

1
 2 *House* BILL NO. *544* *Spencer Berg*
 3 INTRODUCED BY *Grady Tucker* *Felton* *Alford* *Merriman*
 4 *Carlson* *Wynne* *Beck* *Bea* *M. Kelly*

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REGIONAL CORRECTIONAL FACILITY ACT TO
 6 PERMIT THE DEPARTMENT OF CORRECTIONS TO ENTER INTO AGREEMENTS WITH NONPROFIT
 7 CORPORATIONS; ALLOWING THE PROCEEDS OF THE LONG-RANGE BUILDING PROGRAM GENERAL
 8 OBLIGATION BONDS TO BE USED TO CONTRIBUTE TO THE STATE'S PORTION OF CONSTRUCTION
 9 COSTS; ALLOWING THE NONPROFIT CORPORATION AN OPTION TO PURCHASE A FACILITY OWNED
 10 BY THE STATE; ALLOWING A LOCAL GOVERNMENTAL ENTITY TO ENTER INTO LONG-TERM
 11 CONTRACTS AND TO INCUR INDEBTEDNESS TO ACQUIRE A FACILITY THROUGH A LEASE OR
 12 LEASE-PURCHASE OPTION; AND AMENDING SECTIONS 53-30-503, 53-30-504, 53-30-506, AND
 13 53-30-507, MCA."

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

15
 16 **Section 1.** Section 53-30-503, MCA, is amended to read:

17 **"53-30-503. Definitions.** As used in this part, the following definitions apply:

- 18 (1) "Department" means the department of corrections.
- 19 (2) "Interlocal cooperation commission" means a commission established in accordance with Title
- 20 7, chapter 11, part 2.
- 21 (3) "Local governmental entity" means:
- 22 (a) a local governmental unit;
- 23 (b) a multijurisdictional service district; or
- 24 (c) an interlocal cooperation commission.
- 25 (4) "Multijurisdictional service district" means a district established in accordance with Title 7,
- 26 chapter 11, part 11.
- 27 (5) "Nonprofit corporation" means an organization organized and existing pursuant to Title 35,
- 28 chapter 2, and approved or designated by a local governmental entity.

29 ~~(5)(6)~~ "Regional correctional facility" means a correctional facility, except the Montana state prison,
 30 the women's correctional system, or the Swan River boot camp, designed, constructed, or operated under

1 this part by a local governmental entity, a nonprofit corporation, ~~or~~ the department, or ~~both~~ any
 2 combination of a local governmental entity, a nonprofit corporation, and the department, for the housing
 3 of convicted felons."

4
 5 **Section 2.** Section 53-30-504, MCA, is amended to read:

6 **"53-30-504. Authority to enter into contracts -- terms -- financing.** (1) The department may
 7 contract with one or more local governmental entities or nonprofit corporations for the housing of and
 8 provision of services to inmates sentenced to the department or the department's correctional institutions
 9 at a regional correctional facility designed, financed, constructed, or operated by a local governmental
 10 entity, a nonprofit corporation, the department, or ~~both~~ any combination of a local governmental entity, a
 11 nonprofit corporation, and the department.

12 (2) The contract must be authorized and approved by the governor, the department, and the
 13 governing body of the local governmental entity or the nonprofit corporation, whichever is party to the
 14 contract. The contract must set forth fully the purposes, powers, rights, and responsibilities of each party
 15 to the contract and address necessary and proper matters set forth in 7-11-105.

16 (3) A contract may include an agreement to jointly design, finance, construct, and operate a
 17 regional correctional facility.

18 (4) The department may not enter into a contract unless the department and the local governmental
 19 entity or nonprofit corporation has the legal authority and the ability to finance its share of the costs under
 20 the contract.

21 (5) A regional correctional facility may be constructed on real property that is owned by the state
 22 of Montana, ~~or~~ a local governmental entity, or a nonprofit corporation or that is jointly owned ~~by both~~.

23 (6) The proceeds of long-range building program general obligation bonds authorized to be issued
 24 in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a regional
 25 correctional facility that may be owned and operated by a local governmental entity, whether or not the
 26 facility or any part of it is to be owned and operated by the state. If the proceeds of long-range building
 27 program general obligation bonds or other state revenue is to be used in whole or in part to construct a
 28 regional correctional facility that is to be owned and operated by a local governmental entity, the
 29 department of administration is not required to procure the design, engineering, or construction services
 30 for the facility. The contract may provide that the local governmental entity shall procure the services, but

1 must also provide that the department of administration must be involved in the development and approval
2 of the plans and specifications for the facility prior to the time the facility is let to bid.

