance with the prudent expert principle,” which requires the board to:

- (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;
- (b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and
- (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

§17-6-201(1), MCA (Emphasis added). The Board of Investments is charged with maximizing the rate of return on investments for the benefit of funds within the unified investment program. The board is also granted the power to execute conveyance deeds for real property and to direct the sale of securities. §17-6-201(6), MCA.

IV. Analysis

Because a security is defined as an investment contract under Montana law, the three-part Howey test applies.

1. Is there an investment of money? Yes, 26.5 million is to be invested in the construction of a behavioral health unit pursuant to section 17 of HB 5 (2025).
2. Is there a common enterprise? Most likely, yes. HB 5 does not explicitly provide that the building will be included in a common investment pool managed by the Board of Investments. However, it is reasonable to infer that the Legislature, by directing the board, instead of the Department of Administration Office of Architecture and Engineering, to construct the building, intended to have the building be included in the “unified investment program for public funds.”
3. Is there an expectation of profits produced by the efforts of others? Most likely, yes. The Board of Investments charges rent to state agencies and third parties on buildings in its real estate portfolio. HB 5 does not explicitly provide that the board will charge rent on the new behavioral health facility. However, given the board’s duty under §17-6-201, MCA, to maximize its rate of return and produce profits for its investors, it is reasonable to infer that the Legislature intended the board to charge whoever occupies the behavioral health facility a rent that yields a rate of return. It is possible that the building rent would be partially reimbursed with federal funds, which depends on the purpose of the facility. If the building rent is reimbursed with federal funds, it is not clear how the Board of Investments can maximize profits while adhering to strict policies for federal reimbursement.

V. Preliminary Conclusion

The three-part Howey test indicates that the behavioral health facility would most likely be considered a security under state and federal law. This conclusion is bolstered by the fact that the workforce housing project constructed by the Board of Investments pursuant to House Bill 219 in the 2023 session is included in the board's real estate portfolio that is in a common investment pool. Lastly, had the Legislature not intended the facility to be considered a security, it would have instead directed the Department of Administration Office of Architecture and Engineering to construct the facility, and not the Board of Investments.

October

2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 DPHHS responds to BOI information request.	7	8	9 Due Diligence Questionnaire released at www.hb5.mt.gov .	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November

2025

Sunday Monday Tuesday Wednesday Thursday Friday Saturday

1

2 3 4 5 6 7 8

9 10 11 12 13 14 15

16 17 18 19 20 21 22

23 24 25 26 27 28 29

30

[CFH&HS Interim Committee](#)

Due Diligence Questionnaire responses due at 5PM to www.hb5.mt.gov.
All Due Diligence Questionnaires posted.
Review process

On site reviews and local government presentations.
On site reviews and local government presentations.
On site reviews and local government presentations.

Final proposal submitted to Budget Director for approval.

THANKSGIVING



AN ACT APPROPRIATING MONEY FOR MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2027; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT AND A TRANSFER OF FUNDS FROM THE GENERAL FUND TO A STATE SPECIAL REVENUE FUND; PROVIDING FOR A MODIFICATION TO THE LONG-RANGE BUILDING PROGRAM; INCREASING CERTAIN VALUE THRESHOLDS FROM \$150,000 TO \$300,000; ESTABLISHING REPORTING REQUIREMENTS; ALLOWING A COMBINATION OF PREVIOUSLY APPROVED APPROPRIATIONS FOR THE CLAPP BUILDING; AMENDING SECTIONS 17-7-201, 17-7-202, 17-7-210, AND 17-7-223, MCA; AMENDING SECTION 1, CHAPTER 468, LAWS OF 2021, SECTION 9(1), CHAPTER 739, LAWS OF 2023, SECTION 14(1), CHAPTER 762, LAWS OF 2023, AND SECTION 3, CHAPTER 763, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Definitions. For the purposes of [sections 1 through 10], unless otherwise stated, the following definitions apply:

- (1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, nonstate funds, and university funds.
- (2) "Capital development" has the same meaning as provided in 17-7-201(2).
- (3) "Capital project" means the planning, design, renovation, construction, alteration, replacement, furnishing, repair, improvement, site, utility, or land acquisition project provided for in [sections 1 through 10].
- (4) "LRBP capital development" means the long-range building program capital developments

account in the capital projects fund type provided for in 17-7-209.

(5) "LRBP major repair" means the long-range building program major repair account in the capital projects fund type provided for in 17-7-221.

(6) "Major repair" means capital projects provided for in 17-7-201(7).

(7) "Other funding sources" means money other than LRBP money, state special revenue, or federal special revenue that accrues to an agency under the provisions of law.

(8) "SBECP" means funds from the state building energy conservation program account in the capital projects fund type which may be utilized on either or both major repair or capital development projects.

Section 2. Major repair projects appropriations and authorizations. (1) The following money is appropriated to the department of administration for the indicated major repair projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to adjust capital project amounts within the legislative intent of the major repair account-funded projects, subject to available revenues, if approved by the office of budget and program planning, and to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP	State	Federal	Authority	Total
	MR	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
MUS	MSU Completion of Montana Hall Life Safety Improvements				
	2,100,000				2,100,000
DPHHS	MMHNCC Completion of Door Access Controls				
	130,000				130,000
MUS	UM Missoula College Mechanical, Electrical, and Accessibility Upgrades				
	2,200,000				2,200,000
MUS	UM Montana Tech Selected Upgrades Exterior Steps, Stairs, Ramps				
	710,000				710,000
DPHHS	MMHNCC Additional Security Cameras				

