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House BILL NO. 398
INTRODUCED BY [Signature]

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LEASE WITH OPTION TO PURCHASE FOR STATE BUILDINGS; PROVIDING TIMING FOR LEGISLATIVE APPROVAL; PROVIDING FOR A REQUEST FOR PROPOSALS PROCESS; EXEMPTING LEASE-PURCHASE PROVISIONS FROM STATE CONSTRUCTION CONTRACT REQUIREMENTS; REVISING THE APPOINTMENT OF ARCHITECTS FOR BUILDING LEASE PROJECTS; ELIMINATING CERTAIN REQUIREMENTS CONCERNING LEASES FOR BUILDINGS; REMOVING THE STATUTORY PROVISIONS GOVERNING RENT; APPROVING THE LEASE WITH OPTION TO PURCHASE FOR SPECIFIC BUILDINGS; CREATING A STATE DEBT; AMENDING SECTIONS 18-3-101, 18-3-105, 53-1-203, AND 53-30-505, MCA; REPEALING SECTIONS 18-3-102, 18-3-103, 18-3-104, AND 18-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 18-3-101, MCA, is amended to read:

"18-3-101. **Authority to lease with option to purchase.** ~~(1) When authorized by a vote of two-thirds of the members of each house of the legislature, the~~ The department of administration shall have the authority, as part of the long range building program, to may enter into a rental lease contract which that provides an option to purchase a building to be used by the state or any department of state government. The purchase option terms of the contract are valid only after authorization by a vote of two-thirds of the members of each house of the legislature.

(2) For projects with an appraised building value of less than \$2 million, the department shall seek legislative approval for a purchase option in the next regularly scheduled legislative session.

(3) For projects with an appraised building value of \$2 million or more, the department shall seek legislative approval before contracting for a purchase option."

Section 2. Section 18-3-105, MCA, is amended to read:

"18-3-105. **Location of building.** ~~The~~ A building authorized pursuant to 18-3-101 shall must be located as determined by the terms of the ~~call~~ request for ~~bids~~ proposals. ~~If any such a contract entered~~

1 into pursuant to this chapter requires the sale or lease of any interest in state lands, the contract must have
2 prior approval of the board of land commissioners."

3
4 **NEW SECTION. Section 3. Requests for proposals.** (1) The department, with the cooperation of
5 the departments that will occupy the rental property, shall develop a request for proposals defining the
6 state's program and building specification requirements. A request for proposals must be administered in
7 accordance with 18-4-304(3) through (7).

8 (2) For projects valued at less than \$2 million, the departments may develop the request for
9 proposals. For projects valued at \$2 million or more, the departments shall contract with a licensed
10 architect or engineer selected in accordance with 18-2-112 for the development of the request for
11 proposals.

12 (3) A successful proposer, general contractor, or subcontractor engaged in construction under this
13 part shall pay the standard prevailing rate of wages to employees engaged in the construction of the leased
14 property.

15
16 **NEW SECTION. Section 4. Exemption from construction contract requirements.** Except as
17 provided in [section 3], a contract provided for in this chapter is not subject to the provisions of Title 18,
18 chapter 2.

19
20 **Section 5.** Section 53-1-203, MCA, is amended to read:

21 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections
22 shall:

23 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for
24 the admission, custody, transfer, and release of persons in department programs except as otherwise
25 provided by law. However, rules adopted by the department may not amend or alter the statutory powers
26 and duties of the state board of pardons and parole.

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

1 of the persons confined in the institutions;

2 (c) contract with private, nonprofit Montana corporations to establish and maintain
3 community-based prerelease centers for purposes of preparing inmates of the Montana state prison who
4 are approaching parole eligibility or discharge for release into the community. The centers shall provide a
5 less restrictive environment than the prison while maintaining adequate security. The centers must be
6 operated in coordination with other department correctional programs, including the supervised release
7 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's
8 authority to operate and maintain community-based prerelease centers.

