

HOUSE BILL NO. 277

INTRODUCED BY MANUEL

BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE HOUSE

January 19, 1985	Introduced and referred to Committee on State Administration.
January 21, 1985	Rereferred to Committee on Local Government.
February 22, 1985	Committee recommend bill do pass as amended. Report adopted. Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass. Considered correctly engrossed.
February 26, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Local Government.
March 20, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1985	Motion pass consideration until 64th Legislative Day.
March 25, 1985	Second reading, concurred in.

March 27, 1985

Third reading, concurred in.
Ayes, 47; Noes, 3.

Returned to House with
amendments.

IN THE HOUSE

March 27, 1985

Received from Senate.

April 2, 1985

Second reading, amendments
concurred in.

April 3, 1985

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 county need not accept the proposal with the lowest cost.

2 (4) The county must base its selection on demonstrated
3 competence, knowledge and qualifications, the reasonableness
4 of the services proposed, and the reasonableness of the
5 proposed contract price for the jail services.

6 (5) A copy of all proposals must be kept available for
7 public inspection in the office of the county clerk and
8 recorder.

9 (6) The county must give specific reasons for its
10 selection of a proposal. The reasons must be recorded in the
11 minutes of the governing body of the county.

12 NEW SECTION. Section 3. Powers of jail administrators
13 and private party jailers. A jail administrator or a private
14 party acting as a jailer under an agreement, as provided for
15 in 7-32-2201(2), and his assistant jailers have the powers
16 and duties of sheriffs:

17 (1) within the confines and grounds of the jail; and

18 (2) outside the jail confines and grounds while
19 transporting any prisoner or in the pursuit or apprehension
20 of any escapee.

21 Section 4. Section 7-7-2101, MCA, is amended to read:

22 "7-7-2101. Limitation on amount of county
23 indebtedness. (1) No county may become indebted in any
24 manner or for any purpose to an amount, including existing
25 indebtedness, in the aggregate exceeding 23% of the taxable

1 value of the property therein subject to taxation as
2 ascertained by the last assessment for state and county
3 taxes previous to the incurring of such indebtedness, except
4 that an additional indebtedness of up to 12.5% of the
5 taxable value of the property in the county subject to
6 taxation may be incurred for the construction or improvement
7 of a jail.

8 (2) No county may incur indebtedness or liability for
9 any single purpose, except for the construction or
10 improvement of a jail, to an amount exceeding \$150,000
11 without the approval of a majority of the electors thereof
12 voting at an election to be provided by law, except as
13 provided in 7-21-3413 and 7-21-3414."

14 Section 5. Section 7-7-2203, MCA, is amended to read:

15 "7-7-2203. Limitation on amount of bonded
16 indebtedness. (1) Except as provided in subsections (2) and
17 ~~(3)~~ through (4), no county may issue general obligation
18 bonds for any purpose which, with all outstanding bonds and
19 warrants except county high school bonds and emergency
20 bonds, will exceed 11.25% of the taxable value of the
21 property therein, to be ascertained by the last assessment
22 for state and county taxes prior to the proposed issuance of
23 bonds.

24 (2) A In addition to the bonds allowed by subsection
25 (1), a county may issue bonds which ~~7-with-all-outstanding~~

1 ~~bonds-and-warrants, will exceed 11.25% but~~ will not exceed
 2 ~~37%~~ 25.75% of the taxable value of ~~such--property the~~
 3 property in the county subject to taxation, when necessary
 4 to do so, for the purpose of acquiring land for a site for
 5 county high school buildings and for erecting or acquiring
 6 buildings thereon and furnishing and equipping the same for
 7 county high school purposes.

8 (3) In addition to the bonds allowed by subsections
 9 (1) and (2), a county may issue bonds for the construction
 10 or improvement of a jail, which will not exceed 12.5% of the
 11 taxable value of the property in the county subject to
 12 taxation.

13 ~~(4)~~ (4) The foregoing limitation in subsection (1)
 14 shall not apply to refunding bonds issued for the purpose of
 15 paying or retiring county bonds lawfully issued prior to
 16 January 1, 1932."

17 Section 6. Section 7-7-2221, MCA, is amended to read:

18 "7-7-2221. Issuance of certain general obligation
 19 bonds without election. Bonds may be issued without
 20 submitting the same to an election if the bonds are issued
 21 for the purpose of:

22 (1) enabling a county to liquidate its indebtedness to
 23 another county incident to the creation of a new county or
 24 the changing of a county boundary line, as set forth in
 25 7-7-2201(5); and

1 (2) funding, paying in full, or compromising,
 2 settling, and satisfying any judgment which may have been
 3 rendered against the county in a court of competent
 4 jurisdiction, as set forth in 7-7-2202; and
 5 (3) construction or improvement of a jail."

6 Section 7. Section 7-32-2121, MCA, is amended to read:

7 "7-32-2121. Duties of sheriff. The sheriff must:

8 (1) preserve the peace;

9 (2) arrest and take before the nearest magistrate for
 10 examination all persons who attempt to commit or have
 11 committed a public offense;

12 (3) prevent and suppress all affrays, breaches of the
 13 peace, riots, and insurrections which may come to his
 14 knowledge;

15 (4) perform the duties of a humane officer within the
 16 county with reference to the protection of dumb animals;

17 (5) attend all courts, except municipal, justices',
 18 and city courts, at their respective terms or sessions held
 19 within the county and obey their lawful orders and
 20 directions;

21 (6) command the aid of as many inhabitants of the
 22 county as are necessary in the execution of the sheriff's
 23 duties;

24 (7) take charge of and keep the county jail and the
 25 prisoners therein, unless the jail is operated by a private

1 party under an agreement entered into under 7-32-2201 or by
2 a jail administrator;

3 (8) endorse upon all notices and process the year,
4 month, day, hour, and minute of reception and issue therefor
5 to the person delivering them, on payment of fees, a
6 certificate showing the names of the parties, the title of
7 the paper, and the time of reception;

8 (9) serve all process or notices in the manner
9 prescribed by law;

10 (10) certify in writing upon the process or notices the
11 manner and time of service or, if he fails to make service,
12 the reasons of this failure, and return the papers without
13 delay;

14 (11) take charge of and supervise search and rescue
15 units and their officers whenever search and rescue units
16 are called into service; and

17 (12) perform such other duties as are required by law."

18 Section 8. Section 7-32-2123, MCA, is amended to read:

19 "7-32-2123. Appointment of deputy sheriff to act as
20 jailer. The A sheriff who operates a county jail may appoint
21 two deputies in counties of the first, second, or third
22 class and one deputy in counties of the fourth, fifth,
23 sixth, or seventh class who shall act as jailer and receive
24 the same salary as other deputy sheriffs."

25 Section 9. Section 7-32-2132, MCA, is amended to read:

1 "7-32-2132. Liability for escape in civil actions. (1)
2 A sheriff, jail administrator, or private party jailer who
3 fails to prevent the escape or rescue of a person in his
4 custody arrested in a civil action without the consent or
5 connivance of the party in whose behalf the arrest or
6 imprisonment was made is liable as follows:

7 (a) When the arrest is upon an order to hold for bail
8 or upon a surrender in exoneration of bail before judgment,
9 the sheriff, jail administrator, or private party jailer is
10 liable to the plaintiff for the bail.

11 (b) When the arrest is on an execution or commitment
12 to enforce the payment of money, the sheriff, jail
13 administrator, or private party jailer is liable for the
14 amount expressed in the execution or commitment.

15 (c) When the arrest is on an execution or commitment
16 other than to enforce the payment of money, the sheriff,
17 jail administrator, or private party jailer is liable for
18 the actual damages sustained.

19 (2) Upon being sued for damages for an escape or
20 rescue of a person in his custody, the sheriff, jail
21 administrator, or private party jailer may introduce
22 evidence in mitigation or exculpation.

23 (3) An action may not be maintained against a sheriff,
24 jail administrator, or private party jailer for a rescue or
25 for an escape of a person arrested upon an execution or

1 commitment if, after his rescue or escape and before the
2 commencement of the action, the prisoner returns to the jail
3 or is retaken by the sheriff, jail administrator, or private
4 party jailer."

5 Section 10. Section 7-32-2201, MCA, is amended to
6 read:

7 "7-32-2201. County jail required. (1) A jail shall be
8 built or provided and kept in good repair at the expense of
9 the county in each county, except that whenever in the
10 discretion of the commissioners of two or more counties it
11 is necessary or desirable to build, provide, or utilize a
12 common jail, they may do so in any city or town located
13 within one of the counties so concerned. Such common jail
14 shall be built or provided and kept in good repair at the
15 expense of the counties concerned on a basis as the
16 commissioners of the counties shall agree.

17 (2) A county, or two or more counties acting together,
18 may provide for the jail required by subsection (1) by:

19 (a) establishing in the county government the position
20 of jail administrator and, with the sheriff's concurrence,
21 hiring a person, who is answerable to the governing body of
22 the county, to fill the position; or

23 (b) entering into an agreement with a private party
24 under which the private party will provide, maintain, or
25 operate the jail.

1 ~~†2†~~(3) The common jails in the several counties of
2 this state are kept by the sheriffs, jail administrators, or
3 private parties agreeing to act as jailers of the counties
4 in which they are respectively situated. In the case of more
5 than one county utilizing a common jail as provided in
6 subsection (1), such jail shall be kept by the sheriffs of
7 the counties utilizing the common jail on a basis as the
8 sheriffs shall agree, by a jail administrator hired by the
9 county in which the jail is situated, or by a private party
10 agreeing to act as the jailer.

11 ~~†3†~~(4) The board of county commissioners has
12 jurisdiction and power, under such limitations and
13 restrictions as are prescribed by law, to cause a jail to be
14 erected, furnished, and maintained."

15 Section 11. Section 7-32-2202, MCA, is amended to
16 read:

17 "7-32-2202. Use of jail in contiguous county. (1) When
18 there is no jail in the county or when the jail becomes
19 unfit or unsafe for the confinement of prisoners, the
20 district judge may, by written appointment filed with the
21 clerk, designate the jail of a contiguous county for the
22 confinement of the prisoners of his county (or any of them)
23 and may at any time modify or annul the appointment.

24 (2) A copy of the appointment, certified by the clerk,
25 must be served on the sheriff or of each county, and the

1 keeper of the designated jail if the keeper is not the
 2 sheriff, who must receive into his jail all prisoners
 3 authorized to be confined therein pursuant to this section
 4 and who is responsible for the safekeeping of the persons so
 5 committed in the same manner and to the same extent as if he
 6 were the sheriff, jail administrator, or private party
 7 jailer of the county for whose use his jail is designated.
 8 With respect to the persons so committed, he is deemed the
 9 sheriff, jail administrator, or private party jailer of the
 10 county from which they were removed.

11 (3) When a jail is erected in the county for the use
 12 of which the designation was made or its jail is rendered
 13 fit and safe for the confinement of prisoners, the district
 14 judge of that county must, by a written revocation filed
 15 with the clerk, declare that the necessity for the
 16 designation has ceased and that it is revoked.