		300,000	300,000
MUS	UM-W Selected Fire Alarm Upgrades		
		500,000	500,000
DOC	MSP MCE New Emergency Generators		
		200,000	200,000
DOA	Aviation Support Facility Shop Building New Fire Suppression System		
		950,000	950,000
MUS	UM Montana Tech Campus Heating Plant Boiler System Upgrade		
		2,400,000	2,400,000
DOAg	State Grain Lab Heating System Upgrades		
		150,000	150,000
MUS	MSU GFC Campus Heating and Domestic Hot Water Upgrades		
		400,000	400,000
DOJ	MHP Boulder MHP/IBC Campus Heating System Upgrades		
		2,350,000	2,350,000
MUS	UM Helena College Donaldson/Airport Boiler System Replacement		
		150,000	150,000
DOA	Original Governor's Mansion Heating and Fire Alarm Systems		
		300,000	300,000
MUS	UM-W Swysgood Tech Center HVAC Cooling System Replacement		
		370,000	370,000
DOC	Continuation of Xanthopoulos Building Repairs		
		2,200,000	2,200,000
MUS	MSU Linfield Hall Roof Replacement		
		850,000	850,000
DOA	State Print and Mail Building Roof Replacement		
		825,000	825,000
MUS	MSU-N Cowan Hall Exterior Envelope Upgrades		

	1,725,000	1,725,000
	DPHHS EMVH Water Infiltration and Exterior Envelope Repairs	
	1,900,000	1,900,000
MUS	MSU-N Automotive Technology Building Roof Replacement	
	460,000	460,000
MUS	UM HC Donaldson Campus Roofing Replacement	
	2,400,000	2,400,000
DOC	MSP MCE Roof Replacements	
	1,350,000	1,350,000
DOA	Aviation Support Fac Hangar Door Reconstruction and Replacement	
	320,000	320,000
MUS	UM Montana Tech Campus-wide Building Electrical System Upgrades	
	1,300,000	1,300,000
MSDB	Completion of Parking Lot Improvements	
	780,000	780,000
MUS	UM-W Selected Sewer Main Repairs and Replacement	
	690,000	690,000
OPI	Montana Learning Center Site Infrastructure Upgrades	
	700,000	700,000
MUS	UM-W Steam Distribution System Upgrades	
	475,000	475,000
DOC	PHYCF Utility Tunnel and Heating System Repairs	
	1,200,000	1,200,000
MUS	UM Selected Building Electrical System Upgrades	
	1,100,000	1,100,000
MUS	MSU South Campus Primary Electrical Distribution Upgrades	
	1,750,000	1,750,000
DOC	MSP Gravel Pit Equipment Generator Replacement	

		180,000		180,000
DLI	Kalispell Job Service Renovations			
		325,000		325,000
MUS	UM Selected Elevator System Upgrades			
		1,675,000		1,675,000
MUS	MT Tech Science and Engineering, and ELC Building Elevator Upgrades			
		400,000		400,000
DOL	New Laboratory Casework and Fixed Equipment, Combined Labs Building			
		1,000,000		1,000,000
MSDB	Selected HVAC Systems Upgrades			
		2,000,000		2,000,000
MUS	MSU McCall Hall Demolition			
		1,100,000	300,000	1,400,000
DOA	Capitol Building Interior Lighting Restoration			
		125,000		125,000
DOA	Capitol Complex Restroom Renovations			
		625,000		625,000
DOC	MSP MCE Restroom Repairs			
		200,000		200,000
DOJ	MLEA Air Conditioning Installation			
		300,000		300,000
MUS	MT Tech Mining and Geology Building Temp Controls System			
		300,000		300,000
DOA	Statewide Facility Condition Assessment Services for Agencies			
		750,000		750,000
DOA	Statewide Selected Feasibility Studies for Agencies			
		500,000		500,000
MUS	MSU Replace Failed Data Center Cooling Systems			

1,300,000

(3) The following money is appropriated to the department of military affairs for the indicated major repair projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization and are subject to the provisions of 18-2-103.

**Legislative
Services
Division**

1,900,000

1,900,000

(4) The department of administration shall bundle requests for the purchase and installation of the electrical generators into a single project for bid.

Section 3. Capital development projects appropriations and authorizations. (1) The following money is appropriated to the department of administration for the indicated capital development projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP	State	Federal	Authority	Total
	CD	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
DOC	MSP Low-Side Housing Expansion				
	150,000,000				150,000,000

Funding is provided to expand the capital project in Section 2, Chapter 765, Laws of 2023. The department may extend existing design, construction, and other contracts at its sole discretion, in order to expedite the project.

DOC	MSP Site Infrastructure Upgrades				
	21,000,000				21,000,000

Funding is provided to expand the capital project in Section 2, Chapter 765, Laws of 2023. The department may also extend existing design, construction, and other contracts at its sole discretion, in order to expedite the project.

DPHHS MSH Comprehensive Mechanical System Replacement					
	11,200,000				11,200,000

DOC	MSP Comprehensive Mechanical System Replacement				
	4,750,000				4,750,000

DPHHS MSH Spratt Building Upgrades for Licensure and Facility Fences					
	14,660,000				14,660,000

Funding may be redirected by the office of budget and program planning to address other capital project needs at the Montana State Hospital, subject to 17-7-210.

DPHHS MMHNCC Unit D

Remodel for Licensure

700,000	700,000
---------	---------

MUS UM Selected Classrooms and Teaching Labs Modernization

11,600,000	11,600,000
------------	------------

DNRC Missoula New Forestry and Trust Lands Office Building

2,000,000	2,000,000
-----------	-----------

DNRC Bunkhouses in Helena, Libby, and Plains and Office Addition

1,500,000	600,000	2,100,000
-----------	---------	-----------

The department of administration may prioritize the funding, design, and construction between each of the bunkhouses and office additions as necessary to meet the intent of [sections 3(8)(c) and 3(9)].