9 (d) utilize the staff and services of other state agencies and units of the Montana university system,
10 within their respective statutory functions, to carry out its functions under this title;

11 (e) propose programs to the legislature to meet the projected long-range needs of institutions,
12 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in
13 institutions;

14 (f) encourage the establishment of programs at the local and institutional level for the rehabilitation
15 and education of adult felony offenders;

16 (g) administer all state and federal funds allocated to the department for youth in need of
17 supervision and delinquent youth, as defined in 41-5-103;

18 (h) collect and disseminate information relating to youth in need of supervision and delinquent
19 youth;

20 (i) maintain adequate data on placements that it funds in order to keep the legislature properly
21 informed of the specific information, by category, related to youth in need of supervision and delinquent
22 youth in out-of-home care facilities;

23 (j) provide funding for and place youth who are alleged or adjudicated to be delinquent or in need
24 of supervision and who are referred or committed to the department;

25 (k) administer youth correctional facilities;

26 (l) provide supervision, care, and control of youth released from a state youth correctional facility;
27 and

28 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

29 (i) provide for children in need of temporary protection or correctional services; and

30 (ii) coordinate and apply the principles of modern institutional administration to the institutions in

1 the department.

2 (2) The department and a private, nonprofit Montana corporation may not enter into a contract
3 under subsection (1)(c) for a period that exceeds 10 years. The provisions of ~~18-3-104~~ and 18-4-313 that
4 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

5 (3) The department of corrections may enter into contracts with nonprofit corporations or
6 associations or private organizations to provide substitute care for youth in need of supervision and
7 delinquent youth in youth care facilities."

8

9 **Section 6.** Section 53-30-505, MCA, is amended to read:

10 **"53-30-505. Contract time limit.** A contract entered into under 53-30-504 may not exceed a term
11 of 30 years and must contain provisions for renegotiation after 30 years. The provisions of ~~18-3-104~~ and
12 18-4-313 that limit the term of a contract do not apply to a contract authorized by 53-30-504."

13

14 **NEW SECTION. Section 7. Approval of certain projects.** The passage of [sections 1 through 4
15 and 8] constitutes legislative approval for the following facilities:

16 (1) a 16,064 square foot building for the office of public instruction, located at 1227 eleventh
17 avenue, Helena, Montana. Three-fourths of the cost of this facility is intended to be recovered from the
18 operating budget of the agency occupying the facility. One-fourth of the cost will be due as a lump-sum
19 payment if the purchase option is exercised at the end of the leasing period.

20 (2) a building of approximately 14,500 square feet for the department of justice, located at sixth
21 avenue and south 27th street in Billings, Montana. Costs are intended to be recovered through the
22 operating budget of the agencies occupying the leased space with a lump-sum payment if the purchase
23 option is exercised.

24 (3) a building of approximately 200,000 square feet, including a new public health lab, for the
25 department of public health and human services in Helena, Montana. Costs are intended to be recovered
26 through the operating budget of the general services division of the department of administration.

27

28 **NEW SECTION. Section 8. Repealer.** Sections 18-3-102, 18-3-103, 18-3-104, and 18-3-107,
29 MCA, are repealed.

30

NEW SECTION. Section 9. Codification instruction. [Sections 3 and 4] are intended to be codified as an integral part of Title 18, chapter 3, part 1, and the provisions of Title 18, chapter 3, part 1, apply to [sections 3 and 4].

NEW SECTION. Section 10. Two-thirds vote required. Because [section 7] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0398, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for amendments to 18-3-101 through 107, MCA, allowing for lease purchase contracts and approving the purchase of three buildings for state office space.

ASSUMPTIONS:

Department of Administration:

1. Inflation is calculated at 3% per year
2. The Department of Administration and the Office of Public Instruction will enter into a 15 year lease purchase agreement for the offices located at 1227 Eleventh Avenue in Helena on June 30, 1997, with leasehold improvements to be repaid at the rate of 6% over 10 years.
3. The Department of Administration and the Department of Justice will enter into a 25 year lease purchase in Billings to purchase collocated office space.
4. The Department of Administration will enter into a 20 year lease purchase agreement for 200,000 square feet of new space for the Department of Public Health and Human Services.
5. Salvage costs are calculated at 3% inflation rate with a 4.7% Cost of Capital.