17 (4) The clerk must immediately serve a copy of the
 18 revocation upon the sheriff of each county and the keeper of
 19 the county, who jail in each county if the keeper is not the
 20 sheriff. The keeper of the jail in the designated county
 21 must thereupon remove the prisoners to the jail from which
 22 the removal was had."

23 Section 12. Section 7-32-2204, MCA, is amended to
 24 read:

25 "7-32-2204. Maintenance of county jail. (1) The county

1 commissioners, or the private party when provided in an
 2 agreement entered into under 7-32-2201(2), have the care
 3 duty of building, inspecting, and repairing the jail and:

4 ~~{1}--must, once every 3 months, inquire into its state,~~
 5 ~~as respects the security thereof, and the treatment and~~
 6 ~~condition of prisoners, and~~

7 {2} must take all necessary precautions against
 8 escape, sickness, or infection.

9 (2) The county commissioners must inquire into the
 10 security of the jail and the condition of the prisoners
 11 every 3 months."

12 Section 13. Section 7-32-2205, MCA, is amended to
 13 read:

14 "7-32-2205. Confinement of prisoners. The sheriff,
 15 jail administrator, or private party jailer must receive all
 16 persons committed to jail by competent authority and provide
 17 them with necessary food, clothing, and bedding, for which
 18 he sheriffs and jail administrators, but not jailers
 19 operating a jail under an agreement provided for in
 20 7-32-2201(2), shall submit claims for the actual expenses
 21 incurred to the board of county commissioners for their
 22 determination and, except as provided in 7-32-2207, to be
 23 paid out of the county treasury."

24 Section 14. Section 7-32-2206, MCA, is amended to
 25 read:

1 "7-32-2206. Confinement of federal prisoners. (1) The
 2 sheriff, jail administrator, or private party jailer must
 3 receive and keep in the county jail any prisoner committed
 4 thereto by process or order issued under the authority of
 5 the United States until he is discharged according to law,
 6 as if he had been committed under process issued under the
 7 authority of this state.

8 (2) Provision and agreement for the use of said jails
 9 and the support and subsistence of such federal prisoners
 10 shall first be made by the United States, through or by the
 11 proper officer or officers, with the board of county
 12 commissioners of the county wherein such prisoners are to be
 13 confined. Such agreement shall be in writing and contain a
 14 provision that the United States shall, upon claim presented
 15 for the county by its county clerk and recorder, pay into
 16 the county treasury of the county or to a jailer operating a
 17 jail under an agreement provided for by 7-32-2201(2) the sum
 18 of \$10 per day for each and every prisoner held in the
 19 county jail upon order or commitment of the United States
 20 government or any department or officer thereof.

21 (3) A sheriff, jail administrator, or private party
 22 jailer to whose custody a prisoner is committed as provided
 23 in this section is answerable for his safekeeping in the
 24 courts of the United States, according to the laws thereof."

25 Section 15. Section 7-32-2207, MCA, is amended to

1 read:

2 "7-32-2207. Confinement of persons on civil process.
 3 (1) Whenever a person is committed upon process in a civil
 4 action or proceeding, except when the state is a party
 5 thereto, the sheriff, jail administrator, or private party
 6 jailer is not bound to receive such person unless security
 7 is given on the part of the party at whose instance the
 8 process is issued, by a deposit of money, to meet the
 9 expenses for him of necessary food, clothing, and bedding or
 10 to detain such person any longer than these expenses are
 11 provided for.

12 (2) This section does not apply to cases where a party
 13 is committed as a punishment for disobedience to the
 14 mandates, process, writs, or orders of court."

15 Section 16. Section 7-32-2209, MCA, is amended to
 16 read:

17 "7-32-2209. Expenses of persons committed to jail by
 18 highway patrol bureau. In the event a person is committed to
 19 jail by the highway patrol bureau, department of justice,
 20 the state of Montana shall, upon claim presented for the
 21 county by the clerk and recorder, pay into the county
 22 treasury of the county or to a jailer operating a jail under
 23 an agreement provided for in 7-32-2201(2) the sum of \$10 per
 24 day for each and every prisoner held in the county jail upon
 25 order or commitment of the highway patrol bureau or any

1 department or officer thereof. For the purposes of this
 2 section, a day shall be defined as a 24-hour period or
 3 portion thereof, beginning with the time of incarceration.
 4 Such claims upon the highway patrol bureau, department of
 5 justice, shall be paid ~~to the various counties~~ out of funds
 6 appropriated for that purpose."

7 Section 17. Section 7-32-2212, MCA, is amended to
 8 read:

9 "7-32-2212. ~~Sheriff-to-prepare-list~~ List of prisoners.
 10 The sheriff, jail administrator, or private party jailer of
 11 each county must, on the first Monday in January and every 3
 12 months thereafter, return to the county commissioners a
 13 certified list of the names of all prisoners in his custody
 14 on the last day of the preceding month, with the time and
 15 cause of their confinement, the length of time for which
 16 they were committed, and the number received and discharged
 17 during the preceding 3 months. In case he fails to do so,
 18 the sheriff, jail administrator, or private party jailer
 19 must not receive any compensation for the sustenance of the
 20 prisoners in his custody."

21 Section 18. Section 7-32-2221, MCA, is amended to
 22 read:

23 "7-32-2221. Segregation of prisoners -- confinement of
 24 juveniles. (1) Each county jail must contain a sufficient
 25 number of rooms to allow the sheriff, jail administrator, or

1 private party jailer to separately confine classes of
 2 prisoners as may be necessary to the security and safety of
 3 those prisoners and the jail.

4 (2) Persons who are violent, disturbed, or inebriated
 5 must not be kept or put into the same room with other
 6 prisoners, nor shall male and female prisoners (except
 7 husband and wife) be kept or put into the same room.

8 (3) Juveniles may be confined only under conditions
 9 that comply with 41-5-306(2)."

10 Section 19. Section 7-32-2222, MCA, is amended to
 11 read:

12 "7-32-2222. Health and safety of prisoners. (1) When a
 13 county jail or building contiguous to it is on fire and
 14 there is reason to believe that the prisoners may be injured
 15 or endangered, the sheriff, jail administrator, or private
 16 party jailer must remove them to a safe and convenient place
 17 and there confine them as long as it may be necessary to
 18 avoid the danger.

19 (2) When a pestilence or contagious disease breaks out
 20 in or near a jail and the physician thereof certifies that
 21 it is likely to endanger the health of the prisoners, the
 22 district judge may by a written appointment designate a safe
 23 and convenient place in the county or the jail in a
 24 contiguous county as the place of their confinement. The
 25 appointment must be filed in the office of the clerk and

1 authorize the sheriff, jail administrator, or private party
2 jailer to remove the prisoners to the designated place or
3 jail and there confine them until they can be safely
4 returned to the jail from which they were taken.

5 (3) If in the opinion of the sheriff, jail
6 administrator, or private party jailer any prisoner, while
7 detained, requires medication, medical services, or
8 hospitalization, the expense of the same shall be borne by
9 the agency or authority at whose instance the prisoner is
10 detained when the agency or authority is not the county
11 wherein the prisoner is being detained. The county attorney
12 shall initiate proceedings to collect any charges arising
13 from such medical services or hospitalization for the
14 prisoner involved if it is determined the prisoner is
15 financially able to pay."

-End-

RE-REFERRED AND

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 HOUSE BILL NO. 277
2 INTRODUCED BY MANUEL
3 BY REQUEST OF THE BOARD OF CRIME CONTROL
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO
6 ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO
7 ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL
8 BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING
9 OF JAILS ~~AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS~~
10 ~~FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING~~
11 ~~LIMITATIONS~~; AND AMENDING SECTIONS ~~7-7-21017~~---7-7-2203,
12 7-7-22217, 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201,
13 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209,
14 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. SECTION 1. PURPOSE. IT IS THE PURPOSE
18 OF [SECTIONS 1 THROUGH 4] TO ALLOW REGIONAL OR SINGLE-COUNTY
19 JAILS TO BE BUILT BY PRIVATE INDUSTRY AND LEASED BACK TO THE
20 PARTICIPATING COUNTY OR COUNTIES FOR OPERATION BY THE
21 COUNTY, COLLECTIVELY BY PARTICIPATING COUNTIES, OR BY A
22 PRIVATE ENTITY WITH THE CONCURRENCE OF THE SHERIFF OR
23 SHERIFFS INVOLVED.

24 NEW SECTION. Section 2. County jails -- contracts
25 with private parties. (1) The term of an agreement under

1 7-32-2201 with a private party may not exceed 3 years.
2 (2) The agreement must include:
3 (a) detailed standards for the operation of the jail
4 and the incarceration of prisoners;
5 (b) a performance bond from the private party
6 acceptable to the county;
7 (c) a promise from the private party to indemnify the
8 county for any damages for which the county is found liable
9 as a result of the operation of the jail;
10 (d) a provision that the private party must purchase
11 liability insurance in an amount acceptable to the county;
12 (e) minimum standards for the training of jailers and
13 a provision that the private party will ensure such
14 training; and
15 (f) a provision that the county may immediately
16 terminate the contract for good cause.
17 (3) The provisions of Title 7 relating to bids for
18 county contracts and purchases do not apply to a contract
19 entered into under 7-32-2201 and this section.
20 NEW SECTION. Section 3. Requests for contract
21 proposals. (1) A county seeking to enter into a contract
22 under 7-32-2201 and [section 2] may publish a request for
23 proposals. The request for proposals must be published in a
24 newspaper of general circulation in the county once a week
25 for 3 successive weeks and must include information



1 concerning the type of jail services required.

2 (2) Requests for proposals must be sent to persons who
3 have previously requested that their names be placed on a
4 list of persons providing jail services. The Montana board
5 of crime control shall maintain a list of persons providing
6 jail services and furnish the list to a county upon request.

7 (3) In selecting a proposal and awarding a contract, a
8 county need not accept the proposal with the lowest cost.

9 (4) The county must base its selection on demonstrated
10 competence, knowledge and qualifications, the reasonableness
11 of the services proposed, and the reasonableness of the
12 proposed contract price for the jail services.

13 (5) A copy of all proposals must be kept available for
14 public inspection in the office of the county clerk and
15 recorder.

16 (6) The county must give specific reasons for its
17 selection of a proposal. The reasons must be recorded in the
18 minutes of the governing body of the county.

19 NEW SECTION. Section 4. Powers of jail administrators
20 and private party jailers. A jail administrator or a private
21 party acting as a jailer under an agreement, as provided for
22 in 7-32-2201(2), and his assistant jailers have the powers
23 and duties of sheriffs IS RESPONSIBLE FOR THE IMMEDIATE
24 MANAGEMENT AND CONTROL OF THE JAIL SUBJECT TO GENERAL
25 POLICIES AND PROGRAMS ESTABLISHED PURSUANT TO THE AGREEMENT

1 PROVIDED FOR IN 7-32-2201(2) AND ANY APPLICABLE INTERLOCAL
2 AGREEMENT. THE POWERS OF SUCH AN ADMINISTRATOR AND
3 CORRECTIONS PERSONNEL EMPLOYED UNDER HIS AUTHORITY INCLUDE
4 CONTROL OVER PRISONERS:

- 5 (1) within the confines and grounds of the jail; and
- 6 (2) outside the jail confines and grounds while
7 transporting any prisoner or in the HOT pursuit or
8 apprehension of any escapee.