DOA Capitol Complex Roof Replacements

4,100,000	4,100,000
-----------	-----------

MUS UM Selected Roof Replacements

3,000,000	3,000,000
-----------	-----------

MUS MT Tech Highlands College Roof Replacement

5,000,000	5,000,000
-----------	-----------

MUS MSUB Cisel Hall HVAC and Plumbing System Upgrades

4,000,000	4,000,000
-----------	-----------

DOA Capitol Complex Elevator System Upgrades

5,700,000	5,700,000
-----------	-----------

MSDB Vocational Building Demolition and New Construction

4,000,000	4,000,000
-----------	-----------

MUS MSU Lewis Hall New Elevator and ADA Upgrades

4,600,000	4,600,000
-----------	-----------

MUS UM Music Building Renovation

		7,250,000	7,250,000	14,500,000
DOA	1227 11th Avenue Renovation			
		3,600,000		3,600,000
DOA	1300 11th Avenue Renovation			
		4,150,000		4,150,000
MUS	UM Mansfield Library Renovation			
		9,000,000	9,000,000	18,000,000
MUS	MSU Hamilton Hall 3rd and 4th Floor Renovation			
		5,230,000		5,230,000
DOA	5 South Last Chance Gulch Building Renovation			
		17,300,000		17,300,000
DMA	SMART Deferred Maintenance Program, Statewide			
		1,500,000	4,500,000	6,000,000
DOC	MSP Construction Education Program Building and Old Territorial Prison Repair			
		4,200,000		4,200,000
DMA	Billings Limited Army Aviation Support Facility, Phase 2			
		23,100,000		23,100,000
DMA	MTANG New Training Drop Zone			
		1,800,000		1,800,000
DOJ	MLEA New Indoor Firing Range			
		10,000,000		10,000,000
DMA	MT State Veterans' Cemetery, New Interment Processing Center			
		600,000		600,000
FWP	Central Services Site Upgrades Phase 2			
		13,350,000		13,350,000
FWP	Central Services Site Upgrades Phase 3			
		16,680,000		16,680,000
FWP	State Park Storage Building at Cooney Park and Deadman Basin FAS			

375,000

375,000

The department of administration may prioritize the funding, design, and construction between each of the storage buildings as necessary to meet the intent of [sections 3(8)(c) and 3(10)].

MDT Equipment Storage Buildings at Three Forks, Wolf Creek, Lodge Grass, Conrad, and Miles City

5,300,000

5,300,000

The department of administration may prioritize the funding, design, and construction between each of the equipment storage buildings as necessary to meet the intent of [sections 3(8)(c) and 3(11)].

MDT Purchase of Equipment Repair Shop and Property

8,500,000

8,500,000

MUS MSUB New Art Building

13,400,000

13,400,000

MUS UM New Bandy Ranch Field Research Housing

2,000,000

2,000,000

MUS UM Bio Research Building Addition

8,000,000

8,000,000

MUS MSU Instructional Space Modernization

4,000,000

4,000,000

MUS UM Law School Interior Remodel

3,000,000

3,000,000

MUS UM McGill Hall Addition

3,000,000

3,000,000

Authority-only increase is provided for the project in Section 3, Chapter 763, Laws of 2023.

MUS MSU Nopper Building Purchase

6,500,000

6,500,000

MUS UM Undergraduate Research Lab Upgrades and Improvements

10,000,000

10,000,000

MUS UM South Campus Tennis Court Complex

8,300,000

8,300,000

MUS MSU Visual Communications Building Classroom Addition

11,500,000 11,500,000

Authority-only increase is provided for the project in Section 2, Chapter 422, Laws of 2019, and Section 3, Chapter 763, Laws of 2023.

MUS Women's Soccer Locker Room Remodel and Lighting

400,000 400,000

MUS Montana Tech Campus Expansion and Upgrades 50,000,000 50,000,000

(2) The following money is appropriated to the department of military affairs for the indicated capital development projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization and are subject to the provisions of 18-2-103.

Agency/Project LRBP	State	Federal	Authority	Total
CD	Special	Special	Only	
Fund	Revenue	Revenue	Sources	

DMA Fort Harrison Open Bay Barracks

10,500,000 10,500,000

Federal special revenue is provided for the purposes of construction for the project consented to by the governor in August 2024 in accordance with 18-2-102(2)(e) for use of \$1,880,000 of federal funds for design only.

DMA Fort Harrison Vehicle Paint Shop Construction

4,000,000 4,000,000

DMA MTARNG Vehicle Maintenance Shop Construction

20,000,000 20,000,000

DMA Limestone Hills Target Storage Building Replacement

60,000 60,000

DMA Veterans' Cemetery Expansions, Statewide

1,000,000 1,000,000

DMA Capital Reserve Fund

31,505,000 31,505,000

(3) (a) The capital reserve fund may be used by the department of military affairs to fund projects

in [section 3] subsequently identified after the passage of [this act].

(b) A project must be prepared that describes each task to be completed with a budget for each proposed project. The project description must be submitted by the department of military affairs through the department of administration to the general government budget committee and the long-range planning budget committee. After the project description has been submitted to those committees, the budget director may approve, modify, or deny the proposed project.

(4) (a) The following money is appropriated to the office of budget and program planning for the indicated capital development project from the indicated source for the purpose of major repairs and capital projects on the Capitol complex:

Agency/Project LRBP	State	Federal	Authority	Total
CD	Special	Special	Only	
Fund	Revenue	Revenue	Sources	
OBPP Capitol Complex Deferred Maintenance and Renewal				
50,000,000				50,000,000

(b) The office of budget and program planning is authorized to transfer any or all of the appropriation to the department of administration. The department of administration is authorized to adjust major repair or capital development project amounts within the legislative intent, if approved by the office of budget and program planning, and to transfer the appropriations, authority, or both among the necessary fund types.