Department of Justice:

6. There is no estimated fiscal impact to the department.

Department of Public Health and Human Services:

7. There is no estimated fiscal impact to the department.

FISCAL IMPACT:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
Office of Public Instruction:		
<u>Expenditures:</u>		
Operating expenses	(52,567)	(50,286)
<u>Funding:</u>		
General fund (01)	(52,567)	(50,286)
Department of Administration: (as shown in the Executive Budget)		
Capital Outlay - Professional Services	350,000	0
<u>Funding:</u>		
LRBP-House Bill 5-cash projects (05)	350,000	0

 2-5-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

ROYAL JOHNSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0398, as introduced

HB 398

HOUSE BILL NO. 398

INTRODUCED BY R. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LEASE WITH OPTION TO PURCHASE FOR STATE BUILDINGS; ~~PROVIDING TIMING FOR LEGISLATIVE APPROVAL;~~ PROVIDING FOR A REQUEST FOR PROPOSALS PROCESS; EXEMPTING LEASE-PURCHASE PROVISIONS FROM STATE CONSTRUCTION CONTRACT REQUIREMENTS; REVISING THE APPOINTMENT OF ARCHITECTS FOR BUILDING LEASE PROJECTS; ELIMINATING CERTAIN REQUIREMENTS CONCERNING LEASES FOR BUILDINGS; REMOVING THE STATUTORY PROVISIONS GOVERNING RENT; APPROVING THE LEASE WITH OPTION TO PURCHASE FOR SPECIFIC BUILDINGS; CREATING A STATE DEBT; AMENDING SECTIONS 18-3-101, 18-3-105, 53-1-203, AND 53-30-505, MCA; REPEALING SECTIONS 18-3-102, 18-3-103, 18-3-104, AND 18-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 18-3-101, MCA, is amended to read:

"18-3-101. Authority to lease with option to purchase. ~~(1) When authorized by a vote of two-thirds of the members of each house of the legislature, the~~ THE WHEN AUTHORIZED BY A VOTE OF TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, THE department of administration ~~shall have the authority, as part of the long-range building program, to~~ may, AS PART OF THE LONG-RANGE BUILDING PROGRAM, enter into a ~~rental lease contract which~~ that provides an option to purchase a building to be used by the state or any department of state government. ~~The purchase option terms of the contract are valid only after authorization by a vote of two-thirds of the members of each house of the legislature.~~

~~(2) For projects with an appraised building value of less than \$2 million, the department shall seek legislative approval for a purchase option in the next regularly scheduled legislative session.~~

~~(3) For projects with an appraised building value of \$2 million or more, the department shall seek legislative approval before contracting for a purchase option."~~

Section 2. Section 18-3-105, MCA, is amended to read:

1 **"18-3-105. Location of building.** ~~The A building authorized pursuant to 18-3-101 shall must be~~
2 located as determined by the terms of the ~~call request~~ request for bids proposals. If ~~any such~~ a contract entered
3 into pursuant to this chapter requires the sale or lease of any interest in state lands, the contract must have
4 prior approval of the board of land commissioners."

5
6 **NEW SECTION. Section 3. Requests for proposals.** (1) The department, with the cooperation of
7 the departments that will occupy the rental property, shall develop a request for proposals defining the
8 state's program and building specification requirements. A request for proposals must be administered in
9 accordance with 18-4-304(3) through (7).

10 (2) For projects valued at less than \$2 million, the departments may develop the request for
11 proposals. For projects valued at \$2 million or more, the departments shall contract with a licensed
12 architect or engineer selected in accordance with 18-2-112 for the development of the request for
13 proposals.

14 (3) A successful proposer, general contractor, or subcontractor engaged in construction under this
15 part shall pay the standard prevailing rate of wages to employees engaged in the construction of the leased
16 property.

17
18 **NEW SECTION. Section 4. Exemption from construction contract requirements.** Except as
19 provided in [section 3], a contract provided for in this chapter is not subject to the provisions of Title 18,
20 chapter 2.

21
22 **Section 5.** Section 53-1-203, MCA, is amended to read:

23 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections
24 shall:

25 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for
26 the admission, custody, transfer, and release of persons in department programs except as otherwise
27 provided by law. However, rules adopted by the department may not amend or alter the statutory powers
28 and duties of the state board of pardons and parole.

29 (b) subject to the functions of the department of administration, lease or purchase lands for use
30 by institutions and classify those lands to determine those that may be most profitably used for agricultural

1 purposes, taking into consideration the needs of all institutions for the food products that can be grown
2 or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation
3 of the persons confined in the institutions;

4 (c) contract with private, nonprofit Montana corporations to establish and maintain
5 community-based prerelease centers for purposes of preparing inmates of the Montana state prison who
6 are approaching parole eligibility or discharge for release into the community. The centers shall provide a
7 less restrictive environment than the prison while maintaining adequate security. The centers must be
8 operated in coordination with other department correctional programs, including the supervised release
9 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's
10 authority to operate and maintain community-based prerelease centers.