9 ~~Section 4--Section 7-7-2101, MCA, is amended to read:~~
10 ~~47-7-2101--Limitation----on----amount----of----county~~
11 ~~indebtedness--(1) No county may become indebted in any~~
12 ~~manner--or--for--any--purpose--to--an--amount,--including--existing~~
13 ~~indebtedness,--in--the--aggregate--exceeding--23%--of--the--taxable~~
14 ~~value--of--the--property--therein--subject--to--taxation--as~~
15 ~~ascertained--by--the--last--assessment--for--state--and--county~~
16 ~~taxes--previous--to--the--incurring--of--such--indebtedness,--except~~
17 ~~that--an--additional--indebtedness--of--up--to--12.5%--of--the~~
18 ~~taxable--value--of--the--property--in--the--county--subject--to~~
19 ~~taxation--may--be--incurred--for--the--construction--or--improvement~~
20 ~~of--a--jail.~~

21 (2) ~~No county may incur indebtedness or liability for~~
22 ~~any--single--purpose,--except--for--the--construction--or~~
23 ~~improvement--of--a--jail, to--an--amount--exceeding--\$150,000~~
24 ~~without--the--approval--of--a--majority--of--the--electors--thereof~~
25 ~~voting--at--an--election--to--be--provided--by--law,--except--as~~

1 provided in 7-21-3413 and 7-21-3414."

2 Section 5. Section 7-7-2203, MCA, is amended to read:

3 "7-7-2203. Limitation on amount of bonded
4 indebtedness. (1) Except as provided in subsections (2) and
5 (3) through (4), no county may issue general obligation
6 bonds for any purpose which, with all outstanding bonds and
7 warrants except county high school bonds and emergency
8 bonds, will exceed 11.25% of the taxable value of the
9 property therein, to be ascertained by the last assessment
10 for state and county taxes prior to the proposed issuance of
11 bonds.

12 (2) A in addition to the bonds allowed by subsection
13 (1), a county may issue bonds which, with all outstanding
14 bonds and warrants, will exceed 11.25% but will not exceed
15 37.25% of the taxable value of such property the
16 property in the county subject to taxation, when necessary
17 to do so for the purpose of acquiring land for a site for
18 county high school buildings and for erecting or acquiring
19 buildings thereon and furnishing and equipping the same for
20 county high school purposes.

21 (3) in addition to the bonds allowed by subsections
22 (1) and (2), a county may issue bonds for the construction
23 or improvement of a jail, which will not exceed 12.5% of the
24 taxable value of the property in the county subject to
25 taxation.

1 ~~(3)(4)~~ The foregoing limitation in ~~subsection (1)~~
2 shall not apply to refunding bonds issued for the purpose of
3 paying or retiring county bonds lawfully issued prior to
4 January 1, 1932."

5 Section 6. Section 7-7-2221, MCA, is amended to read:

6 "7-7-2221. Issuance of certain general obligation
7 bonds without election. Bonds may be issued without
8 submitting the same to an election if the bonds are issued
9 for the purpose of:

10 (1) enabling a county to liquidate its indebtedness to
11 another county incident to the creation of a new county or
12 the changing of a county boundary line, as set forth in
13 7-7-2201(5); and

14 (2) funding, paying in full, or compromising,
15 settling, and satisfying any judgment which may have been
16 rendered against the county in a court of competent
17 jurisdiction, as set forth in 7-7-2202, and

18 ~~(3) construction or improvement of a jail."~~

19 Section 5. Section 7-32-2121, MCA, is amended to read:

20 "7-32-2121. Duties of sheriff. The sheriff must:

- 21 (1) preserve the peace;
- 22 (2) arrest and take before the nearest magistrate for
- 23 examination all persons who attempt to commit or have
- 24 committed a public offense;
- 25 (3) prevent and suppress all affrays, breaches of the

1 peace, riots, and insurrections which may come to his
2 knowledge;

3 (4) perform the duties of a humane officer within the
4 county with reference to the protection of dumb animals;

5 (5) attend all courts, except municipal, justices',
6 and city courts, at their respective terms or sessions held
7 within the county and obey their lawful orders and
8 directions;

9 (6) command the aid of as many inhabitants of the
10 county as are necessary in the execution of the sheriff's
11 duties;

12 (7) take charge of and keep the county jail and the
13 prisoners therein, unless the jail is operated by a private
14 party under an agreement entered into under 7-32-2201 or by
15 a jail administrator;

16 (8) endorse upon all notices and process the year,
17 month, day, hour, and minute of reception and issue therefor
18 to the person delivering them, on payment of fees, a
19 certificate showing the names of the parties, the title of
20 the paper, and the time of reception;

21 (9) serve all process or notices in the manner
22 prescribed by law;

23 (10) certify in writing upon the process or notices the
24 manner and time of service or, if he fails to make service,
25 the reasons of this failure, and return the papers without

1 delay;

2 (11) take charge of and supervise search and rescue
3 units and their officers whenever search and rescue units
4 are called into service; and

5 (12) perform such other duties as are required by law."

6 Section 6. Section 7-32-2123, MCA, is amended to read:

7 "7-32-2123. Appointment of deputy sheriff to act as
8 jailer. The A sheriff who operates a county jail may appoint
9 two deputies in counties of the first, second, or third
10 class and one deputy in counties of the fourth, fifth,
11 sixth, or seventh class who shall act as jailer and receive
12 the same salary as other deputy sheriffs."

13 Section 7. Section 7-32-2132, MCA, is amended to read:

14 "7-32-2132. Liability for escape in civil actions. (1)
15 A sheriff, jail administrator, or private party jailer who
16 fails to prevent the escape or rescue of a person in his
17 custody arrested in a civil action without the consent or
18 connivance of the party in whose behalf the arrest or
19 imprisonment was made is liable as follows:

20 (a) When the arrest is upon an order to hold for bail
21 or upon a surrender in exoneration of bail before judgment,
22 the sheriff, jail administrator, or private party jailer is
23 liable to the plaintiff for the bail.

24 (b) When the arrest is on an execution or commitment
25 to enforce the payment of money, the sheriff, jail

1 administrator, or private party jailer is liable for the
 2 amount expressed in the execution or commitment.

3 (c) When the arrest is on an execution or commitment
 4 other than to enforce the payment of money, the sheriff,
 5 jail administrator, or private party jailer is liable for
 6 the actual damages sustained.

7 (2) Upon being sued for damages for an escape or
 8 rescue of a person in his custody, the sheriff, jail
 9 administrator, or private party jailer may introduce
 10 evidence in mitigation or exculpation.

11 (3) An action may not be maintained against a sheriff,
 12 jail administrator, or private party jailer for a rescue or
 13 for an escape of a person arrested upon an execution or
 14 commitment if, after his rescue or escape and before the
 15 commencement of the action, the prisoner returns to the jail
 16 or is retaken by the sheriff, jail administrator, or private
 17 party jailer."

18 Section 8. Section 7-32-2201, MCA, is amended to read:

19 "7-32-2201. County jail required. (1) A jail shall be
 20 built or provided and kept in good repair at the expense of
 21 the county in each county, except that whenever in the
 22 discretion of the commissioners of two or more counties it
 23 is necessary or desirable to build, provide, or utilize a
 24 common jail, they may do so in any city or town located
 25 within one of the counties so concerned. Such common jail

1 shall be built or provided and kept in good repair at the
 2 expense of the counties concerned on a basis as the
 3 commissioners of the counties shall agree.

4 (2) A county, or two or more counties acting together,
 5 may provide for the jail required by subsection (1) by:

6 (a) establishing in the county government the position
 7 of jail administrator and, with the sheriff's concurrence,
 8 hiring a person, who is answerable to the governing body of
 9 the county, to fill the position; or

10 (b) entering into an agreement, WITH THE CONCURRENCE
 11 OF THE SHERIFFS OF ALL PARTICIPATING COUNTIES, with a
 12 private party under which the private party will provide,
 13 maintain, or operate the jail.

14 ~~(2)~~(3) The common jails in the several counties of
 15 this state are kept by the sheriffs, jail administrators, or
 16 private parties agreeing to act as jailers of the counties
 17 in which they are respectively situated. In the case of more
 18 than one county utilizing a common jail as provided in
 19 subsection (1), such jail shall be kept by the sheriffs of
 20 the counties utilizing the common jail on a basis as the
 21 sheriffs shall agree, by a jail administrator hired by the
 22 county in which the jail is situated, or by a private party
 23 agreeing to act as the jailer.

24 ~~(3)~~(4) The board of county commissioners has
 25 jurisdiction and power, under such limitations and

1 restrictions as are prescribed by law, to cause a jail to be
 2 erected, furnished, and maintained."

3 Section 9. Section 7-32-2202, MCA, is amended to read:

4 "7-32-2202. Use of jail in contiguous county. (1) When
 5 there is no jail in the county or when the jail becomes
 6 unfit or unsafe for the confinement of prisoners, the
 7 district judge may, by written appointment filed with the
 8 clerk, designate the jail of a contiguous county for the
 9 confinement of the prisoners of his county (or any of them)
 10 and may at any time modify or annul the appointment.

11 (2) A copy of the appointment, certified by the clerk,
 12 must be served on the sheriff or of each county, and the
 13 keeper of the designated jail if the keeper is not the
 14 sheriff, who must receive into his jail all prisoners
 15 authorized to be confined therein pursuant to this section
 16 and who is responsible for the safekeeping of the persons so
 17 committed in the same manner and to the same extent as if he
 18 were the sheriff, jail administrator, or private party
 19 jailer of the county for whose use his jail is designated.
 20 With respect to the persons so committed, he is deemed the
 21 sheriff, jail administrator, or private party jailer of the
 22 county from which they were removed.

23 (3) When a jail is erected in the county for the use
 24 of which the designation was made or its jail is rendered
 25 fit and safe for the confinement of prisoners, the district

1 judge of that county must, by a written revocation filed
 2 with the clerk, declare that the necessity for the
 3 designation has ceased and that it is revoked.

4 (4) The clerk must immediately serve a copy of the
 5 revocation upon the sheriff of each county and the keeper of
 6 the county, who jail in each county if the keeper is not the
 7 sheriff. The keeper of the jail in the designated county
 8 must thereupon remove the prisoners to the jail from which
 9 the removal was had."

10 Section 10. Section 7-32-2204, MCA, is amended to
 11 read:

12 "7-32-2204. Maintenance of county jail. (1) The county
 13 commissioners, or the private party when provided in an
 14 agreement entered into under 7-32-2201(2), have the care
 15 duty of building, inspecting, and repairing the jail and:

16 ~~(1) must, once every 3 months, inquire into its state,~~
 17 ~~as respects the security thereof, and the treatment and~~
 18 ~~condition of prisoners, and~~

19 (2) must take all necessary precautions against
 20 escape, sickness, or infection.