(c) The funds may be used in conjunction with projects appropriated in Section 14, Subsection 4, Chapter 762, Laws of 2023. The department may also extend existing design, construction, and other contracts at its sole discretion.

(d) The funds may not be utilized in or for space leased or to be leased by a state agency or to construct or acquire additional state-owned square footage.

(5) (a) The following money is appropriated to the department of administration for the purpose of capital development projects planning studies for agencies, including the university system, on capital projects that are anticipated to be greater than a total project cost of \$10 million:

Agency/Project LRBP	State	Federal	Authority	Total
---------------------	-------	---------	-----------	-------

	CD	Special	Special	Only
	Fund	Revenue	Revenue	Sources
DOA	Capital Development Projects Planning Studies			
	2,000,000			2,000,000

(b) Prior to usage of the funds, the department shall require agencies to submit individual capital project applications, along with 6-year facilities strategic plans, and make recommendations to the office of budget and program planning. A planning study must be approved by the office of budget and program planning prior to commencement by the department.

(c) The results of a planning study must contain the full narrative and explanation of the needs, project scope and programmatic information, design and construction schedule, itemized total capital project costs, any future staffing costs, and any future operations and maintenance costs.

(d) Subject to 17-7-211, agencies, including the university system, may utilize other funding sources to initiate or participate in a capital projects planning study.

(6) (a) The following money is appropriated to the department of administration as reserve funding on major repair-type and capital development-type capital projects:

Agency/Project	LRBP	State	Federal	Authority	Total
	CD	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
DOA	Reserve Funds for Market, Supply Chain, and Inflationary Impacts				
	10,000,000				10,000,000

(b) Prior to usage of the funds, the department shall submit a recommendation with sufficient justification for approval to the office of budget and program planning.

(c) Funding may not be used to expand beyond the scope of a project authorized by the legislature. This aggregate amount does not limit or restrict 17-7-211.

(7) (a) Pursuant to 17-7-210, if construction or acquisition of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance. To the extent allowed by law, at the end of each fiscal year

following approval of a new facility but prior to receipt of its certificate of occupancy, the appropriation made in this subsection reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) Subject to subsection (7)(e), the following money is appropriated for the biennium beginning July 1, 2025, to the indicated agency from the indicated sources for program expansion or operations and maintenance for the indicated new facility:

Agency/Project	General Fund	State Special Revenue	Federal Special Revenue	Authority Only Sources	Total
DNRC Missoula New Forestry and Trust Lands Office Building		50,876			50,876
DNRC Helena Wildland Firefighter Bunkhouses		66,360			66,360
DNRC Libby Wildland Firefighter Bunkhouses and Office Addition		33,180			33,180
DNRC Plains Wildland Firefighter Bunkhouse		33,180			33,180
MUS MSU Lewis Hall New Elevator and ADA Upgrades		37,800			37,800
DOA 5 South Last Chance Gulch Building Renovation		173,550			173,550
DMA Billings Limited Army Aviation Support Facility, Phase 2			107,400		107,400
DOJ MLEA New Indoor Firing Range		150,000			150,000
DMA MT State Veterans' Cemetery, New Interment Processing Center		9,625			9,625
FWP Central Services Site Upgrades Phase 2		133,468			133,468

FWP	Central Services Site Upgrades Phase 3	208,545	208,545
FWP	Region 5 Cooney State Park Storage Building	2,778	2,778
FWP	Region 5 Deadman's Basin FAS Storage Building	4,250	4,250
MDT	Three Forks Equipment Storage Building	48,150	48,150
MDT	Wolf Creek Equipment Storage Building	33,400	33,400
MDT	Lodge Grass Equipment Storage Building	33,400	33,400
MDT	Conrad Equipment Storage Building	41,650	41,650
MDT	Miles City Equipment Storage Building	44,750	44,750
MUS	MSUB New Art Building	257,680	257,680
MUS	UM New Bandy Ranch Field Research Housing	108,705	108,705
MUS	UM Bio Research Building Addition	246,050	246,050
MUS	UM McGill Hall Addition	71,968	71,968
MUS	MSU Nopper Building Purchase	1,252,186	1,252,186
MUS	UM South Campus Tennis Court Complex		
		359,086	359,086

MUS	MSU Visual Communications Building Classroom Addition		
	59,286	140,403	199,689
DMA	Fort Harrison Open Bay Barracks		
	204,800		204,800
DMA	Fort Harrison Vehicle Paint Shop Construction		
	42,100		42,100
DMA	MTARNG Vehicle Maintenance Shop Construction		
	134,800		134,800
DMA	Fort Harrison Facility Maintenance Shop #3 (FMS #3) Acquisition		
	31,000		31,000
MUS	Montana Tech Campus Expansion and Upgrades		
	2,543,693		2,543,693

Funds for operations and maintenance are provided upon completion of the transfer of the facility from federal to state ownership. The department of administration may utilize the FMS #3 to construct either or both the capital projects DMA DES State Emergency Coordination Center Expansion and DMA DES State Disaster Warehouse in Section 3, Chapter 763, Laws of 2023. If constructed within the FMS #3, the operations and maintenance funding for either or both the projects in Section 3, Chapter 763, Laws of 2023, shall transfer to the acquired FMS #3.

DMA	Billings Readiness Center and Innovation Campus (BRIC)		
	98,500 (General Fund)	98,500 (Federal Special Revenue)	197,000 (Total)

Funds for operations and maintenance are provided for the project in Section 3, Chapter 763, Laws of 2023, and are contingent on the sale of the existing Billings Armed Forces Reserve Center (BAFRC). After the sale, operations and maintenance funding currently appropriated to the department of military affairs for the existing Billings Armed Forces Reserve Center shall then be added to and utilized for the new Billings Readiness Center operations and maintenance.

