

1 HOUSE BILL NO. 817
 2 INTRODUCED BY J. FITZPATRICK
 3 BY REQUEST OF THE (H) APPROPRIATIONS
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CAPITAL PROJECTS; PROVIDING
 6 APPROPRIATIONS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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10 **NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 5], unless the context clearly
 11 indicates otherwise, the following definitions apply:

- 12 (1) "Authority only" means approval provided by the legislature to expend money that does not
 13 require an appropriation, including grants, donations, auxiliary funds, proprietary funds, nonstate funds, and
 14 university funds.
- 15 (2) "Capital development" means capital projects provided for in 17-7-201(2).
- 16 (3) "Capital project" means the planning, design, renovation, construction, alteration, replacement,
 17 furnishing, repair, improvement, site, utility, or land acquisition project provided for in [sections 1 through 5].
- 18 (4) "LRBP capital development" or "LRBP CD" means the long-range building program capital
 19 developments account in the capital projects fund type provided for in 17-7-209.
- 20 (5) "LRBP major repair" or "LRBP MR" means the long-range building program major repair
 21 account in the capital projects fund type provided for in 17-7-221.
- 22 (6) "Major repair" means capital projects provided for in 17-7-201(7).
- 23 (7) "Other funding sources" means money other than LRBP money, state special revenue, or
 24 federal special revenue that accrues to an agency under the provisions of law.

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 26 **NEW SECTION. Section 2. Appropriations and project prioritization.** (1) (a) For the biennium
 27 beginning July 1, 2023, the following money is appropriated to the department of administration for the
 28 indicated major repair projects from the indicated sources. Funds not requiring legislative appropriation are

1 included for the purpose of authorization. The department of administration is authorized to transfer the
2 appropriations, authority, or both among the necessary fund types for these projects:

3	Agency/Project LRBP	State	Federal	Authority	Total
4	MR	Special	Special	Only	
5	Fund	Revenue	Revenue	Sources	
6	DOC MSP Perimeter Fence Enhance				
7	1,500,000				1,500,000
8	DOC MSP Red Light Emergency Notifications System				
9	1,000,000				1,000,000

10 (b) For the biennium beginning July 1, 2023, the following money is appropriated to the
11 department of administration for the indicated capital development projects from the indicated sources. Funds
12 not requiring legislative appropriation are included for the purpose of authorization. The department of
13 administration is authorized to transfer the appropriations, authority, or both among the necessary fund types
14 for these projects:

15	Agency/Project LRBP	State	Federal	Authority	Total
16	CD	Special	Special	Only	
17	Fund	Revenue	Revenue	Sources	
18	DOC MSP Replace Low-Side Housing				
19	156,000,000				156,000,000
20	DOC MSP Water Line Replacement				
21	3,000,000				3,000,000
22	DOC MSP Unit F Water Line Upgrade				
23	600,000				600,000

24 (c) The department of administration shall prioritize the following projects at the Montana state
25 prison as first and shall move at all deliberate speed to have each project under contract by September 30,
26 2023.

27 (2) To expedite construction of new low-side housing units at the Montana state prison, the
28 department of administration, in consultation with the department of corrections, is authorized to purchase plans

1 for prison housing that was constructed in another state, provided the plans can be made to comply with the
2 professional services requirements of Title 18, chapter 2, and Title 37, chapters 65 and 67.

3 (3) (a) Pursuant to 17-7-210, if construction of a new facility requires an immediate or future
4 increase in state funding for program expansion or operations and maintenance, the legislature may not
5 authorize the new facility unless it also appropriates funds for the increase in state funding for program
6 expansion and operations and maintenance. To the extent allowed by law, at the end of each fiscal year
7 following approval of a new facility but prior to receipt of its certificate of occupancy, the appropriation made in
8 this subsection (3) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

9 (b) It is the legislature's intent that the appropriations in this subsection (3) become part of the
10 respective agency's base budget for the biennium beginning July 1, 2025.

11 (c) The following money is appropriated for the biennium beginning July 1, 2023, to the
12 department of corrections from the indicated sources for program expansion or operations and maintenance for
13 the indicated new facility:

Agency/Project	General	State	Federal	Authority	Total
	Fund	Special	Special	Only	
		Revenue	Revenue	Sources	
DOC MSP Replace Low-Side Housing					
	176,560				176,560

20 **NEW SECTION. Section 3. Planning and design.** The department of administration may proceed
21 with the planning and design of capital projects in [section 2] prior to the receipt of other funding sources. The
22 department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred
23 before the receipt of other funding sources.

25 **NEW SECTION. Section 4. Capital projects -- contingent funds.** (1) If a capital project is financed
26 in whole or in part with appropriations contingent on the receipt of other funding sources, the department of
27 administration may not let the project for bid until a financial plan and agreement with the agency has been
28 approved by the director of the department of administration. A financial plan and agreement may not be

1 approved by the director if:

2 (a) the level of funding and authorization provided under the financial plan and agreement deviates
3 substantially from the funding level provided in either or both [sections 2 and 3] for that project; or

4 (b) the scope of the project is substantially altered or revised from the concept and intent for that
5 project as presented to the 68th legislature.

6 (2) This section does not limit or restrict 17-7-211.

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8 **NEW SECTION. Section 5. Review by department of environmental quality.** The department of
9 environmental quality shall review capital projects authorized in [section 2] for potential inclusion in the state
10 building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital
11 project will result in energy or utility savings and improvements, that project must be submitted to the energy
12 conservation program for funding consideration by the state building energy conservation program. Funding
13 provided under the energy conservation program guidelines must be used to offset or add to the authorized
14 funding for the project, and the amount must be dependent on the annual utility savings resulting from the
15 capital project. Agencies must be notified of potential funding after the review and are obligated to utilize the
16 state building energy conservation program funding, if available.

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18 **NEW SECTION. Section 6. Legislative consent.** The appropriations authorized in [sections 1
19 through 5] constitute legislative consent for the capital projects contained in [sections 1 through 5] within the
20 meaning of 18-2-102.

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22 **COORDINATION SECTION. Section 7. Coordination instruction.** If both House Bill No. 5 and [this
23 act] are passed and approved and any project in [this act] is also fully funded by an appropriation in House Bill
24 No. 5, then the appropriation for the project in House Bill No. 5 is void.

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26 **NEW SECTION. Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
28 the part remains in effect in all valid applications that are severable from the invalid applications.

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2 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

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