21 (2) The county commissioners must inquire into the
 22 security of the jail and the condition of the prisoners
 23 every 3 months."

24 Section 11. Section 7-32-2205, MCA, is amended to
 25 read:

1 "7-32-2205. Confinement of prisoners. The sheriff,
 2 jail administrator, or private party jailer must receive all
 3 persons committed to jail by competent authority and provide
 4 them with necessary food, clothing, and bedding, for which
 5 he sheriffs and jail administrators, but not jailers
 6 operating a jail under an agreement provided for in
 7 7-32-2201(2), shall submit claims for the actual expenses
 8 incurred to the board of county commissioners for their
 9 determination and, except as provided in 7-32-2207, to be
 10 paid out of the county treasury."

11 Section 12. Section 7-32-2206, MCA, is amended to
 12 read:

13 "7-32-2206. Confinement of federal prisoners. (1) The
 14 sheriff, jail administrator, or private party jailer must
 15 receive and keep in the county jail any prisoner committed
 16 thereto by process or order issued under the authority of
 17 the United States until he is discharged according to law,
 18 as if he had been committed under process issued under the
 19 authority of this state.

20 (2) Provision and agreement for the use of said jails
 21 and the support and subsistence of such federal prisoners
 22 shall first be made by the United States, through or by the
 23 proper officer or officers, with the board of county
 24 commissioners of the county wherein such prisoners are to be
 25 confined. Such agreement shall be in writing and contain a

1 provision that the United States shall, upon claim presented
 2 for the county by its county clerk and recorder, pay into
 3 the county treasury of the county or to a jailer operating a
 4 jail under an agreement provided for by 7-32-2201(2) the sum
 5 of \$10 per day for each and every prisoner held in the
 6 county jail upon order or commitment of the United States
 7 government or any department or officer thereof.

8 (3) A sheriff, jail administrator, or private party
 9 jailer to whose custody a prisoner is committed as provided
 10 in this section is answerable for his safekeeping in the
 11 courts of the United States, according to the laws thereof."

12 Section 13. Section 7-32-2207, MCA, is amended to
 13 read:

14 "7-32-2207. Confinement of persons on civil process.
 15 (1) Whenever a person is committed upon process in a civil
 16 action or proceeding, except when the state is a party
 17 thereto, the sheriff, jail administrator, or private party
 18 jailer is not bound to receive such person unless security
 19 is given on the part of the party at whose instance the
 20 process is issued, by a deposit of money, to meet the
 21 expenses for him of necessary food, clothing, and bedding or
 22 to detain such person any longer than these expenses are
 23 provided for.

24 (2) This section does not apply to cases where a party
 25 is committed as a punishment for disobedience to the

1 mandates, process, writs, or orders of court."

2 Section 14. Section 7-32-2209, MCA, is amended to
3 read:

4 "7-32-2209. Expenses of persons committed to jail by
5 highway patrol bureau. In the event a person is committed to
6 jail by the highway patrol bureau, department of justice,
7 the state of Montana shall, upon claim presented for the
8 county by the clerk and recorder, pay into the county
9 treasury of the county or to a jailer operating a jail under
10 an agreement provided for in 7-32-2201(2) the sum of \$10 per
11 day for each and every prisoner held in the county jail upon
12 order or commitment of the highway patrol bureau or any
13 department or officer thereof. For the purposes of this
14 section, a day shall be defined as a 24-hour period or
15 portion thereof, beginning with the time of incarceration.
16 Such claims upon the highway patrol bureau, department of
17 justice, shall be paid ~~to the various counties~~ out of funds
18 appropriated for that purpose."

19 Section 15. Section 7-32-2212, MCA, is amended to
20 read:

21 "7-32-2212. ~~Sheriff-to-prepare-list~~ List of prisoners.
22 The sheriff, jail administrator, or private party jailer of
23 each county must, on the first Monday in January and every 3
24 months thereafter, return to the county commissioners a
25 certified list of the names of all prisoners in his custody

1 on the last day of the preceding month, with the time and
2 cause of their confinement, the length of time for which
3 they were committed, and the number received and discharged
4 during the preceding 3 months. In case he fails to do so,
5 the sheriff, jail administrator, or private party jailer
6 must not receive any compensation for the sustenance of the
7 prisoners in his custody."

8 Section 16. Section 7-32-2221, MCA, is amended to
9 read:

10 "7-32-2221. Segregation of prisoners -- confinement of
11 juveniles. (1) Each county jail must contain a sufficient
12 number of rooms to allow the sheriff, jail administrator, or
13 private party jailer to separately confine classes of
14 prisoners as may be necessary to the security and safety of
15 those prisoners and the jail.

16 (2) Persons who are violent, disturbed, or inebriated
17 must not be kept or put into the same room with other
18 prisoners, nor shall male and female prisoners (except
19 husband and wife) be kept or put into the same room.

20 (3) Juveniles may be confined only under conditions
21 that comply with 41-5-306(2)."

22 Section 17. Section 7-32-2222, MCA, is amended to
23 read:

24 "7-32-2222. Health and safety of prisoners. (1) When a
25 county jail or building contiguous to it is on fire and

1 there is reason to believe that the prisoners may be injured
 2 or endangered, the sheriff, jail administrator, or private
 3 party jailer must remove them to a safe and convenient place
 4 and there confine them as long as it may be necessary to
 5 avoid the danger.

6 (2) When a pestilence or contagious disease breaks out
 7 in or near a jail and the physician thereof certifies that
 8 it is likely to endanger the health of the prisoners, the
 9 district judge may by a written appointment designate a safe
 10 and convenient place in the county or the jail in a
 11 contiguous county as the place of their confinement. The
 12 appointment must be filed in the office of the clerk and
 13 authorize the sheriff, jail administrator, or private party
 14 jailer to remove the prisoners to the designated place or
 15 jail and there confine them until they can be safely
 16 returned to the jail from which they were taken.

17 (3) If in the opinion of the sheriff, jail
 18 administrator, or private party jailer any prisoner, while
 19 detained, requires medication, medical services, or
 20 hospitalization, the expense of the same shall be borne by
 21 the agency or authority at whose instance the prisoner is
 22 detained when the agency or authority is not the county
 23 wherein the prisoner is being detained. The county attorney
 24 shall initiate proceedings to collect any charges arising
 25 from such medical services or hospitalization for the

1 prisoner involved if it is determined the prisoner is
 2 financially able to pay."

-End-

1 HOUSE BILL NO. 277
 2 INTRODUCED BY MANUEL
 3 BY REQUEST OF THE BOARD OF CRIME CONTROL
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO
 6 ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO
 7 ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL
 8 BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING
 9 OF JAILS AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS
 10 FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING
 11 LIMITATIONS; AND AMENDING SECTIONS 7-7-2101, 7-7-2203,
 12 7-7-2221, 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201,
 13 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209,
 14 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. SECTION 1. PURPOSE. IT IS THE PURPOSE
 18 OF [SECTIONS 1 THROUGH 4] TO ALLOW REGIONAL OR SINGLE-COUNTY
 19 JAILS TO BE BUILT BY PRIVATE INDUSTRY AND LEASED BACK TO THE
 20 PARTICIPATING COUNTY OR COUNTIES FOR OPERATION BY THE
 21 COUNTY, COLLECTIVELY BY PARTICIPATING COUNTIES, OR BY A
 22 PRIVATE ENTITY WITH THE CONCURRENCE OF THE SHERIFF OR
 23 SHERIFFS INVOLVED.

24 NEW SECTION. Section 2. County jails -- contracts
 25 with private parties. (1) The term of an agreement under

1 7-32-2201 with a private party may not exceed 3 years.

2 (2) The agreement must include:

3 (a) detailed standards for the operation of the jail
 4 and the incarceration of prisoners;

5 (b) a performance bond from the private party
 6 acceptable to the county;

7 (c) a promise from the private party to indemnify the
 8 county for any damages for which the county is found liable
 9 as a result of the operation of the jail;

10 (d) a provision that the private party must purchase
 11 liability insurance in an amount acceptable to the county;

12 (e) minimum standards for the training of jailers and
 13 a provision that the private party will ensure such
 14 training; and

15 (f) a provision that the county may immediately
 16 terminate the contract for good cause.

17 (3) The provisions of Title 7 relating to bids for
 18 county contracts and purchases do not apply to a contract
 19 entered into under 7-32-2201 and this section.

20 NEW SECTION. Section 3. Requests for contract
 21 proposals. (1) A county seeking to enter into a contract
 22 under 7-32-2201 and [section 2] may publish a request for
 23 proposals. The request for proposals must be published in a
 24 newspaper of general circulation in the county once a week
 25 for 3 successive weeks and must include information



1 concerning the type of jail services required.

2 (2) Requests for proposals must be sent to persons who
3 have previously requested that their names be placed on a
4 list of persons providing jail services. The Montana board
5 of crime control shall maintain a list of persons providing
6 jail services and furnish the list to a county upon request.

7 (3) In selecting a proposal and awarding a contract, a
8 county need not accept the proposal with the lowest cost.

9 (4) The county must base its selection on demonstrated
10 competence, knowledge and qualifications, the reasonableness
11 of the services proposed, and the reasonableness of the
12 proposed contract price for the jail services.

13 (5) A copy of all proposals must be kept available for
14 public inspection in the office of the county clerk and
15 recorder.

16 (6) The county must give specific reasons for its
17 selection of a proposal. The reasons must be recorded in the
18 minutes of the governing body of the county.

19 NEW SECTION. Section 4. Powers of jail administrators
20 and private party jailers. A jail administrator or a private
21 party acting as a jailer under an agreement, as provided for
22 in 7-32-2201(2), and his assistant jailers have the powers
23 and duties of sheriffs IS RESPONSIBLE FOR THE IMMEDIATE
24 MANAGEMENT AND CONTROL OF THE JAIL SUBJECT TO GENERAL
25 POLICIES AND PROGRAMS ESTABLISHED PURSUANT TO THE AGREEMENT

1 PROVIDED FOR IN 7-32-2201(2) AND ANY APPLICABLE INTERLOCAL
2 AGREEMENT. THE POWERS OF SUCH AN ADMINISTRATOR AND
3 CORRECTIONS PERSONNEL EMPLOYED UNDER HIS AUTHORITY INCLUDE
4 CONTROL OVER PRISONERS:

5 (1) within the confines and grounds of the jail; and
6 (2) outside the jail confines and grounds while
7 transporting any prisoner or in the HOT pursuit or
8 apprehension of any escapee.

9 ~~Section 4. Section 7-7-2101, MCA, is amended to read:~~
10 ~~"7-7-2101. Limitation on amount of county~~
11 ~~indebtedness. (1) No county may become indebted in any~~
12 ~~manner or for any purpose to an amount, including existing~~
13 ~~indebtedness, in the aggregate exceeding 23% of the taxable~~
14 ~~value of the property therein subject to taxation as~~
15 ~~ascertained by the last assessment for state and county~~
16 ~~taxes previous to the incurring of such indebtedness, except~~
17 ~~that an additional indebtedness of up to 12.5% of the~~
18 ~~taxable value of the property in the county subject to~~
19 ~~taxation may be incurred for the construction or improvement~~
20 ~~of a jail.~~

21 ~~(2) No county may incur indebtedness or liability for~~
22 ~~any single purpose, except for the construction or~~
23 ~~improvement of a jail, to an amount exceeding \$150,000~~
24 ~~without the approval of a majority of the electors thereof~~
25 ~~voting at an election to be provided by law, except as~~

1 provided in 7-21-3413 and 7-21-3414."