DOA	Governor's Office, 720 Madison Avenue		
	270,250 (General Fund)		270,250 (Total)

Funds for operations and maintenance are provided upon completion of the transfer of the real property

to the department of administration.

(c) Subject to subsection (7)(e), the following money is appropriated for fiscal year 2027 to the indicated agency from the indicated sources for program expansion or operations and maintenance for the indicated new facility:

Agency/Project	General State	Federal Authority		Total
	Fund	Special	Special	Only
		Revenue	Revenue	Sources
DOC MSP Low-Side Housing Expansion				
	6,950,000			6,950,000

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

(e) Appropriations in subsections (7)(b) and (7)(c) are contingent on the passage and approval of a bill that includes an appropriation for the construction of the indicated projects in subsections (7)(b) and (7)(c).

(f) Funds appropriated in [this act] and prior appropriations, including House Bill 2, House Bill 5, and House Bill 872 from the 2023 session, may not be used to construct or staff a guard house at the Montana state hospital.

(8) The department of administration shall prioritize the project management and contracting for design and construction of capital projects contained in [this act] and may combine or bundle projects at its discretion, in the following order:

(a) (i) projects for the department of public health and human services, specifically DPHHS MSH Comprehensive Mechanical System Replacement, DPHHS MSH Spratt Building Upgrades for Licensure and Facility Fences, and the DPHHS MMHNCC D-Wing Remodel for Licensure;

(ii) projects for the department of corrections, specifically DOC MSP Low-Side Housing Expansion, DOC MSP Site Infrastructure Upgrades, DOC MSP Comprehensive Mechanical System Replacement, and the DOC MSP Construction Education Program Building Renovation and Old Territorial Prison Repair;

(iii) remaining projects in [this act] as determined by the department in accordance with 18-2-104 and taking into consideration prior appropriated capital projects.

(b) Based upon project type or location, the department may combine or bundle the procurement

of design services, bidding, and construction contracting for the purposes of efficiently implementing capital projects in either [section 2] or [section 3] or both.

(c) The department may also extend existing design, construction, and other contracts for capital projects in either [section 2] or [section 3] or both at its sole discretion, in order to expedite the implementation, design, and construction of capital projects in [this act].

(d) Should funding in House Bill 3 be insufficient for the replacement of the security doors in the RHU and SAU facilities at the Montana State Prison, the department of administration is authorized to adjust prior capital project appropriations in House Bill 817 of the 68th session and appropriations in [this act] for the department of corrections to complete the replacement of the security doors.

(9) The department shall develop standardized designs for bunkhouses used by all state agencies differentiated only by the number of beds they contain. Only one architectural fee may be paid for the bunkhouse design.

(10) The department shall develop standardized designs for storage sheds used by all state agencies differentiated only by the size of the shed. Only one architectural fee may be paid for the storage shed design.

(11) The department shall develop standardized designs for department of transportation equipment storage buildings differentiated only by the number of equipment bays in the structure. Only one architectural fee may be paid for the equipment storage building design.

(12) The architecture and engineering division of the department of administration shall provide a written report on the progress in implementing the projects identified as priority projects in subsections (8)(a)(i) and (8)(a)(ii) and the work done to implement projects in subsection (8)(a)(iii) 5 days prior to a meeting of the following committees:

- (a) the legislative finance committee; and
- (b) the long-range planning budget committee.

Section 4. Capital improvement projects. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization.

The department of fish, wildlife, and parks is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only Source	Total
FWP Statewide Administrative Facilities Major Maintenance	2,800,000			2,800,000
FWP Fishing Access Site Major Maintenance	1,590,000			1,590,000
FWP Statewide Hatchery Maintenance and Repairs	2,500,000			2,500,000
FWP Fishing Access Site Noxious Weed Control	250,000			250,000
FWP Wildlife Management Area Maintenance	3,380,000			3,380,000
FWP State Parks Major Maintenance	4,500,000			4,500,000
FWP State Parks Noxious Weed Control	250,000			250,000
FWP Statewide Wildlife Habitat Management Areas Improvements	680,000			680,000
FWP Future Fisheries	2,000,000			2,000,000
FWP Contract Programs	2,250,000			2,250,000
FWP Fish Connectivity	1,635,000	1,775,000		3,410,000
FWP Lewis and Clark Caverns State Park Water System				

	692,500	692,500	1,385,000
--	---------	---------	-----------

FWP Community Fishing Ponds

200,000	200,000
---------	---------

FWP Parks and Outdoor Recreation Site Development and Upgrades

4,509,680	510,000	5,019,680
-----------	---------	-----------

For the Judith Landing Site, noxious weed control must be performed with a portion of the funds appropriated for the location.