3 (7) The proceeds of long-range building program general obligation bonds authorized to be issued
4 in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to contribute to the costs
5 of constructing a portion of a regional correctional facility that may be partially owned and operated by a
6 nonprofit organization. The bonds may be used for the portion of the facility that is owned by the state
7 if the facility is operated under a contract for services with the state for a state purpose. The contract must
8 provide that the department of administration must be involved in the development and approval of the
9 plans and specifications for the facility prior to the time the facility is let to bid.

10 ~~(7)(8)~~ The department shall use the proceeds of long-range building program bonds and other state
11 revenue appropriated for regional correctional facilities to negotiate with local ~~government~~ governmental
12 entities, nonprofit corporations, or private providers to obtain the greatest number of beds that is consistent
13 with program objectives for the least cost to the state."

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15 **Section 3.** Section 53-30-506, MCA, is amended to read:

16 **"53-30-506. Local governmental entity option to purchase facility owned by state.** If, under a
17 contract entered into under 53-30-504, the state constructs and owns a regional correctional facility, the
18 contract may provide an option for the local governmental entity or nonprofit corporation to purchase the
19 facility."

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21 **Section 4.** Section 53-30-507, MCA, is amended to read:

22 **"53-30-507. Rulemaking authority.** The department may adopt rules to implement this part,
23 including rules for the determination of how sites are to be chosen for regional correctional facilities. The
24 rules must provide that in selecting a site the department shall consider the need for a regional correctional
25 facility in the area, the ability and willingness of ~~the~~ a local governmental entity or a nonprofit corporation
26 to enter into a long-term contract with the department, and the availability of rehabilitative services to
27 inmates."

28

29 **NEW SECTION. Section 5. Local governmental entity authorized to enter into long-term contracts**
30 **and to incur indebtedness -- noncompetition clause.** (1) A local governmental entity may enter into a

1 long-term lease or agreement, not to exceed a term of 30 years, with a nonprofit corporation proposing to
2 operate a regional detention facility under this part. The local governmental entity may agree in the
3 long-term lease or agreement to acquire the facility from the nonprofit corporation through a lease or a lease
4 option to purchase, subject to the limitations of Title 7, chapter 7, part 21.

5 (2) A contract may also contain a covenant by the local governmental entity that if the contract
6 is terminated for nonappropriation of funds by the local governmental entity, the local governmental entity
7 agrees not to purchase, lease, or rent property to perform the functions performed by the nonprofit
8 corporation and agrees not to permit the functions to be performed by its own employees or by any local
9 governmental entity for a specified period of not less than 1 year and not more than the remaining original
10 term of the contract.

11

12 NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an
13 integral part of Title 53, chapter 30, part 5, and the provisions of Title 53, chapter 30, part 5, apply to
14 [section 5].

15

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0544, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

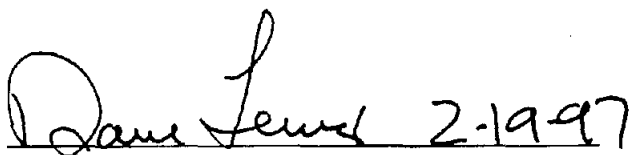
A bill for an act revising the Regional Correctional Facility Act to permit the Department of Corrections to enter into agreements with nonprofit corporations; allowing the proceeds of the Long-Range Building Program general obligation bonds to be used to contribute to the state's portion of construction costs; allowing the nonprofit corporation an option to purchase a facility owned by the state; allowing a local governmental entity to enter into long-term contracts and to incur indebtedness to acquire a facility through a lease or lease-purchase option.

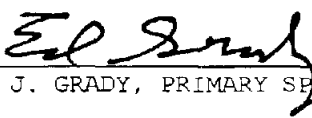
ASSUMPTIONS:

1. The only modification to the existing program is that nonprofit corporations have been added.
2. The bill would allow the Department of Corrections (DOC) to contract with nonprofit corporations to provide services to inmates at regional correctional facilities.
3. The bill allows nonprofit corporations the option of purchasing a regional correctional facility.
4. This bill has no fiscal impact to the DOC or to the Department of Administration.