2 Section 5. Section 7-7-2203, MCA, is amended to read:
3 "7-7-2203. Limitation on amount of bonded
4 indebtedness. (1) Except as provided in subsections (2) and
5 (3) through (4), no county may issue general obligation
6 bonds for any purpose which, with all outstanding bonds and
7 warrants except county high school bonds and emergency
8 bonds, will exceed 11.25% of the taxable value of the
9 property therein to be ascertained by the last assessment
10 for state and county taxes prior to the proposed issuance of
11 bonds.

12 (2) A in addition to the bonds allowed by subsection
13 (1), a county may issue bonds which, with all outstanding
14 bonds and warrants, will exceed 11.25% but will not exceed
15 37.25% of the taxable value of such property the
16 property in the county subject to taxation, when necessary
17 to do so, for the purpose of acquiring land for a site for
18 county high school buildings and for erecting or acquiring
19 buildings thereon and furnishing and equipping the same for
20 county high school purposes.

21 (3) In addition to the bonds allowed by subsections
22 (1) and (2), a county may issue bonds for the construction
23 or improvement of a jail, which will not exceed 12.5% of the
24 taxable value of the property in the county subject to
25 taxation.

1 (3)(4) The foregoing limitation in subsection (1)
2 shall not apply to refunding bonds issued for the purpose of
3 paying or retiring county bonds lawfully issued prior to
4 January 1, 1932."

5 Section 6. Section 7-7-2221, MCA, is amended to read:
6 "7-7-2221. Issuance of certain general obligation
7 bonds without election. Bonds may be issued without
8 submitting the same to an election if the bonds are issued
9 for the purpose of:

10 (1) enabling a county to liquidate its indebtedness to
11 another county incident to the creation of a new county or
12 the changing of a county boundary line, as set forth in
13 7-7-2201(5); and

14 (2) funding, paying in full, or compromising,
15 settling, and satisfying any judgment which may have been
16 rendered against the county in a court of competent
17 jurisdiction, as set forth in 7-7-2202, and

18 (3) construction or improvement of a jail."

19 Section 5. Section 7-32-2121, MCA, is amended to read:
20 "7-32-2121. Duties of sheriff. The sheriff must:

- 21 (1) preserve the peace;
- 22 (2) arrest and take before the nearest magistrate for
23 examination all persons who attempt to commit or have
24 committed a public offense;
- 25 (3) prevent and suppress all affrays, breaches of the

1 peace, riots, and insurrections which may come to his
2 knowledge;

3 (4) perform the duties of a humane officer within the
4 county with reference to the protection of dumb animals;

5 (5) attend all courts, except municipal, justices',
6 and city courts, at their respective terms or sessions held
7 within the county and obey their lawful orders and
8 directions;

9 (6) command the aid of as many inhabitants of the
10 county as are necessary in the execution of the sheriff's
11 duties;

12 (7) take charge of and keep the county jail and the
13 prisoners therein, unless the jail is operated by a private
14 party under an agreement entered into under 7-32-2201 or by
15 a jail administrator;

16 (8) endorse upon all notices and process the year,
17 month, day, hour, and minute of reception and issue therefor
18 to the person delivering them, on payment of fees, a
19 certificate showing the names of the parties, the title of
20 the paper, and the time of reception;

21 (9) serve all process or notices in the manner
22 prescribed by law;

23 (10) certify in writing upon the process or notices the
24 manner and time of service or, if he fails to make service,
25 the reasons of this failure, and return the papers without

1 delay;

2 (11) take charge of and supervise search and rescue
3 units and their officers whenever search and rescue units
4 are called into service; and

5 (12) perform such other duties as are required by law."

6 Section 6. Section 7-32-2123, MCA, is amended to read:
7 "7-32-2123. Appointment of deputy sheriff to act as
8 jailer. The A sheriff who operates a county jail may appoint
9 two deputies in counties of the first, second, or third
10 class and one deputy in counties of the fourth, fifth,
11 sixth, or seventh class who shall act as jailer and receive
12 the same salary as other deputy sheriffs."

13 Section 7. Section 7-32-2132, MCA, is amended to read:
14 "7-32-2132. Liability for escape in civil actions. (1)
15 A sheriff, jail administrator, or private party jailer who
16 fails to prevent the escape or rescue of a person in his
17 custody arrested in a civil action without the consent or
18 connivance of the party in whose behalf the arrest or
19 imprisonment was made is liable as follows:

20 (a) When the arrest is upon an order to hold for bail
21 or upon a surrender in exoneration of bail before judgment,
22 the sheriff, jail administrator, or private party jailer is
23 liable to the plaintiff for the bail.

24 (b) When the arrest is on an execution or commitment
25 to enforce the payment of money, the sheriff, jail

1 administrator, or private party jailer is liable for the
2 amount expressed in the execution or commitment.

3 (c) When the arrest is on an execution or commitment
4 other than to enforce the payment of money, the sheriff,
5 jail administrator, or private party jailer is liable for
6 the actual damages sustained.

7 (2) Upon being sued for damages for an escape or
8 rescue of a person in his custody, the sheriff, jail
9 administrator, or private party jailer may introduce
10 evidence in mitigation or exculpation.

11 (3) An action may not be maintained against a sheriff,
12 jail administrator, or private party jailer for a rescue or
13 for an escape of a person arrested upon an execution or
14 commitment if, after his rescue or escape and before the
15 commencement of the action, the prisoner returns to the jail
16 or is retaken by the sheriff, jail administrator, or private
17 party jailer."

18 Section 8. Section 7-32-2201, MCA, is amended to read:

19 "7-32-2201. County jail required. (1) A jail shall be
20 built or provided and kept in good repair at the expense of
21 the county in each county, except that whenever in the
22 discretion of the commissioners of two or more counties it
23 is necessary or desirable to build, provide, or utilize a
24 common jail, they may do so in any city or town located
25 within one of the counties so concerned. Such common jail

1 shall be built or provided and kept in good repair at the
2 expense of the counties concerned on a basis as the
3 commissioners of the counties shall agree.

4 (2) A county, or two or more counties acting together,
5 may provide for the jail required by subsection (1) by:

6 (a) establishing in the county government the position
7 of jail administrator and, with the sheriff's concurrence,
8 hiring a person, who is answerable to the governing body of
9 the county, to fill the position; or

10 (b) entering into an agreement, WITH THE CONCURRENCE
11 OF THE SHERIFFS OF ALL PARTICIPATING COUNTIES, with a
12 private party under which the private party will provide,
13 maintain, or operate the jail.

14 ~~(2)~~(3) The common jails in the several counties of
15 this state are kept by the sheriffs, jail administrators, or
16 private parties agreeing to act as jailers of the counties
17 in which they are respectively situated. In the case of more
18 than one county utilizing a common jail as provided in
19 subsection (1), such jail shall be kept by the sheriffs of
20 the counties utilizing the common jail on a basis as the
21 sheriffs shall agree, by a jail administrator hired by the
22 county in which the jail is situated, or by a private party
23 agreeing to act as the jailer.

24 ~~(3)~~(4) The board of county commissioners has
25 jurisdiction and power, under such limitations and

1 restrictions as are prescribed by law, to cause a jail to be
2 erected, furnished, and maintained."

3 Section 9. Section 7-32-2202, MCA, is amended to read:

4 "7-32-2202. Use of jail in contiguous county. (1) When
5 there is no jail in the county or when the jail becomes
6 unfit or unsafe for the confinement of prisoners, the
7 district judge may, by written appointment filed with the
8 clerk, designate the jail of a contiguous county for the
9 confinement of the prisoners of his county (or any of them)
10 and may at any time modify or annul the appointment.

11 (2) A copy of the appointment, certified by the clerk,
12 must be served on the sheriff or of each county, and the
13 keeper of the designated jail if the keeper is not the
14 sheriff, who must receive into his jail all prisoners
15 authorized to be confined therein pursuant to this section
16 and who is responsible for the safekeeping of the persons so
17 committed in the same manner and to the same extent as if he
18 were the sheriff, jail administrator, or private party
19 jailer of the county for whose use his jail is designated.
20 With respect to the persons so committed, he is deemed the
21 sheriff, jail administrator, or private party jailer of the
22 county from which they were removed.

23 (3) When a jail is erected in the county for the use
24 of which the designation was made or its jail is rendered
25 fit and safe for the confinement of prisoners, the district

1 judge of that county must, by a written revocation filed
2 with the clerk, declare that the necessity for the
3 designation has ceased and that it is revoked.

4 (4) The clerk must immediately serve a copy of the
5 revocation upon the sheriff of each county and the keeper of
6 the county, who jail in each county if the keeper is not the
7 sheriff. The keeper of the jail in the designated county
8 must thereupon remove the prisoners to the jail from which
9 the removal was had."

10 Section 10. Section 7-32-2204, MCA, is amended to
11 read:

12 "7-32-2204. Maintenance of county jail. (1) The county
13 commissioners, or the private party when provided in an
14 agreement entered into under 7-32-2201(2), have the care
15 duty of building, inspecting, and repairing the jail and:

16 ~~{1}--must, once every 3 months, inquire into its state,~~
17 ~~as respects the security thereof, and the treatment and~~
18 ~~condition of prisoners; and~~

19 {2} must take all necessary precautions against
20 escape, sickness, or infection.

21 (2) The county commissioners must inquire into the
22 security of the jail and the condition of the prisoners
23 every 3 months."

24 Section 11. Section 7-32-2205, MCA, is amended to
25 read:

1 "7-32-2205. Confinement of prisoners. The sheriff,
 2 jail administrator, or private party jailer must receive all
 3 persons committed to jail by competent authority and provide
 4 them with necessary food, clothing, and bedding, for which
 5 he sheriffs and jail administrators, but not jailers
 6 operating a jail under an agreement provided for in
 7 7-32-2201(2), shall submit claims for the actual expenses
 8 incurred to the board of county commissioners for their
 9 determination and, except as provided in 7-32-2207, to be
 10 paid out of the county treasury."

11 Section 12. Section 7-32-2206, MCA, is amended to
 12 read:

13 "7-32-2206. Confinement of federal prisoners. (1) The
 14 sheriff, jail administrator, or private party jailer must
 15 receive and keep in the county jail any prisoner committed
 16 thereto by process or order issued under the authority of
 17 the United States until he is discharged according to law,
 18 as if he had been committed under process issued under the
 19 authority of this state.