FWP Upland Game Bird Enhancement Program

2,000,000	2,000,000
-----------	-----------

FWP Dam Maintenance

90,000	90,000
--------	--------

FWP Region 5 HQ Pemberton Lane Improvements

255,000	255,000
---------	---------

FWP Grants Programs

5,800,000	7,900,000	13,700,000
-----------	-----------	------------

FWP Bannack State Park Historic Preservation

250,000	250,000
---------	---------

FWP Forest Management Program

250,000	250,000
---------	---------

FWP Tongue/Yellowstone/Muggli Fishery Infrastructure Improvements

1,430,000	1,430,000
-----------	-----------

(2) Authority is granted to the Montana university system for the purpose of making capital improvements to campus facilities statewide. Authority-only funds may include donations, grants, auxiliary funds, proprietary funds, nonstate funds, and university funds. Use of authority-only funds may be allocated at not more than \$2,500,000 per project and are subject to the provisions of 18-2-103. All costs for the operations and maintenance of any improvements constructed under this authorization must be paid by the Montana university system from nonstate sources:

Agency/Project LRBP	State	Federal	Authority	Total
---------------------	-------	---------	-----------	-------

Fund	Special Revenue	Special Revenue	Only Sources
General Spending Authority, MUS All Campuses			20,000,000 20,000,000

(3) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements to statewide facilities as indicated and are subject to the provisions of 18-2-103:

Agency/Project LRBP	State	Federal	Authority	Total
Fund	Special	Special	Only	
	Revenue	Revenue	Sources	
Maintenance, Repair, and Small Projects, Statewide				
	3,000,000			3,000,000

(4) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. The capital improvements are subject to the provisions of 18-2-103. All costs for the operation and maintenance of any improvements constructed with these funds must be paid by the department of military affairs from nonstate sources:

Agency/Project LRBP	State	Federal	Authority	Total
Fund	Special	Special	Only	
	Revenue	Revenue	Sources	
Federal Spending Authority		3,000,000		3,000,000

(5) The following money is appropriated to the department of environmental quality in the indicated amount for the purpose of leaking petroleum tank remediation to address risks to human health or the environment at petroleum sites where there is no readily apparent potentially liable person or entity that is financially viable:

Agency/Project LRBP	State	Federal	Authority	Total
Fund	Special	Special	Only	Revenue
	Revenue	Revenue	Sources	
Remediation of Leaking Petroleum Tanks				
	2,000,000			2,000,000

Section 5. Land acquisition appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purposes of land acquisition, land leasing, easement purchase, or development agreements. The department of fish, wildlife, and parks is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	State	Federal	Authority	Total
	Special	Special	Only	
	Revenue	Revenue	Sources	
FWP Habitat Montana				
	12,000,000			12,000,000
FWP Fishing Access Site Acquisition				
	500,000			500,000
FWP Habitat Montana -- Enhanced 701 Funding				
	18,000,000			18,000,000

Section 6. Planning and design. The department of administration may proceed with the planning and design of capital projects in either or both [sections 2 and 3] prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of other funding sources.

Section 7. Capital projects -- contingent funds. (1) If a capital project is financed, in whole or in part, with appropriations contingent on the receipt of other funding sources, the department of administration may not let the project for bid until a financial plan and agreement with the agency has been approved by the director of the department of administration. A financial plan and agreement may not be approved by the director if:

- (a) the level of funding and authorization provided under the financial plan and agreement deviates substantially from the funding level provided in either or both [sections 2 and 3] for that project; or
- (b) the scope of the project is substantially altered or revised from the concept and intent for that

project as presented to the 69th legislature.

(2) For any capital project financed, in whole or in part, with appropriations contingent on the receipt of other funding sources in this biennium and any prior biennium, the agency, including the university system, for which the capital project is for must submit a report through the department of administration architecture and engineering division to the Joint Appropriations Subcommittee for Long-Range Planning indicating the status of the other sources of funding, how much funding has been received, projections of when the funding is anticipated to be received, or if the project should be canceled. A report must be provided to the subcommittee during every regular session of the legislature until a project begins construction or is canceled by the legislature.

(3) This section does not limit or restrict the application of 17-7-211.

Section 8. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in either or both [sections 2 and 3] for potential inclusion in the state building energy conservation program (SBECF) under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy or utility savings and improvements, that project must be submitted to the energy conservation program for funding consideration by the SBECF. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the capital project. Agencies must be notified of potential funding after the review and are obligated to utilize the SBECF funding, if available, on the terms and conditions specified by the department.

Section 9. Legislative intent. The appropriations authorized in [sections 2 through 5] constitute legislative consent for the capital projects contained in [sections 2 through 5] within the meaning of 17-7-201 and 18-2-102.

Section 10. Increase in state funding for program expansion or operations and maintenance. If an immediate or future increase in state funding for program expansion or operations and maintenance is required for a new facility in [section 3] but the increase is not appropriated by the 69th legislature, that new

facility in [section 3] is not appropriated or authorized as provided in 17-7-210.

Section 11. Section 17-7-201, MCA, is amended to read:

"17-7-201. Definitions. In this part, the following definitions apply:

(1) (a) "Building" includes a:

- (i) building, facility, or structure constructed or purchased wholly or in part with state money;
- (ii) building, facility, or structure at a state institution;
- (iii) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.

(b) The term does not include a:

(i) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district;

(ii) facility or structure used as a component part of a highway or water conservation project.

(2) "Capital development" means a:

(a) renovation, construction, alteration, site, or utility project with a total cost of \$2.5 million or more;

(b) new facility with a construction cost of \$250,000 or more; or

(c) purchase of real property for which an appropriation is required to fund the purchase.

(3) "Construction" includes construction, repair, alteration, renovation, and equipping and furnishing during construction, repair, or alteration.

(4) "Division" means the architecture and engineering division of the department of administration.

(5) "High-performance building" means a building that integrates and optimizes all major high-performance building attributes, including but not limited to:

(a) energy efficiency;

(b) durability;

(c) life-cycle performance; and

(d) occupant productivity.

(6) (a) "Long-range building program-eligible building" means a building, facility, or structure

eligible for major repair account funding that:

(i) is owned or fully operated by a state agency and for which the operation and maintenance are funded with state general fund money; or

(ii) supports academic missions of the university system and for which the operation and maintenance are funded with current unrestricted university funds.

(b) The term does not include a building, facility, or structure:

(i) owned or operated by a state agency and for which the operation and maintenance are entirely funded with state special revenue, federal special revenue, or proprietary funds; or

(ii) that supports nonacademic functions of the university system and for which the operation and maintenance are funded from nonstate and nontuition sources.