11 (d) utilize the staff and services of other state agencies and units of the Montana university system,
12 within their respective statutory functions, to carry out its functions under this title;

13 (e) propose programs to the legislature to meet the projected long-range needs of institutions,
14 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in
15 institutions;

16 (f) encourage the establishment of programs at the local and institutional level for the rehabilitation
17 and education of adult felony offenders;

18 (g) administer all state and federal funds allocated to the department for youth in need of
19 supervision and delinquent youth, as defined in 41-5-103;

20 (h) collect and disseminate information relating to youth in need of supervision and delinquent
21 youth;

22 (i) maintain adequate data on placements that it funds in order to keep the legislature properly
23 informed of the specific information, by category, related to youth in need of supervision and delinquent
24 youth in out-of-home care facilities;

25 (j) provide funding for and place youth who are alleged or adjudicated to be delinquent or in need
26 of supervision and who are referred or committed to the department;

27 (k) administer youth correctional facilities;

28 (l) provide supervision, care, and control of youth released from a state youth correctional facility;
29 and

30 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

1 (i) provide for children in need of temporary protection or correctional services; and

2 (ii) coordinate and apply the principles of modern institutional administration to the institutions in
3 the department.

4 (2) The department and a private, nonprofit Montana corporation may not enter into a contract
5 under subsection (1)(c) for a period that exceeds 10 years. The provisions of ~~18-3-104~~ and 18-4-313 that
6 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

7 (3) The department of corrections may enter into contracts with nonprofit corporations or
8 associations or private organizations to provide substitute care for youth in need of supervision and
9 delinquent youth in youth care facilities."

10
11 **Section 6.** Section 53-30-505, MCA, is amended to read:

12 **"53-30-505. Contract time limit.** A contract entered into under 53-30-504 may not exceed a term
13 of 30 years and must contain provisions for renegotiation after 30 years. The provisions of ~~18-3-104~~ and
14 18-4-313 that limit the term of a contract do not apply to a contract authorized by 53-30-504."

15
16 **NEW SECTION. Section 7. Approval of ~~certain projects~~ PROJECT.** The passage of [sections 1
17 through 4 and 8] constitutes legislative approval for ~~the following facilities:~~

18 ~~(1) a 16,064 square foot building for the office of public instruction, located at 1227 eleventh~~
19 ~~avenue, Helena, Montana. Three-fourths of the cost of this facility is intended to be recovered from the~~
20 ~~operating budget of the agency occupying the facility. One-fourth of the cost will be due as a lump-sum~~
21 ~~payment if the purchase option is exercised at the end of the leasing period.~~

22 ~~(2) a building of approximately 14,500 square feet for the department of justice, located at sixth~~
23 ~~avenue and south 27th street in Billings, Montana. Costs are intended to be recovered through the~~
24 ~~operating budget of the agencies occupying the leased space with a lump-sum payment if the purchase~~
25 ~~option is exercised.~~

26 ~~(3) a building of approximately 200,000 square feet, including a new public health lab, for the~~
27 ~~department of public health and human services in Helena, Montana. Costs are intended to be recovered~~
28 ~~through the operating budget of the general services division of the department of administration.~~

29
30 **NEW SECTION. Section 8. Repealer.** Sections 18-3-102, 18-3-103, 18-3-104, and 18-3-107,

1 MCA, are repealed.

2

3 NEW SECTION. Section 9. Codification instruction. [Sections 3 and 4] are intended to be codified
4 as an integral part of Title 18, chapter 3, part 1, and the provisions of Title 18, chapter 3, part 1, apply to
5 [sections 3 and 4].

6

7 NEW SECTION. Section 10. Two-thirds vote required. Because [section 7] authorizes the creation
8 of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the
9 members of each house of the legislature for passage.

10

11 NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

12

-END-

1 HOUSE BILL NO. 398

2 INTRODUCED BY R. JOHNSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LEASE
5 WITH OPTION TO PURCHASE FOR STATE BUILDINGS; ~~PROVIDING TIMING FOR LEGISLATIVE APPROVAL;~~
6 PROVIDING FOR A REQUEST FOR PROPOSALS PROCESS; EXEMPTING LEASE-PURCHASE PROVISIONS
7 FROM STATE CONSTRUCTION CONTRACT REQUIREMENTS; REVISING THE APPOINTMENT OF
8 ARCHITECTS FOR BUILDING LEASE PROJECTS; ELIMINATING CERTAIN REQUIREMENTS CONCERNING
9 LEASES FOR BUILDINGS; REMOVING THE STATUTORY PROVISIONS GOVERNING RENT; APPROVING THE
10 LEASE WITH OPTION TO PURCHASE FOR SPECIFIC BUILDINGS; CREATING A STATE DEBT; AMENDING
11 SECTIONS 18-3-101, 18-3-105, 53-1-203, AND 53-30-505, MCA; REPEALING SECTIONS 18-3-102,
12 18-3-103, 18-3-104, AND 18-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