20 (2) Provision and agreement for the use of said jails
 21 and the support and subsistence of such federal prisoners
 22 shall first be made by the United States, through or by the
 23 proper officer or officers, with the board of county
 24 commissioners of the county wherein such prisoners are to be
 25 confined. Such agreement shall be in writing and contain a

1 provision that the United States shall, upon claim presented
 2 for the county by its county clerk and recorder, pay into
 3 the county treasury of the county or to a jailer operating a
 4 jail under an agreement provided for by 7-32-2201(2) the sum
 5 of \$10 per day for each and every prisoner held in the
 6 county jail upon order or commitment of the United States
 7 government or any department or officer thereof.

8 (3) A sheriff, jail administrator, or private party
 9 jailer to whose custody a prisoner is committed as provided
 10 in this section is answerable for his safekeeping in the
 11 courts of the United States, according to the laws thereof."

12 Section 13. Section 7-32-2207, MCA, is amended to
 13 read:

14 "7-32-2207. Confinement of persons on civil process.
 15 (1) Whenever a person is committed upon process in a civil
 16 action or proceeding, except when the state is a party
 17 thereto, the sheriff, jail administrator, or private party
 18 jailer is not bound to receive such person unless security
 19 is given on the part of the party at whose instance the
 20 process is issued, by a deposit of money, to meet the
 21 expenses for him of necessary food, clothing, and bedding or
 22 to detain such person any longer than these expenses are
 23 provided for.

24 (2) This section does not apply to cases where a party
 25 is committed as a punishment for disobedience to the

1 mandates, process, writs, or orders of court."

2 Section 14. Section 7-32-2209, MCA, is amended to
3 read:

4 "7-32-2209. Expenses of persons committed to jail by
5 highway patrol bureau. In the event a person is committed to
6 jail by the highway patrol bureau, department of justice,
7 the state of Montana shall, upon claim presented for the
8 county by the clerk and recorder, pay into the county
9 treasury of the county or to a jailer operating a jail under
10 an agreement provided for in 7-32-2201(2) the sum of \$10 per
11 day for each and every prisoner held in the county jail upon
12 order or commitment of the highway patrol bureau or any
13 department or officer thereof. For the purposes of this
14 section, a day shall be defined as a 24-hour period or
15 portion thereof, beginning with the time of incarceration.
16 Such claims upon the highway patrol bureau, department of
17 justice, shall be paid ~~to the various counties~~ out of funds
18 appropriated for that purpose."

19 Section 15. Section 7-32-2212, MCA, is amended to
20 read:

21 "~~7-32-2212. Sheriff to prepare list~~ List of prisoners.
22 The sheriff, jail administrator, or private party jailer of
23 each county must, on the first Monday in January and every 3
24 months thereafter, return to the county commissioners a
25 certified list of the names of all prisoners in his custody

1 on the last day of the preceding month, with the time and
2 cause of their confinement, the length of time for which
3 they were committed, and the number received and discharged
4 during the preceding 3 months. In case he fails to do so,
5 the sheriff, jail administrator, or private party jailer
6 must not receive any compensation for the sustenance of the
7 prisoners in his custody."

8 Section 16. Section 7-32-2221, MCA, is amended to
9 read:

10 "7-32-2221. Segregation of prisoners -- confinement of
11 juveniles. (1) Each county jail must contain a sufficient
12 number of rooms to allow the sheriff, jail administrator, or
13 private party jailer to separately confine classes of
14 prisoners as may be necessary to the security and safety of
15 those prisoners and the jail.

16 (2) Persons who are violent, disturbed, or inebriated
17 must not be kept or put into the same room with other
18 prisoners, nor shall male and female prisoners (except
19 husband and wife) be kept or put into the same room.

20 (3) Juveniles may be confined only under conditions
21 that comply with 41-5-306(2)."

22 Section 17. Section 7-32-2222, MCA, is amended to
23 read:

24 "7-32-2222. Health and safety of prisoners. (1) When a
25 county jail or building contiguous to it is on fire and

1 there is reason to believe that the prisoners may be injured
 2 or endangered, the sheriff, jail administrator, or private
 3 party jailer must remove them to a safe and convenient place
 4 and there confine them as long as it may be necessary to
 5 avoid the danger.

6 (2) When a pestilence or contagious disease breaks out
 7 in or near a jail and the physician thereof certifies that
 8 it is likely to endanger the health of the prisoners, the
 9 district judge may by a written appointment designate a safe
 10 and convenient place in the county or the jail in a
 11 contiguous county as the place of their confinement. The
 12 appointment must be filed in the office of the clerk and
 13 authorize the sheriff, jail administrator, or private party
 14 jailer to remove the prisoners to the designated place or
 15 jail and there confine them until they can be safely
 16 returned to the jail from which they were taken.

17 (3) If in the opinion of the sheriff, jail
 18 administrator, or private party jailer any prisoner, while
 19 detained, requires medication, medical services, or
 20 hospitalization, the expense of the same shall be borne by
 21 the agency or authority at whose instance the prisoner is
 22 detained when the agency or authority is not the county
 23 wherein the prisoner is being detained. The county attorney
 24 shall initiate proceedings to collect any charges arising
 25 from such medical services or hospitalization for the

1 prisoner involved if it is determined the prisoner is
 2 financially able to pay."

-End-

SENATE

HOUSE BILL 277
Page 1 of 3 Pages

STANDING COMMITTEE REPORT

MARCH 18 1985

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT
having had under consideration HOUSE BILL No. 277
THIRD reading copy (BLUE)
(PINSONEAULT WILL CARRY) color

ALLOW PRIVATE PARTIES TO RUN JAILS; EXEMPT JAILS FROM
FINANCING LIMITS

Respectfully report as follows: That HOUSE BILL No. 277

be amended as follows:

1. Title, line 12.
Following: "7-7-2221,"
Insert: "7-7-2101, 7-7-2203"

2. Page 6, line 19.
Following: line 18
Insert: "Section 5. Section 7-7-2201, MCA, is amended to
read:
"7-7-2201. Purposes for which general obligation bonds
of a county may be issued. The board of county
commissioners of every county of the state is hereby
vested with the power and authority to issue,
negotiate, and sell coupon bonds on the credit of the
county, as more specifically provided in this part, for
any of the following purposes:

(1) acquiring land for sites and grounds for a
public building or buildings of any kind within the county
and under its control, which the county has lawful
authority to acquire or erect, control, and maintain except
that if the bonds are sold to fund a multi-county jail
facility, funds so raised may be used in the county in which
the multi-county jail facility is located;

(continued)

KB
XXXXXXXXXX

[Handwritten Signature]
Chairman.

HOUSE BILL 277
Page 2 of 3 Pages

March 18 1985

(2) acquiring land for any other public use or
activity within the county, under its control and
authorized by law;

(3) constructing, erecting, or acquiring by purchase
necessary public buildings within the county, under its
control and authorized by law; making additions to and
repairing buildings; and furnishing and equipping the
same except that if the bonds are sold to fund a
multi-county jail facility, funds so raised may be used in
the county in which the multi-county jail facility is
located;

(4) building, purchasing, constructing, and
maintaining devices intended to protect the safety of the
public from open ditches carrying irrigation or other
water;

(5) enabling a county to liquidate its indebtedness
to another county incident to the creation of a new
county or the changing of any county boundary line;

(6) funding, paying, and retiring outstanding county
warrants lawfully issued against the county general
fund, road fund, bridge fund, or poor fund when:

(a) there is not sufficient money in the fund
against which such warrants are drawn to pay and retire
such warrants; and

(b) the levying of taxes sufficient to pay and
retire such warrants within a period of 3 years would, in
the judgment of the board, work a hardship and be an
undue burden upon the taxpayers of the county."

Section 6. Section 7-7-2203, MCA, is amended to read:
"7-7-2203. Limitation on amount of bonded
indebtedness. (1) Except as provided in subsections
(2) and ~~(3)~~ through (4), no county may issue general
obligation bonds for any purpose which, with all
outstanding bonds and warrants except county high
school bonds and emergency bonds, will exceed 11.25% of
the taxable value of the property therein, to be
ascertained by the last assessment for state and county
taxes prior to the proposed issuance of bonds.

(continued)

[Handwritten Signature]

March 18 19 85

(2) A In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will-exceed-11,250-but will not exceed 374 25.75% of the taxable value of such property, the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~ (4) The foregoing limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Renumber: subsequent sections

3. Page 11, line 12.

Following: "county."

Strike: "and"

Insert: "or"

4. Page 12, line 5.

Following: "county"

Strike: "and"

Insert: "or"

5. Page 13, line 5.

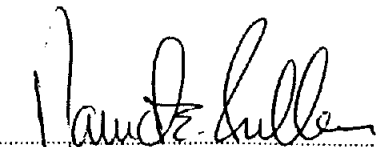
Following: "sheriffs"

Strike: "and"

Insert: "or"

KB
AND AS AMENDED

BE CONCURRED IN



Senator David Fuller, Chairman

1 HOUSE BILL NO. 277

2 INTRODUCED BY MANUEL

3 BY REQUEST OF THE BOARD OF CRIME CONTROL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO
6 ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO
7 ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL
8 BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING
9 OF JAILS ~~AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS~~
10 ~~FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING~~
11 ~~LIMITATIONS~~; AND AMENDING SECTIONS ~~7-7-2101, 7-7-2203,~~
12 ~~7-7-2221,~~ 7-7-2201, 7-7-2203, 7-32-2121, 7-32-2123,
13 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH
14 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222,
15 MCA."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. SECTION 1. PURPOSE. IT IS THE PURPOSE
19 OF [SECTIONS 1 THROUGH 4] TO ALLOW REGIONAL OR SINGLE-COUNTY
20 JAILS TO BE BUILT BY PRIVATE INDUSTRY AND LEASED BACK TO THE
21 PARTICIPATING COUNTY OR COUNTIES FOR OPERATION BY THE
22 COUNTY, COLLECTIVELY BY PARTICIPATING COUNTIES, OR BY A
23 PRIVATE ENTITY WITH THE CONCURRENCE OF THE SHERIFF OR
24 SHERIFFS INVOLVED.

25 NEW SECTION. Section 2. County jails -- contracts

1 with private parties. (1) The term of an agreement under
2 7-32-2201 with a private party may not exceed 3 years.

3 (2) The agreement must include:

4 (a) detailed standards for the operation of the jail
5 and the incarceration of prisoners;

6 (b) a performance bond from the private party
7 acceptable to the county;

8 (c) a promise from the private party to indemnify the
9 county for any damages for which the county is found liable
10 as a result of the operation of the jail;

11 (d) a provision that the private party must purchase
12 liability insurance in an amount acceptable to the county;

13 (e) minimum standards for the training of jailers and
14 a provision that the private party will ensure such
15 training; and

16 (f) a provision that the county may immediately
17 terminate the contract for good cause.

18 (3) The provisions of Title 7 relating to bids for
19 county contracts and purchases do not apply to a contract
20 entered into under 7-32-2201 and this section.

21 NEW SECTION. Section 3. Requests for contract
22 proposals. (1) A county seeking to enter into a contract
23 under 7-32-2201 and [section 1 2] may publish a request for
24 proposals. The request for proposals must be published in a
25 newspaper of general circulation in the county once a week

REFERENCE BILL

HB 277

1 for 3 successive weeks and must include information
2 concerning the type of jail services required.