(7) (a) "Major repair" means:

(i) a renovation, alteration, replacement, or repair project with a total cost of less than \$2.5 million;

(ii) a site or utility improvement with a total cost of less than \$2.5 million; or

(iii) a new facility with a total construction cost of less than \$250,000.

(b) The term does not include operations and maintenance as defined in this section.

(8) (a) "New facility" means the construction or acquisition of a new building on state property regardless of funding source and includes:

(i) an addition to an existing building; and

(ii) the enclosure of space that was not previously fully enclosed.

(b) The term does not include the replacement of state-owned space that is demolished or that is otherwise removed from state use if the total construction cost of the replacement space is less than \$2.5 million.

(9) "Operations and maintenance" means operational costs and regular, ongoing, and routine repairs and maintenance funded in an agency operating budget that does not extend the capacity, function, or lifespan of a facility.

(10) "Replacement cost of existing long-range building program-eligible building" means the current replacement value of all long-range building program-eligible buildings included in the statewide facility inventory and condition assessment as provided in 17-7-202."

Section 12. Section 17-7-202, MCA, is amended to read:

"17-7-202. Preparation of building programs and submission to department of administration -- statewide facility inventory and condition assessment. (1) Before ~~July 1~~ April 1 of the year preceding a legislative session, each state agency and institution shall submit to the architecture and engineering division of the department of administration, on forms furnished by the division, a proposed long-range building program for major repair projects and capital developments, if any, for the agency or institution along with the agency's or institution's 6-year capital development facilities strategic plan. Excluding major repair projects greater than \$2,500,000, the division may not include a capital development project request in the information provided pursuant to 17-7-202(4) without the project also being included in an agency's or institution's 6-year capital development facilities strategic plan, unless approved by the office of budget and program planning. Each agency and institution shall furnish any additional information requested by the division relating to the utilization of or need for major repair projects and capital developments.

(2) (a) Except as provided in subsection (3), the division shall compile and maintain a statewide facility inventory and condition assessment that:

- (i) for each state-owned building:
 - (A) identifies its location and total square footage;
 - (B) identifies the agency or agencies using or occupying the building and how much square footage each agency uses or occupies;
 - (C) lists the current replacement value of the building in its entirety and each agency's portion of the building; and
 - (D) identifies whether the building is a long-range building program-eligible building; and
- (ii) for each long-range building program-eligible building:
 - (A) includes a facility condition assessment of the building and an itemized list of the building's deficiencies; and
 - (B) compares the building's current building deficiency ratio to its deficiency ratio in the previous biennium.
- (b) The division may contract with a private vendor to collect, analyze, and compile the building

information required in this subsection (2).

(c) The facility inventory and condition assessment must be updated as determined by the division.

(d) The division may incorporate in the statewide facility inventory and condition assessment any facility condition assessment or similar document compiled by an agency.

(e) The division shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ratio of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative finance committee by September 1 of the year preceding a regular legislative session in an electronic format. The division shall provide a copy of the report to the legislature in accordance with 5-11-210.

(3) The division is not required to include a state-owned building that has a current replacement value of ~~\$150,000~~ \$300,000 or less in the facility inventory and condition assessment.

(4) The division shall examine the information furnished by each agency and institution and shall gather whatever additional information is necessary and conduct whatever surveys are necessary in order to provide a factual basis for determining the need for and the feasibility of major repair projects and capital developments. The information compiled by the division shall be submitted to the governor before October 1 of the year preceding a regular legislative session."

Section 13. Section 17-7-210, MCA, is amended to read:

"17-7-210. Required funding for maintenance of newly authorized state buildings. (1) If construction or acquisition of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance.

(2) (a) To the extent allowed by law, at the end of each fiscal year following approval of a new facility but prior to receipt of its certificate of occupancy or acquisition, the appropriation made pursuant to subsection (1) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) When a certificate of occupancy or acquisition for a new facility is received prior to the end of the fiscal year, the amount of the appropriation made pursuant to subsection (1) that reverts to its originating

fund is the prorated amount from the beginning of the fiscal year to the date of the receipt of the certificate of occupancy."

Section 14. Section 17-7-223, MCA, is amended to read:

"17-7-223. Major repair -- submission of list to legislature -- priorities. (1) By November 15 of the year preceding a regular legislative session, the division shall, on behalf of all state agencies, submit a list of anticipated major repair projects to the governor. The governor shall review the list of anticipated long-range building program-eligible major repair projects recommended by the division and submit it to the legislature.

(2) The division shall ensure that the list identifies:

(a) single projects that cost more than ~~\$150,000~~ \$300,000;

(b) multiple projects within a single building or facility that collectively cost more than ~~\$150,000~~ \$300,000; and

(c) single projects that will be constructed in phases with an aggregate cost of more than ~~\$150,000~~ \$300,000.

(3) Unless otherwise directed by the legislature, the division shall execute major repair projects from the prioritized list submitted to the legislature up to the level of appropriation made by the legislature.

(4) In prioritizing major repair projects, the division shall consider the results of the statewide facility inventory and condition assessment prepared pursuant to 17-7-202.

(5) In prioritizing major repair projects, the division shall allocate at least 80% of the funds that the legislature appropriates for major repair to:

(a) projects that address:

(i) any issue that impacts health and safety;

(ii) failing building envelopes;

(iii) structural deficiencies;

(iv) energy, utility, or water savings;

(b) projects that upgrade, repair, or replace:

(i) mechanical, plumbing, or control systems;

(ii) electrical systems;

- (iii) fixed equipment;
- (iv) an essential building component; or
- (v) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road;

or

(c) projects that demolish and replace an existing building or facility that is in extensive disrepair and cannot be fixed by repair or maintenance.