FISCAL IMPACT:

None.


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


EDWARD J. GRADY, PRIMARY SPONSOR DATE
Fiscal Note for HB0544, as introduced

HB 544

1 HOUSE BILL NO. 544

2 INTRODUCED BY GRADY, QUILICI, FELAND, HIBBARD, MENAHAN, LYNCH, BEAUDRY, PAVLOVICH,
3 SWYSGOOD, BECK, SHEA, MCCARTHY, HARRINGTON, SMITH

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8 ~~OBLIGATION BONDS TO BE USED TO CONTRIBUTE TO THE STATE'S PORTION OF CONSTRUCTION~~
9 ~~COSTS; ALLOWING THE NONPROFIT CORPORATION AN OPTION TO PURCHASE A FACILITY OWNED~~
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19 (1) "CORPORATION" MEANS AN ENTITY ORGANIZED AND EXISTING PURSUANT TO TITLE 35,
20 CHAPTER 1 OR 2, AND APPROVED OR DESIGNATED BY A LOCAL GOVERNMENTAL ENTITY.

21 ~~(1)(2)~~ "Department" means the department of corrections.

22 ~~(2)(3)~~ "Interlocal cooperation commission" means a commission established in accordance with
23 Title 7, chapter 11, part 2.

24 ~~(3)(4)~~ "Local governmental entity" means:

- 25 (a) a local governmental unit;
26 (b) a multijurisdictional service district; or
27 (c) an interlocal cooperation commission.

28 ~~(4)(5)~~ "Multijurisdictional service district" means a district established in accordance with Title 7,
29 chapter 11, part 11.

30 ~~(5) "Nonprofit corporation" means an organization organized and existing pursuant to Title 35,~~

1 ~~chapter 2, and approved or designated by a local governmental entity.~~

2 (5)(6) "Regional correctional facility" means a correctional facility, except the Montana state prison,
3 the women's correctional system, or the Swan River boot camp, designed, constructed, or operated under
4 this part by a local governmental entity, a nonprofit corporation, ~~or~~ the department, or ~~both~~ any
5 combination of a local governmental entity, a nonprofit corporation, and the department, for the housing
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12 at a regional correctional facility designed, financed, constructed, or operated by a local governmental
13 entity, a nonprofit corporation, the department, or ~~both~~ any combination of a local governmental entity, a
14 nonprofit corporation, and the department.

15 (2) The contract must be authorized and approved by the governor, the department, and the
16 governing body of the local governmental entity or the nonprofit corporation, whichever is party to the
17 contract. The contract must set forth fully the purposes, powers, rights, and responsibilities of each party
18 to the contract and address necessary and proper matters set forth in 7-11-105.

19 (3) A contract may include an agreement to jointly design, finance, construct, and operate a
20 regional correctional facility.

21 (4) The department may not enter into a contract unless the department and the local governmental
22 entity or nonprofit corporation has the legal authority and the ability to finance its share of the costs under
23 the contract.

24 (5) A regional correctional facility may be constructed on real property that is owned by the state
25 of Montana, ~~or~~ a local governmental entity, or a nonprofit corporation or that is jointly owned ~~by both.~~

26 (6) The proceeds of long-range building program general obligation bonds authorized to be issued
27 in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a regional
28 correctional facility that may be owned and operated by a local governmental entity, whether or not the
29 facility or any part of it is to be owned and operated by the state. If the proceeds of long-range building
30 program general obligation bonds or other state revenue is to be used in whole or in part to construct a

1 regional correctional facility that is to be owned and operated by a local governmental entity, the
 2 department of administration is not required to procure the design, engineering, or construction services
 3 for the facility. The contract may provide that the local governmental entity shall procure the services, but
 4 must also provide that the department of administration must be involved in the development and approval
 5 of the plans and specifications for the facility prior to the time the facility is let to bid.

6 ~~(7) The proceeds of long-range building program general obligation bonds authorized to be issued~~
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 12 ~~plans and specifications for the facility prior to the time the facility is let to bid.~~

13 ~~(7)(8)(7)~~ The department shall use the proceeds of long-range building program bonds and other
 14 state revenue appropriated for regional correctional facilities to negotiate with local ~~government~~
 15 ~~governmental~~ entities, ~~nonprofit~~ corporations, or private providers to obtain the greatest number of beds
 16 that is consistent with program objectives for the least cost to the state."

