



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2027 Biennium

Bill#/Title: **HB0912.01: Generally revise behavioral health laws to create a secure forensic facility**

Primary Sponsor: Steven Kelly Status: As Introduced

☐ Included in the Executive Budget ☐ Needs to be included in HB 2 ☒ Significant Local Gov Impact  
☒ Significant Long-Term Impacts ☒ Technical Concerns ☐ Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
<b>Expenditures</b>				
State Special Revenue (02)	\$30,000,000	\$30,000,000	\$0	\$0
<b>Revenues</b>				
State Special Revenue (02)	\$0	\$0	\$0	\$0
<b>Net Impact</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>General Fund Balance</b>				

### Description of fiscal impact

House Bill 912 establishes a secure forensic facility designed to accommodate a maximum of 70 patients. This facility will provide care, treatment, and security for individuals who have been adjudicated as guilty but mentally ill (GBMI), found not guilty due to mental illness, or require forensic evaluations or competency restoration before legal proceedings. The bill specifies that the facility must be located east of a line running north-south through Big Timber, Montana. Additionally, it allocates \$60 million from the Behavioral Health System for the Future Generations Fund to support the project.

### FISCAL ANALYSIS

#### Assumptions

#### Department of Administration

1. The Architecture & Engineering Division (AE), Department of Administration (DOA), assumes the building will be state-owned and state-operated (either via state employee staffing or a contracted vendor).
2. Section 3 of this bill amends 50-1-119, MCA to allow for construction as an eligible use of the Behavioral health system for future generations fund.
3. HB 872, 68th, section 7 transferred \$225 million from the general fund into the fund established in section 3 no later than June 30, 2024. A total of \$70 million was appropriated in section 8 to the Department of Public Health and Human Services for the eligible uses in section 3, leaving an available balance of \$155 million.
4. HB 872, 68th, section 9 appropriated \$55 million to DOA for capital projects as recommended by the commission and authorized by the Governor. To date, no capital projects have been requested of DOA.
5. New section 4, page 4, line 2, provides an appropriation of \$60 million to the DPHHS for planning, design, constructing, and equipping the new facility. AE assumes DPHHS will transfer the spending authority and appropriation to DOA per AE's statutory duties in Title 17-7, Part 2, and Title 18-2.

6. To be licensed as a forensic mental health facility (FMHF), each room must be single occupancy. The space requirement for the entirety of all facility components is multiplied by the 70-beds to ascertain a total building square footage estimate. The total of all components (patient rooms, treatment, administration, nursing, restrooms, common space, mechanical rooms, electrical rooms, admissions, etc.) can from 700 to 1,100 square feet per bed to provide all services and support needed. As a result, the building needed would range in size from 49,000 to 77,000 square feet.
7. Construction costs vary based on the type of building. FMHF buildings would likely combine features of both a hospital and a jail. AE estimates that the construction-only cost for jail-like facilities would be approximately \$548 per square foot, while hospital-like facilities could cost around \$600 per square foot.
8. In addition to construction costs, capital projects also require design fees, materials testing, permitting, furnishings, and other costs in the total project budget.
9. The location of the proposed project is unknown and it is assumed the state acquire sufficient land to build the facility that will also be close to municipal utility systems. AE estimates a minimum of 15 acres is required for a structure of this size that will accommodate access drives, parking for staff and visitors, secure perimeter, utilities, and other appurtenances.
10. It is assumed that the total completion of the new facility will take approximately 4 years from the date of an appropriation.
11. For the purpose of this fiscal note, the expenditures are split between both years of the 2027 biennium. The actual schedule of expenditures may differ.

HB0912: Building Construction Cost Update - A/E Division 03/31/2025				
Assumptions	Jail-like Facility		Hospital-like Facility	
Space requirement for one bed typically ranges from around 700 to 1,100 square feet.	Square Footage		Square Footage	
700 or 1,100 sf (low/high) multiplied by 70 beds	Low	High	Low	High
Estimated 70-Bed Facility Square Footage	49,700 sf	77,000 sf	49,700 sf	77,000 sf
Estimated Construction Cost per Square Foot	\$548.22		\$600.00	
Estimated 70-Bed Facility Construction Cost	\$25,010,034	\$38,747,940	\$29,820,000	\$46,200,000
Arch/Eng Design Cost (Est @ 15% Const Cost)	\$3,751,505.10	\$5,812,191.00	\$4,473,000.00	\$6,930,000.00
Furniture, Fixtures, and Equipment/Startup cost (est @ 30% Const Cost)	\$7,503,010.20	\$11,624,382.00	\$8,946,000.00	\$13,860,000.00
Land Acquisition Cost @ \$30 per sf. Per acre (43,560 sf/acre = \$1,306,800 acre) 15 acres min. required. Assume utilities provided to land. (Land cost averaged square foot cost between Billings/Butte/Missoula/Bozeman)	\$19,602,000	\$19,602,000	\$19,602,000	\$19,602,000
Construction Contingency @ 10% of Construction Cost	\$2,501,003	\$3,874,794	\$2,982,000	\$4,620,000
Escalation to midpoint of Construction @ 10% of all other capital costs.	\$5,586,655	\$7,578,651	\$6,284,100	\$8,659,200
<b>TOTAL 70-BED FACILITY ESTIMATE</b>	<b>\$63,954,208</b>	<b>\$87,239,958</b>	<b>\$72,107,100</b>	<b>\$99,871,200</b>