APPROVED BY COM ON
FINANCE & CLAIMS

HOUSE BILL NO. 398

INTRODUCED BY R. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LEASE WITH OPTION TO PURCHASE FOR STATE BUILDINGS; ~~PROVIDING TIMING FOR LEGISLATIVE APPROVAL;~~ PROVIDING FOR A REQUEST FOR PROPOSALS PROCESS; EXEMPTING LEASE-PURCHASE PROVISIONS FROM STATE CONSTRUCTION CONTRACT REQUIREMENTS; REVISING THE APPOINTMENT OF ARCHITECTS FOR BUILDING LEASE PROJECTS; ELIMINATING CERTAIN REQUIREMENTS CONCERNING LEASES FOR BUILDINGS; REMOVING THE STATUTORY PROVISIONS GOVERNING RENT; APPROVING THE LEASE WITH OPTION TO PURCHASE FOR SPECIFIC BUILDINGS; CONTINGENTLY AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION LONG-RANGE BUILDING PROGRAM BONDS; CREATING A STATE DEBT; AMENDING SECTIONS 18-3-101, 18-3-105, 53-1-203, AND 53-30-505, MCA; REPEALING SECTIONS 18-3-102, 18-3-103, 18-3-104, AND 18-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Section 18-3-101, MCA, is amended to read:

"18-3-101. **Authority to lease with option to purchase.** ~~(1) When authorized by a vote of two-thirds of the members of each house of the legislature, the~~ WHEN AUTHORIZED BY A VOTE OF TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, THE department of administration ~~shall have the authority, as part of the long-range building program, to may,~~ AS PART OF THE LONG-RANGE BUILDING PROGRAM, enter into a ~~rental lease~~ contract ~~which that~~ provides an option to purchase a building to be used by the state or any department of state government. ~~The purchase option terms of the contract are valid only after authorization by a vote of two-thirds of the members of each house of the legislature.~~

~~(2) For projects with an appraised building value of less than \$2 million, the department shall seek legislative approval for a purchase option in the next regularly scheduled legislative session.~~

~~(3) For projects with an appraised building value of \$2 million or more, the department shall seek legislative approval before contracting for a purchase option."~~

1 **Section 2.** Section 18-3-105, MCA, is amended to read:

2 **"18-3-105. Location of building.** ~~The A building authorized pursuant to 18-3-101 shall must be~~
3 located as determined by the terms of the ~~call~~ request for ~~bids~~ proposals. If ~~any such a~~ contract entered
4 into pursuant to this chapter requires the sale or lease of any interest in state lands, the contract must have
5 prior approval of the board of land commissioners."

6
7 **NEW SECTION. Section 3. Requests for proposals.** (1) The department, with the cooperation of
8 the departments that will occupy the rental property, shall develop a request for proposals defining the
9 state's program and building specification requirements. A request for proposals must be administered in
10 accordance with 18-4-304(3) through (7).

11 (2) For projects valued at less than \$2 million, the departments may develop the request for
12 proposals. For projects valued at \$2 million or more, the departments shall contract with a licensed
13 architect or engineer selected in accordance with 18-2-112 for the development of the request for
14 proposals.

15 (3) A successful proposer, general contractor, or subcontractor engaged in construction under this
16 part shall pay the standard prevailing rate of wages to employees engaged in the construction of the leased
17 property.

18
19 **NEW SECTION. Section 4. Exemption from construction contract requirements.** Except as
20 provided in [section 3], a contract provided for in this chapter is not subject to the provisions of Title 18,
21 chapter 2.

22
23 **Section 5.** Section 53-1-203, MCA, is amended to read:

24 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections
25 shall:

26 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for
27 the admission, custody, transfer, and release of persons in department programs except as otherwise
28 provided by law. However, rules adopted by the department may not amend or alter the statutory powers
29 and duties of the state board of pardons and parole.