3 (2) Requests for proposals must be sent to persons who
4 have previously requested that their names be placed on a
5 list of persons providing jail services. The Montana board
6 of crime control shall maintain a list of persons providing
7 jail services and furnish the list to a county upon request.

8 (3) In selecting a proposal and awarding a contract, a
9 county need not accept the proposal with the lowest cost.

10 (4) The county must base its selection on demonstrated
11 competence, knowledge and qualifications, the reasonableness
12 of the services proposed, and the reasonableness of the
13 proposed contract price for the jail services.

14 (5) A copy of all proposals must be kept available for
15 public inspection in the office of the county clerk and
16 recorder.

17 (6) The county must give specific reasons for its
18 selection of a proposal. The reasons must be recorded in the
19 minutes of the governing body of the county.

20 NEW SECTION. Section 4. Powers of jail administrators
21 and private party jailers. A jail administrator or a private
22 party acting as a jailer under an agreement, as provided for
23 in 7-32-2201(2), and his assistant jailers have the powers
24 and duties of sheriffs IS RESPONSIBLE FOR THE IMMEDIATE
25 MANAGEMENT AND CONTROL OF THE JAIL SUBJECT TO GENERAL

1 POLICIES AND PROGRAMS ESTABLISHED PURSUANT TO THE AGREEMENT
2 PROVIDED FOR IN 7-32-2201(2) AND ANY APPLICABLE INTERLOCAL
3 AGREEMENT. THE POWERS OF SUCH AN ADMINISTRATOR AND
4 CORRECTIONS PERSONNEL EMPLOYED UNDER HIS AUTHORITY INCLUDE
5 CONTROL OVER PRISONERS:

- 6 (1) within the confines and grounds of the jail; and
- 7 (2) outside the jail confines and grounds while
- 8 transporting any prisoner or in the HOT pursuit or
- 9 apprehension of any escapee.

10 ~~Section 4. Section 7-7-2101, MCA, is amended to read:~~
11 ~~7-7-2101. Limitation on amount of county~~
12 ~~indebtedness: (1) No county may become indebted in any~~
13 ~~manner or for any purpose to an amount, including existing~~
14 ~~indebtedness, in the aggregate exceeding 23% of the taxable~~
15 ~~value of the property therein subject to taxation as~~
16 ~~ascertained by the last assessment for state and county~~
17 ~~taxes previous to the incurring of such indebtedness, except~~
18 ~~that an additional indebtedness of up to 12.5% of the~~
19 ~~taxable value of the property in the county subject to~~
20 ~~taxation may be incurred for the construction or improvement~~
21 ~~of a jail;~~

22 (2) ~~No county may incur indebtedness or liability for~~
23 ~~any single purpose, except for the construction or~~
24 ~~improvement of a jail, to an amount exceeding \$150,000~~
25 ~~without the approval of a majority of the electors thereof~~

1 voting-at-an-election-to-be-provided-by-law-except-as
2 provided-in-7-21-3413-and-7-21-3414."

3 Section 5. Section 7-7-2203, MCA, is amended to read:
4 "7-7-2203. Limitation on amount of bonded
5 indebtedness. (1) Except as provided in subsections (2) and
6 (3) through (4), no county may issue general obligation
7 bonds for any purpose which, with all outstanding bonds and
8 warrants except county high school bonds and emergency
9 bonds, will exceed 11.25% of the taxable value of the
10 property therein, to be ascertained by the last assessment
11 for state and county taxes prior to the proposed issuance of
12 bonds.

13 (2) A in addition to the bonds allowed by subsection
14 (1), a county may issue bonds which, with all outstanding
15 bonds and warrants, will exceed 11.25% but will not exceed
16 37% 25-75% of the taxable value of such property the
17 property in the county subject to taxation, when necessary
18 to do so for the purpose of acquiring land for a site for
19 county high school buildings and for erecting or acquiring
20 buildings thereon and furnishing and equipping the same for
21 county high school purposes.

22 (3) In addition to the bonds allowed by subsections
23 (1) and (2), a county may issue bonds for the construction
24 or improvement of a jail, which will not exceed 12.5% of the
25 taxable value of the property in the county subject to

1 taxation.

2 (3)(4) The foregoing limitation in subsection (1)
3 shall not apply to refunding bonds issued for the purpose of
4 paying or retiring county bonds lawfully issued prior to
5 January 17, 1932."

6 Section 6. Section 7-7-2221, MCA, is amended to read:
7 "7-7-2221. Issuance of certain general obligation
8 bonds without election. Bonds may be issued without
9 submitting the same to an election if the bonds are issued
10 for the purpose of:

11 (1) enabling a county to liquidate its indebtedness to
12 another county incident to the creation of a new county or
13 the changing of a county boundary line, as set forth in
14 7-7-2201(5); and

15 (2) funding, paying in full, or compromising,
16 settling, and satisfying any judgment which may have been
17 rendered against the county in a court of competent
18 jurisdiction, as set forth in 7-7-2202; and

19 (3) construction or improvement of a jail."

20 SECTION 5. SECTION 7-7-2201, MCA, IS AMENDED TO READ:

21 "7-7-2201. Purposes for which general obligation bonds
22 of a county may be issued. The board of county commissioners
23 of every county of the state is hereby vested with the power
24 and authority to issue, negotiate, and sell coupon bonds on
25 the credit of the county, as more specifically provided in

1 this part, for any of the following purposes:

2 (1) acquiring land for sites and grounds for a public
 3 building or buildings of any kind within the county and
 4 under its control, which the county has lawful authority to
 5 acquire or erect, control, and maintain except that if the
 6 bonds are sold to fund a multicounty jail facility, funds so
 7 raised may be used in the county in which the multicounty
 8 jail facility is located;

9 (2) acquiring land for any other public use or
 10 activity within the county, under its control and authorized
 11 by law;

12 (3) constructing, erecting, or acquiring by purchase
 13 necessary public buildings within the county, under its
 14 control and authorized by law; making additions to and
 15 repairing buildings; and furnishing and equipping the same
 16 except that if the bonds are sold to fund a multicounty jail
 17 facility, funds so raised may be used in the county in which
 18 the multicounty jail facility is located;

19 (4) building, purchasing, constructing, and
 20 maintaining devices intended to protect the safety of the
 21 public from open ditches carrying irrigation or other water;

22 (5) enabling a county to liquidate its indebtedness to
 23 another county incident to the creation of a new county or
 24 the changing of any county boundary line;

25 (6) funding, paying, and retiring outstanding county

1 warrants lawfully issued against the county general fund,
 2 road fund, bridge fund, or poor fund when:

3 (a) there is not sufficient money in the fund against
 4 which such warrants are drawn to pay and retire such
 5 warrants; and

6 (b) the levying of taxes sufficient to pay and retire
 7 such warrants within a period of 3 years would, in the
 8 judgment of the board, work a hardship and be an undue
 9 burden upon the taxpayers of the county."

10 SECTION 6. SECTION 7-7-2203, MCA, IS AMENDED TO READ:

11 "7-7-2203. Limitation on amount of bonded
 12 indebtedness. (1) Except as provided in subsections (2) and
 13 ~~(3)~~ through (4), no county may issue general obligation
 14 bonds for any purpose which, with all outstanding bonds and
 15 warrants except county high school bonds and emergency
 16 bonds, will exceed 11.25% of the taxable value of the
 17 property therein, to be ascertained by the last assessment
 18 for state and county taxes prior to the proposed issuance of
 19 bonds.

20 (2) A In addition to the bonds allowed by subsection
 21 (1), a county may issue bonds which, with all outstanding
 22 bonds and warrants, ~~will exceed 11.25% but~~ will not exceed
 23 37% ~~25.75%~~ of the taxable value of ~~such--property the~~
 24 property in the county subject to taxation, when necessary
 25 to do so, for the purpose of acquiring land for a site for

1 county high school buildings and for erecting or acquiring
 2 buildings thereon and furnishing and equipping the same for
 3 county high school purposes.

4 (3) In addition to the bonds allowed by subsections
 5 (1) and (2), a county may issue bonds for the construction
 6 or improvement of a jail which will not exceed 12.5% of the
 7 taxable value of the property in the county subject to
 8 taxation.

9 ~~†3~~(4) The foregoing limitation in subsection (1)
 10 shall not apply to refunding bonds issued for the purpose of
 11 paying or retiring county bonds lawfully issued prior to
 12 January 1, 1932."

13 Section 7. Section 7-32-2121, MCA, is amended to read:

14 "7-32-2121. Duties of sheriff. The sheriff must:

- 15 (1) preserve the peace;
- 16 (2) arrest and take before the nearest magistrate for
 17 examination all persons who attempt to commit or have
 18 committed a public offense;
- 19 (3) prevent and suppress all affrays, breaches of the
 20 peace, riots, and insurrections which may come to his
 21 knowledge;
- 22 (4) perform the duties of a humane officer within the
 23 county with reference to the protection of dumb animals;
- 24 (5) attend all courts, except municipal, justices',
 25 and city courts, at their respective terms or sessions held

1 within the county and obey their lawful orders and
 2 directions;

3 (6) command the aid of as many inhabitants of the
 4 county as are necessary in the execution of the sheriff's
 5 duties;

6 (7) take charge of and keep the county jail and the
 7 prisoners therein, unless the jail is operated by a private
 8 party under an agreement entered into under 7-32-2201 or by
 9 a jail administrator;

10 (8) endorse upon all notices and process the year,
 11 month, day, hour, and minute of reception and issue therefor
 12 to the person delivering them, on payment of fees, a
 13 certificate showing the names of the parties, the title of
 14 the paper, and the time of reception;

15 (9) serve all process or notices in the manner
 16 prescribed by law;

17 (10) certify in writing upon the process or notices the
 18 manner and time of service or, if he fails to make service,
 19 the reasons of this failure, and return the papers without
 20 delay;

21 (11) take charge of and supervise search and rescue
 22 units and their officers whenever search and rescue units
 23 are called into service; and

24 (12) perform such other duties as are required by law."

25 Section 8. Section 7-32-2123, MCA, is amended to read:

1 "7-32-2123. Appointment of deputy sheriff to act as
2 jailer. The A sheriff who operates a county jail may appoint
3 two deputies in counties of the first, second, or third
4 class and one deputy in counties of the fourth, fifth,
5 sixth, or seventh class who shall act as jailer and receive
6 the same salary as other deputy sheriffs."

7 Section 9. Section 7-32-2132, MCA, is amended to read:

8 "7-32-2132. Liability for escape in civil actions. (1)
9 A sheriff, jail administrator, or private party jailer who
10 fails to prevent the escape or rescue of a person in his
11 custody arrested in a civil action without the consent or
12 connivance of the party in whose behalf the arrest or
13 imprisonment was made is liable as follows:

14 (a) When the arrest is upon an order to hold for bail
15 or upon a surrender in exoneration of bail before judgment,
16 the sheriff, jail administrator, or private party jailer is
17 liable to the plaintiff for the bail.

18 (b) When the arrest is on an execution or commitment
19 to enforce the payment of money, the sheriff, jail
20 administrator, or private party jailer is liable for the
21 amount expressed in the execution or commitment.