## Fiscal Analysis Table

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
<b><u>Fiscal Impact</u></b>				
<b><u>Expenditures</u></b>				
Capital Outlay	\$30,000,000	\$30,000,000	\$0	\$0
<b>TOTAL Expenditures</b>	<b>\$30,000,000</b>	<b>\$30,000,000</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Funding of Expenditures</u></b>				
State Special Revenue (02)	\$30,000,000	\$30,000,000	\$0	\$0
<b>TOTAL Funding of Expenditures</b>	<b>\$30,000,000</b>	<b>\$30,000,000</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Revenues</u></b>				
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u></b>				
State Special Revenue (02)	(\$30,000,000)	(\$30,000,000)	\$0	\$0

## Significant Long-Term Impacts

## Department of Public Health and Human Services

- House Bill 912 does not provide an appropriation to DPHHS for the ongoing operation and maintenance of the new facility, as required by 17-7-210 in the Montana Code Annotated (MCA).
- Based on the 4-year completion timeline of the structure, the Department of Public Health and Human Services (DPHHS) is expected to begin operations of the new facility on July 1, 2029.
- Using the SFY 2024 actual daily cost of \$708.84 at the Montana State Hospital Galen Facility, adjusted for inflation of 1.5% each year, a 70-bed forensic facility would cost approximately \$19,803,294 (\$775.08 daily rate (adjusted for 1.5% yearly inflation from SFY 2024 to SFY 2030) x 365 days x 70 patients) in state fiscal year 2030.

State Fiscal Year	Daily Rate	Inflationary Adjustment Factor	New Rate
2024	\$ 708.84	1.015	\$ 719.47
2025	\$ 719.47	1.015	\$ 730.26
2026	\$ 730.26	1.015	\$ 741.22
2027	\$ 741.22	1.015	\$ 752.34
2028	\$ 752.34	1.015	\$ 763.62
2029	\$ 763.62	1.015	\$ 775.08
2030	<b>\$ 775.08</b>		

## Technical Concerns

## Department of Public Health and Human Services

- New section 4, page 4, line 2, provides an appropriation of \$60 million to DPHHS for planning, designing, constructing, and equipping the new facility. DPHHS will transfer the spending authority and appropriation to the Department of Administration (DOA) in accordance with the statutory duties of the Architecture and Engineering (AE) Division, as outlined in MCA title 17-7, Part 2, and Title 18-2.
- The Behavioral Health System for Future Generations Fund (BHSFG), as outlined in MCA title 50-1-119, also permits the acquisition and remodeling of existing infrastructure or property to support the

- <sup>4</sup> establishment of behavioral health settings. The department may be able to find an existing structure in the bill's required location at a cost lower than new construction.
3. Section 4 cites MCA 17-2-102 as the basis for establishing the BHSFG fund. However, MCA 17-2-102 only outlines the structure of funds and does not create specific individual funds.
  4. The state special revenue fund outlined in MCA title 50-1-119 was funded with \$225 million by the 2023 legislature. The BHSFG commission was tasked with recommending how these funds would be allocated and expended. The commission worked throughout FY23 and FY24, hosting a series of meetings with stakeholders across the state to develop a list of recommendations focused on community-based services. These recommendations were included in a final report submitted to the Governor in September 2024. Several of the report recommendations were included in the Governor's biennial budget request. HB 912 would divert \$60 million of these funds to the new facility. This may negatively impact the department's ability to fund the BHSFG commission recommendations that generally focus on preventive, community-based services prioritized by the consensus-driven commission. The department cautions against leveraging the \$225 million for capital projects due to the anticipated community-based services obligations.
  5. HB 872, passed by the 2023 legislature, appropriated \$75 million to DOA and DPHHS for capital project purposes associated with BHSFG. The department believes that this is a more appropriate funding source for the proposed facility and would mitigate negative impact to BHSFG community-based services to be funded and sustained over time with the \$225 million appropriation. Appropriations in other bills are being made out of this fund in the 27 biennium budget. Until the 2025 session is over, it is unknown how many other appropriations will be made out of the fund balance.
  6. It is unclear how this proposal may intersect with other potentially duplicative introduced and non-introduced legislation to fund new DPHHS Healthcare Facilities Practice facilities.

**Department of Administration**

1. New section 1, Page 1, line 14 of the bill states "DPHHS shall . . . oversee the construction and operation of" the new secure forensic facility. 18-2-103 MCA requires AE, DOA to oversee and manage all construction activities for state agencies on projects exceeding \$300,000.
2. Section 3, page 2, line 19, adds the word "construction" to the eligible uses of the state special revenue fund in HB 872, 68th, section 3. However, the bill does not comply with 17-7-210 MCA for construction of a new state facility.
3. The bill does not provide legislative consent language for state-owned construction in 18-2-102 MCA.
4. It is unknown if HB 912 addresses items in the HB 872 behavioral health commission report.



Sponsor's Initials



Date



Budget Director's Initials

4/2/2025

Date