30 (b) subject to the functions of the department of administration, lease or purchase lands for use

1 by institutions and classify those lands to determine those that may be most profitably used for agricultural
2 purposes, taking into consideration the needs of all institutions for the food products that can be grown
3 or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation
4 of the persons confined in the institutions;

5 (c) contract with private, nonprofit Montana corporations to establish and maintain
6 community-based prerelease centers for purposes of preparing inmates of the Montana state prison who
7 are approaching parole eligibility or discharge for release into the community. The centers shall provide a
8 less restrictive environment than the prison while maintaining adequate security. The centers must be
9 operated in coordination with other department correctional programs, including the supervised release
10 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's
11 authority to operate and maintain community-based prerelease centers.

12 (d) utilize the staff and services of other state agencies and units of the Montana university system,
13 within their respective statutory functions, to carry out its functions under this title;

14 (e) propose programs to the legislature to meet the projected long-range needs of institutions,
15 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in
16 institutions;

17 (f) encourage the establishment of programs at the local and institutional level for the rehabilitation
18 and education of adult felony offenders;

19 (g) administer all state and federal funds allocated to the department for youth in need of
20 supervision and delinquent youth, as defined in 41-5-103;

21 (h) collect and disseminate information relating to youth in need of supervision and delinquent
22 youth;

23 (i) maintain adequate data on placements that it funds in order to keep the legislature properly
24 informed of the specific information, by category, related to youth in need of supervision and delinquent
25 youth in out-of-home care facilities;

26 (j) provide funding for and place youth who are alleged or adjudicated to be delinquent or in need
27 of supervision and who are referred or committed to the department;

28 (k) administer youth correctional facilities;

29 (l) provide supervision, care, and control of youth released from a state youth correctional facility;

30 and

- 1 (m) use to maximum efficiency the resources of state government in a coordinated effort to:
2 (i) provide for children in need of temporary protection or correctional services; and
3 (ii) coordinate and apply the principles of modern institutional administration to the institutions in
4 the department.

5 (2) The department and a private, nonprofit Montana corporation may not enter into a contract
6 under subsection (1)(c) for a period that exceeds 10 years. The provisions of ~~18-3-104~~ and 18-4-313 that
7 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

8 (3) The department of corrections may enter into contracts with nonprofit corporations or
9 associations or private organizations to provide substitute care for youth in need of supervision and
10 delinquent youth in youth care facilities."

11

12 **Section 6.** Section 53-30-505, MCA, is amended to read:

13 **"53-30-505. Contract time limit.** A contract entered into under 53-30-504 may not exceed a term
14 of 30 years and must contain provisions for renegotiation after 30 years. The provisions of ~~18-3-104~~ and
15 18-4-313 that limit the term of a contract do not apply to a contract authorized by 53-30-504."

16

17 **NEW SECTION. Section 7. Approval of ~~certain projects~~ PROJECT PROJECTS -- BONDS.** The
18 passage of [sections 1 through 4 and 8] constitutes legislative approval for ~~the following facilities:~~ THE
19 FOLLOWING FACILITIES:

20 ~~(1)~~ (1) a 16,064 square foot building for the office of public instruction, located at 1227 eleventh
21 avenue, Helena, Montana. Three-fourths of the cost of this facility is intended to be recovered from the
22 operating budget of the agency occupying the facility. One-fourth of the cost will be due as a lump-sum
23 payment if the purchase option is exercised at the end of the leasing period. IF THE LEASE CONTRACT
24 PROVIDES FOR A PURCHASE OPTION, THE BOARD OF EXAMINERS MAY ISSUE \$900,000 OF GENERAL
25 OBLIGATION LONG-RANGE BUILDING PROGRAM BONDS FOR PURPOSES OF FUNDING THE SECOND
26 FLOOR ADDITION TO THE BUILDING.

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4 (2) A BUILDING OF APPROXIMATELY 14,500 SQUARE FEET FOR THE DEPARTMENT OF JUSTICE,
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7 LEASED SPACE WITH A LUMP-SUM PAYMENT IF THE PURCHASE OPTION IS EXERCISED.

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9 NEW SECTION. Section 8. Repealer. Sections 18-3-102, 18-3-103, 18-3-104, and 18-3-107,
10 MCA, are repealed.

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12 NEW SECTION. Section 9. Codification instruction. [Sections 3 and 4] are intended to be codified
13 as an integral part of Title 18, chapter 3, part 1, and the provisions of Title 18, chapter 3, part 1, apply to
14 [sections 3 and 4].