(6) In prioritizing major repair projects, the division shall allocate no more than 20% of the funds that the legislature appropriates for major repair to:

- (a) remodeling and aesthetic upgrades to meet programmatic needs; or
- (b) construct an addition to an existing building or facility."

Section 15. Section 3, Chapter 763, Laws of 2023, is amended to read:

The portion of section 3(1), Chapter 763, Laws of 2023, appropriating money from the capital development account to the department of administration for the indicated capital project is amended to read:

"DPHHS MSH Compliance Upgrades for Recertification & Deferred Maintenance

15,903,000

15,903,000

~~Up to \$10,000,000 of funding for the project must be used for rebuilding a water line constructed by the state serving the Montana State Hospital. The department is authorized to contract with Anaconda-Deer Lodge County for this portion of the project at the department's discretion."~~

Section 16. Transfer of funds. (1) By June 30, 2027, the department of administration shall transfer \$150 million from the general fund to the capital developments long-range building program account established in 17-7-209.

(2) By July 1, 2025, the state treasurer shall transfer \$2 million from the general fund to a state special account within the department of environmental quality for the purpose of leaking petroleum tank remediation.

Section 17. Transfer of funds -- plan and reporting. (1) By June 30, 2026, the state treasurer shall

transfer \$26.5 million from the capital developments long-range building program account established in 17-7-209 to the board of investments for the purposes of building a behavioral health facility.

(2) Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.

(3) Any unspent funds must revert to the capital developments long-range building program account.

Section 18. Coordination instruction. If both House Bill No. 217 and [this act] are passed and approved, then the reference to the department of environmental quality in [section 8 of this act] must be changed to "the department of administration architecture and engineering division".

Section 19. Section 14(1), Chapter 762, Laws of 2023, is amended to read:

"Section 14. Appropriations. (1) There is appropriated ~~\$42.5~~ \$15 million from the account established in [section 11] to the legislative branch for the biennium beginning July 1, 2023, for the purposes set forth in subsections (2) and (3). This appropriation is reappropriated for the purposes of the original appropriation until the funds are fully expended."

Section 20. Section 9(1), Chapter 739, Laws of 2023, is amended to read:

"Section 9. Appropriations for capital projects. (1) After the administrative rules have been adopted under [section 4] and only after the commission transmits its summary report on its recommendations to the governor after following the process set forth in [section 2], there is appropriated ~~\$55~~ \$28.5 million to the department of administration from the capital developments long-range building program account in the capital

projects fund type provided for in 17-7-209 for the behavioral health system for future generations capital development."

Section 21. Operations and maintenance appropriation. (1) The amount of \$10 million is appropriated from the general fund to the department of public health and human services for the fiscal year beginning July 1, 2026, for program expansion or operations and maintenance for the indicated new setting.

(2) It is the intent of the legislature that the appropriation in subsection (1) become part of the base budget for the department of public health and human services for the biennium beginning July 1, 2027.

Section 22. Section 1, Chapter 468, Laws of 2021, is amended to read:

The portion of section 1, Chapter 468, Laws of 2021, appropriating money from the capital development account to the department of administration for the indicated capital project is amended to read:

"MONTANA UNIVERSITY SYSTEM

~~UM Forestry Conservation & Science Lab~~

~~25,000,000 20,000,000 45,000,000"~~

Section 23. Section 3, Chapter 763, Laws of 2023, is amended to read:

The portion of section 3(1), Chapter 763, Laws of 2023, appropriating money from the capital development account to the department of administration for the indicated capital project is amended to read:

"MUS UM Clapp Building ~~Renovation~~ Replacement

~~27,000,000 10,000,000 37,000,000~~
52,000,000 20,000,000 72,000,000"

Section 24. Combination of capital development appropriations. (1) The architecture and engineering division of the department of administration shall combine the UM Forestry Conservation & Science Lab capital project previously authorized in section 1, Chapter 468, Laws of 2021, with the Clapp Building Replacement capital project, previously authorized in section 3, Chapter 763, Laws of 2023. The combined appropriation must result in a single facility of not more than the gross square footage of the existing Clapp

Building on the same site and may not expand existing programs into other UM facilities or result in any new programs.

(2) The architecture and engineering division of the department of administration may reuse portions of the existing Clapp Building, including the basement, foundation, and utility systems, or other portions of the existing building, based on analysis of the existing facility taking into consideration existing asbestos containing materials, seismic and structural conditions, mechanical and electrical or plumbing systems, energy efficiency, functionality, UM program needs, and long-term operational and maintenance costs.

Section 25. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 26. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

HB 5, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 5

INTRODUCED BY J. FITZPATRICK

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

AN ACT APPROPRIATING MONEY FOR MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2027; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT AND A TRANSFER OF FUNDS FROM THE GENERAL FUND TO A STATE SPECIAL REVENUE FUND; PROVIDING FOR A MODIFICATION TO THE LONG-RANGE BUILDING PROGRAM; INCREASING CERTAIN VALUE THRESHOLDS FROM \$150,000 TO \$300,000; ESTABLISHING REPORTING REQUIREMENTS; ALLOWING A COMBINATION OF PREVIOUSLY APPROVED APPROPRIATIONS FOR THE CLAPP BUILDING; AMENDING SECTIONS 17-7-201, 17-7-202, 17-7-210, AND 17-7-223, MCA; AMENDING SECTION 1, CHAPTER 468, LAWS OF 2021, SECTION 9(1), CHAPTER 739, LAWS OF 2023, SECTION 14(1), CHAPTER 762, LAWS OF 2023, AND SECTION 3, CHAPTER 763, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.