22 (c) When the arrest is on an execution or commitment
23 other than to enforce the payment of money, the sheriff,
24 jail administrator, or private party jailer is liable for
25 the actual damages sustained.

1 (2) Upon being sued for damages for an escape or
2 rescue of a person in his custody, the sheriff, jail
3 administrator, or private party jailer may introduce
4 evidence in mitigation or exculpation.

5 (3) An action may not be maintained against a sheriff,
6 jail administrator, or private party jailer for a rescue or
7 for an escape of a person arrested upon an execution or
8 commitment if, after his rescue or escape and before the
9 commencement of the action, the prisoner returns to the jail
10 or is retaken by the sheriff, jail administrator, or private
11 party jailer."

12 Section 10. Section 7-32-2201, MCA, is amended to
13 read:

14 "7-32-2201. County jail required. (1) A jail shall be
15 built or provided and kept in good repair at the expense of
16 the county in each county, except that whenever in the
17 discretion of the commissioners of two or more counties it
18 is necessary or desirable to build, provide, or utilize a
19 common jail, they may do so in any city or town located
20 within one of the counties so concerned. Such common jail
21 shall be built or provided and kept in good repair at the
22 expense of the counties concerned on a basis as the
23 commissioners of the counties shall agree.

24 (2) A county, or two or more counties acting together,
25 may provide for the jail required by subsection (1) by:

1 (a) establishing in the county government the position
 2 of jail administrator and, with the sheriff's concurrence,
 3 hiring a person, who is answerable to the governing body of
 4 the county, to fill the position; or

5 (b) entering into an agreement, WITH THE CONCURRENCE
 6 OF THE SHERIFFS OF ALL PARTICIPATING COUNTIES, with a
 7 private party under which the private party will provide,
 8 maintain, or operate the jail.

9 ~~†2~~(3) The common jails in the several counties of
 10 this state are kept by the sheriffs, jail administrators, or
 11 private parties agreeing to act as jailers of the counties
 12 in which they are respectively situated. In the case of more
 13 than one county utilizing a common jail as provided in
 14 subsection (1), such jail shall be kept by the sheriffs of
 15 the counties utilizing the common jail on a basis as the
 16 sheriffs shall agree, by a jail administrator hired by the
 17 county in which the jail is situated, or by a private party
 18 agreeing to act as the jailer.

19 ~~†3~~(4) The board of county commissioners has
 20 jurisdiction and power, under such limitations and
 21 restrictions as are prescribed by law, to cause a jail to be
 22 erected, furnished, and maintained."

23 Section 11. Section 7-32-2202, MCA, is amended to
 24 read:

25 "7-32-2202. Use of jail in contiguous county. (1) When

1 there is no jail in the county or when the jail becomes
 2 unfit or unsafe for the confinement of prisoners, the
 3 district judge may, by written appointment filed with the
 4 clerk, designate the jail of a contiguous county for the
 5 confinement of the prisoners of his county (or any of them)
 6 and may at any time modify or annul the appointment.

7 (2) A copy of the appointment, certified by the clerk,
 8 must be served on the sheriff or of each county, and OR the
 9 keeper of the designated jail if the keeper is not the
 10 sheriff, who must receive into his jail all prisoners
 11 authorized to be confined therein pursuant to this section
 12 and who is responsible for the safekeeping of the persons so
 13 committed in the same manner and to the same extent as if he
 14 were the sheriff, jail administrator, or private party
 15 jailer of the county for whose use his jail is designated.
 16 With respect to the persons so committed, he is deemed the
 17 sheriff, jail administrator, or private party jailer of the
 18 county from which they were removed.

19 (3) When a jail is erected in the county for the use
 20 of which the designation was made or its jail is rendered
 21 fit and safe for the confinement of prisoners, the district
 22 judge of that county must, by a written revocation filed
 23 with the clerk, declare that the necessity for the
 24 designation has ceased and that it is revoked.

25 (4) The clerk must immediately serve a copy of the

1 revocation upon the sheriff of each county and OR the keeper
 2 of the county, who jail in each county if the keeper is not
 3 the sheriff. The keeper of the jail in the designated county
 4 must thereupon remove the prisoners to the jail from which
 5 the removal was had."

6 Section 12. Section 7-32-2204, MCA, is amended to
 7 read:

8 "7-32-2204. Maintenance of county jail. (1) The county
 9 commissioners, or the private party when provided in an
 10 agreement entered into under 7-32-2201(2), have the care
 11 duty of building, inspecting, and repairing the jail and:

12 ~~{1}--must, once every 3 months, inquire into its state,~~
 13 ~~as respects the security thereof, and the treatment and~~
 14 ~~condition of prisoners, and~~

15 {2} must take all necessary precautions against
 16 escape, sickness, or infection.

17 (2) The county commissioners must inquire into the
 18 security of the jail and the condition of the prisoners
 19 every 3 months."

20 Section 13. Section 7-32-2205, MCA, is amended to
 21 read:

22 "7-32-2205. Confinement of prisoners. The sheriff,
 23 jail administrator, or private party jailer must receive all
 24 persons committed to jail by competent authority and provide
 25 them with necessary food, clothing, and bedding, for which

1 he sheriffs and OR jail administrators, but not jailers
 2 operating a jail under an agreement provided for in
 3 7-32-2201(2), shall submit claims for the actual expenses
 4 incurred to the board of county commissioners for their
 5 determination and, except as provided in 7-32-2207, to be
 6 paid out of the county treasury."

7 Section 14. Section 7-32-2206, MCA, is amended to
 8 read:

9 "7-32-2206. Confinement of federal prisoners. (1) The
 10 sheriff, jail administrator, or private party jailer must
 11 receive and keep in the county jail any prisoner committed
 12 thereto by process or order issued under the authority of
 13 the United States until he is discharged according to law,
 14 as if he had been committed under process issued under the
 15 authority of this state.

16 (2) Provision and agreement for the use of said jails
 17 and the support and subsistence of such federal prisoners
 18 shall first be made by the United States, through or by the
 19 proper officer or officers, with the board of county
 20 commissioners of the county wherein such prisoners are to be
 21 confined. Such agreement shall be in writing and contain a
 22 provision that the United States shall, upon claim presented
 23 for the county by its county clerk and recorder, pay into
 24 the county treasury of the county or to a jailer operating a
 25 jail under an agreement provided for by 7-32-2201(2) the sum

1 of \$10 per day for each and every prisoner held in the
2 county jail upon order or commitment of the United States
3 government or any department or officer thereof.

4 (3) A sheriff, jail administrator, or private party
5 jailer to whose custody a prisoner is committed as provided
6 in this section is answerable for his safekeeping in the
7 courts of the United States, according to the laws thereof."

8 Section 15. Section 7-32-2207, MCA, is amended to
9 read:

10 "7-32-2207. Confinement of persons on civil process.

11 (1) Whenever a person is committed upon process in a civil
12 action or proceeding, except when the state is a party
13 thereto, the sheriff, jail administrator, or private party
14 jailer is not bound to receive such person unless security
15 is given on the part of the party at whose instance the
16 process is issued, by a deposit of money, to meet the
17 expenses for him of necessary food, clothing, and bedding or
18 to detain such person any longer than these expenses are
19 provided for.

20 (2) This section does not apply to cases where a party
21 is committed as a punishment for disobedience to the
22 mandates, process, writs, or orders of court."

23 Section 16. Section 7-32-2209, MCA, is amended to
24 read:

25 "7-32-2209. Expenses of persons committed to jail by

1 highway patrol bureau. In the event a person is committed to
2 jail by the highway patrol bureau, department of justice,
3 the state of Montana shall, upon claim presented for the
4 county by the clerk and recorder, pay into the county
5 treasury of the county or to a jailer operating a jail under
6 an agreement provided for in 7-32-2201(2) the sum of \$10 per
7 day for each and every prisoner held in the county jail upon
8 order or commitment of the highway patrol bureau or any
9 department or officer thereof. For the purposes of this
10 section, a day shall be defined as a 24-hour period or
11 portion thereof, beginning with the time of incarceration.
12 Such claims upon the highway patrol bureau, department of
13 justice, shall be paid ~~to the various counties~~ out of funds
14 appropriated for that purpose."

15 Section 17. Section 7-32-2212, MCA, is amended to
16 read:

17 "7-32-2212. ~~Sheriff-to-prepare-list~~ List of prisoners.
18 The sheriff, jail administrator, or private party jailer of
19 each county must, on the first Monday in January and every 3
20 months thereafter, return to the county commissioners a
21 certified list of the names of all prisoners in his custody
22 on the last day of the preceding month, with the time and
23 cause of their confinement, the length of time for which
24 they were committed, and the number received and discharged
25 during the preceding 3 months. In case he fails to do so,

1 the sheriff, jail administrator, or private party jailer
 2 must not receive any compensation for the sustenance of the
 3 prisoners in his custody."

4 Section 18. Section 7-32-2221, MCA, is amended to
 5 read:

6 "7-32-2221. Segregation of prisoners -- confinement of
 7 juveniles. (1) Each county jail must contain a sufficient
 8 number of rooms to allow the sheriff, jail administrator, or
 9 private party jailer to separately confine classes of
 10 prisoners as may be necessary to the security and safety of
 11 those prisoners and the jail.

12 (2) Persons who are violent, disturbed, or inebriated
 13 must not be kept or put into the same room with other
 14 prisoners, nor shall male and female prisoners (except
 15 husband and wife) be kept or put into the same room.

16 (3) Juveniles may be confined only under conditions
 17 that comply with 41-5-306(2)."

18 Section 19. Section 7-32-2222, MCA, is amended to
 19 read:

20 "7-32-2222. Health and safety of prisoners. (1) When a
 21 county jail or building contiguous to it is on fire and
 22 there is reason to believe that the prisoners may be injured
 23 or endangered, the sheriff, jail administrator, or private
 24 party jailer must remove them to a safe and convenient place
 25 and there confine them as long as it may be necessary to

1 avoid the danger.

2 (2) When a pestilence or contagious disease breaks out
 3 in or near a jail and the physician thereof certifies that
 4 it is likely to endanger the health of the prisoners, the
 5 district judge may by a written appointment designate a safe
 6 and convenient place in the county or the jail in a
 7 contiguous county as the place of their confinement. The
 8 appointment must be filed in the office of the clerk and
 9 authorize the sheriff, jail administrator, or private party
 10 jailer to remove the prisoners to the designated place or
 11 jail and there confine them until they can be safely
 12 returned to the jail from which they were taken.

13 (3) If in the opinion of the sheriff, jail
 14 administrator, or private party jailer any prisoner, while
 15 detained, requires medication, medical services, or
 16 hospitalization, the expense of the same shall be borne by
 17 the agency or authority at whose instance the prisoner is
 18 detained when the agency or authority is not the county
 19 wherein the prisoner is being detained. The county attorney
 20 shall initiate proceedings to collect any charges arising
 21 from such medical services or hospitalization for the
 22 prisoner involved if it is determined the prisoner is
 23 financially able to pay."

-End-