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16 NEW SECTION. Section 10. Two-thirds vote required. Because [section 7] authorizes the creation
17 of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the
18 members of each house of the legislature for passage.

19
20 NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

21 -END-

HOUSE BILL NO. 398

INTRODUCED BY R. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LEASE WITH OPTION TO PURCHASE FOR STATE BUILDINGS; ~~PROVIDING TIMING FOR LEGISLATIVE APPROVAL;~~ PROVIDING FOR A REQUEST FOR PROPOSALS PROCESS; EXEMPTING LEASE-PURCHASE PROVISIONS FROM STATE CONSTRUCTION CONTRACT REQUIREMENTS; REVISING THE APPOINTMENT OF ARCHITECTS FOR BUILDING LEASE PROJECTS; ELIMINATING CERTAIN REQUIREMENTS CONCERNING LEASES FOR BUILDINGS; REMOVING THE STATUTORY PROVISIONS GOVERNING RENT; APPROVING THE LEASE WITH OPTION TO PURCHASE FOR SPECIFIC BUILDINGS; CONTINGENTLY AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION LONG-RANGE BUILDING PROGRAM BONDS; CREATING A STATE DEBT; AMENDING SECTIONS 18-3-101, 18-3-105, 53-1-203, AND 53-30-505, MCA; REPEALING SECTIONS 18-3-102, 18-3-103, 18-3-104, AND 18-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 18-3-101, MCA, is amended to read:

"18-3-101. **Authority to lease with option to purchase.** ~~(1) When authorized by a vote of two-thirds of the members of each house of the legislature, the~~ WHEN AUTHORIZED BY A VOTE OF TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, THE department of administration ~~shall have the authority, as part of the long-range building program, to may,~~ AS PART OF THE LONG-RANGE BUILDING PROGRAM, enter into a ~~rental lease~~ contract ~~which that~~ provides an option to purchase a building to be used by the state or any department of state government. ~~The purchase option terms of the contract are valid only after authorization by a vote of two-thirds of the members of each house of the legislature.~~

~~(2) For projects with an appraised building value of less than \$2 million, the department shall seek legislative approval for a purchase option in the next regularly scheduled legislative session.~~

~~(3) For projects with an appraised building value of \$2 million or more, the department shall seek legislative approval before contracting for a purchase option."~~

1 **Section 2.** Section 18-3-105, MCA, is amended to read:

2 **"18-3-105. Location of building.** ~~The~~ A building authorized pursuant to 18-3-101 ~~shall~~ must be
3 located as determined by the terms of the ~~call~~ request for ~~bids~~ proposals. If ~~any such~~ a contract entered
4 into pursuant to this chapter requires the sale or lease of any interest in state lands, the contract must have
5 prior approval of the board of land commissioners."

6
7 **NEW SECTION. Section 3. Requests for proposals.** (1) The department, with the cooperation of
8 the departments that will occupy the rental property, shall develop a request for proposals defining the
9 state's program and building specification requirements. A request for proposals must be administered in
10 accordance with 18-4-304(3) through (7).

11 (2) For projects valued at less than \$2 million, the departments may develop the request for
12 proposals. For projects valued at \$2 million or more, the departments shall contract with a licensed
13 architect or engineer selected in accordance with 18-2-112 for the development of the request for
14 proposals.

15 (3) A successful proposer, general contractor, or subcontractor engaged in construction under this
16 part shall pay the standard prevailing rate of wages to employees engaged in the construction of the leased
17 property.

18
19 **NEW SECTION. Section 4. Exemption from construction contract requirements.** Except as
20 provided in [section 3], a contract provided for in this chapter is not subject to the provisions of Title 18,
21 chapter 2.

22
23 **Section 5.** Section 53-1-203, MCA, is amended to read:

24 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections
25 shall:

26 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for
27 the admission, custody, transfer, and release of persons in department programs except as otherwise
28 provided by law. However, rules adopted by the department may not amend or alter the statutory powers
29 and duties of the state board of pardons and parole.

30 (b) subject to the functions of the department of administration, lease or purchase lands for use

1 by institutions and classify those lands to determine those that may be most profitably used for agricultural
2 purposes, taking into consideration the needs of all institutions for the food products that can be grown
3 or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation
4 of the persons confined in the institutions;

5 (c) contract with private, nonprofit Montana corporations to establish and maintain
6 community-based prerelease centers for purposes of preparing inmates of the Montana state prison who
7 are approaching parole eligibility or discharge for release into the community. The centers shall provide a
8 less restrictive environment than the prison while maintaining adequate security. The centers must be
9 operated in coordination with other department correctional programs, including the supervised release
10 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's
11 authority to operate and maintain community-based prerelease centers.

12 (d) utilize the staff and services of other state agencies and units of the Montana university system,
13 within their respective statutory functions, to carry out its functions under this title;

14 (e) propose programs to the legislature to meet the projected long-range needs of institutions,
15 including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in
16 institutions;

17 (f) encourage the establishment of programs at the local and institutional level for the rehabilitation
18 and education of adult felony offenders;

19 (g) administer all state and federal funds allocated to the department for youth in need of
20 supervision and delinquent youth, as defined in 41-5-103;

21 (h) collect and disseminate information relating to youth in need of supervision and delinquent
22 youth;

23 (i) maintain adequate data on placements that it funds in order to keep the legislature properly
24 informed of the specific information, by category, related to youth in need of supervision and delinquent
25 youth in out-of-home care facilities;

26 (j) provide funding for and place youth who are alleged or adjudicated to be delinquent or in need
27 of supervision and who are referred or committed to the department;

28 (k) administer youth correctional facilities;

29 (l) provide supervision, care, and control of youth released from a state youth correctional facility;

30 and

- 1 (m) use to maximum efficiency the resources of state government in a coordinated effort to:
- 2 (i) provide for children in need of temporary protection or correctional services; and
- 3 (ii) coordinate and apply the principles of modern institutional administration to the institutions in
- 4 the department.
- 5 (2) The department and a private, nonprofit Montana corporation may not enter into a contract
- 6 under subsection (1)(c) for a period that exceeds 10 years. The provisions of ~~18-3-104~~ and 18-4-313 that
- 7 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).
- 8 (3) The department of corrections may enter into contracts with nonprofit corporations or
- 9 associations or private organizations to provide substitute care for youth in need of supervision and
- 10 delinquent youth in youth care facilities."

11

12 **Section 6.** Section 53-30-505, MCA, is amended to read:

13 **"53-30-505. Contract time limit.** A contract entered into under 53-30-504 may not exceed a term

14 of 30 years and must contain provisions for renegotiation after 30 years. The provisions of ~~18-3-104~~ and

15 18-4-313 that limit the term of a contract do not apply to a contract authorized by 53-30-504."

16

17 **NEW SECTION. Section 7. Approval of ~~certain projects~~ PROJECT PROJECTS -- BONDS.** The

18 passage of [sections 1 through 4 and 8] constitutes legislative approval for ~~the following facilities:~~ THE

19 FOLLOWING FACILITIES:

20 ~~(4)(1)~~ (1) a 16,064 square foot building for the office of public instruction, located at 1227 eleventh

21 avenue, Helena, Montana. Three-fourths of the cost of this facility is intended to be recovered from the

22 operating budget of the agency occupying the facility. One-fourth of the cost will be due as a lump-sum

23 payment if the purchase option is exercised at the end of the leasing period. IF THE LEASE CONTRACT

24 PROVIDES FOR A PURCHASE OPTION, THE BOARD OF EXAMINERS MAY ISSUE \$900,000 OF GENERAL

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FREE CONFERENCE COMMITTEE

on House Bill 398
Report No. 1, April 17, 1997


Page 1 of 1

Mr. Speaker and Mr. President:

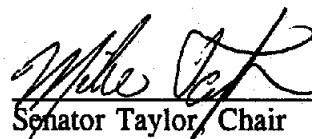
We, your Free Conference Committee met and considered **House Bill 398** (reference copy -- salmon) and recommend that, Senate Committee on Finance and Claim amendments to the third reading copy, dated April 9, 1997, be adopted.

And this FREE Conference Committee report be adopted.

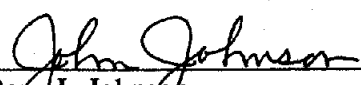
For the House:


Rep. R. Johnson, Chair

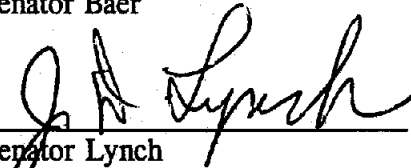
For the Senate:


Senator Taylor, Chair

Rep. Kasten


Rep. J. Johnson

Senator Baer


Senator Lynch

ADOPT

REJECT

FCCR#1

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HB 398