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 18 **Section 3.** Section 53-30-506, MCA, is amended to read:

19 **"53-30-506. Local governmental entity option to purchase facility owned by state.** If, under a
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 21 contract may provide an option for the local governmental entity ~~or nonprofit corporation~~ to purchase the
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 26 including rules for the determination of how sites are to be chosen for regional correctional facilities. The
 27 rules must provide that in selecting a site the department shall consider the need for a regional correctional
 28 facility in the area, the ability and willingness of ~~the a~~ local governmental entity ~~or a nonprofit corporation~~
 29 to enter into a long-term contract with the department, and the availability of rehabilitative services to
 30 inmates. THE RULES MUST REQUIRE THAT A CORPORATION RESPOND TO A REQUEST FOR PROPOSALS

1 PREPARED BY THE DEPARTMENT FOR A REGIONAL CORRECTIONAL FACILITY BEFORE A CONTRACT
2 MAY BE ENTERED WITH THAT CORPORATION."

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4 NEW SECTION. Section 5. Local governmental entity authorized to enter into long-term contracts
5 and to incur indebtedness -- noncompetition clause. (1) A local governmental entity may enter into a
6 long-term lease or agreement, not to exceed a term of 30 years, with a ~~nonprofit~~ corporation proposing to
7 operate a regional detention facility under this part. The local governmental entity may agree in the
8 long-term lease or agreement to acquire the facility from the ~~nonprofit~~ corporation through a lease or a lease
9 option to purchase, subject to the limitations of Title 7, chapter 7, part 21.

10 (2) A contract may also contain a covenant by the local governmental entity that if the contract
11 is terminated for nonappropriation of funds by the local governmental entity, the local governmental entity
12 agrees not to purchase, lease, or rent property to perform the functions performed by the ~~nonprofit~~
13 corporation and agrees not to permit the functions to be performed by its own employees or by any local
14 governmental entity for a specified period of not less than 1 year and not more than the remaining original
15 term of the contract.

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17 NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an
18 integral part of Title 53, chapter 30, part 5, and the provisions of Title 53, chapter 30, part 5, apply to
19 [section 5].

20

-END-

HOUSE BILL NO. 544

INTRODUCED BY GRADY, QUILICI, FELAND, HIBBARD, MENAHAN, LYNCH, BEAUDRY, PAVLOVICH,
SWYSGOOD, BECK, SHEA, MCCARTHY, HARRINGTON, SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REGIONAL CORRECTIONAL FACILITY ACT TO PERMIT THE DEPARTMENT OF CORRECTIONS TO ENTER INTO AGREEMENTS WITH ~~NONPROFIT~~ CORPORATIONS; ~~ALLOWING THE PROCEEDS OF THE LONG-RANGE BUILDING PROGRAM GENERAL OBLIGATION BONDS TO BE USED TO CONTRIBUTE TO THE STATE'S PORTION OF CONSTRUCTION COSTS;~~ ALLOWING THE ~~NONPROFIT~~ CORPORATION AN OPTION TO PURCHASE A FACILITY OWNED BY THE STATE; ALLOWING A LOCAL GOVERNMENTAL ENTITY TO ENTER INTO LONG-TERM CONTRACTS AND TO INCUR INDEBTEDNESS TO ACQUIRE A FACILITY THROUGH A LEASE OR LEASE-PURCHASE OPTION; AND AMENDING SECTIONS 53-30-503, 53-30-504, 53-30-506, AND 53-30-507, MCA."

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

Section 1. Section 53-30-503, MCA, is amended to read:

"53-30-503. Definitions. As used in this part, the following definitions apply:

(1) "CORPORATION" MEANS AN ENTITY ORGANIZED AND EXISTING PURSUANT TO TITLE 35, CHAPTER 1 OR 2, AND APPROVED OR DESIGNATED BY A LOCAL GOVERNMENTAL ENTITY.

~~(1)(2)~~ "Department" means the department of corrections.

~~(2)(3)~~ "Interlocal cooperation commission" means a commission established in accordance with Title 7, chapter 11, part 2.

~~(3)(4)~~ "Local governmental entity" means:

- (a) a local governmental unit;
- (b) a multijurisdictional service district; or
- (c) an interlocal cooperation commission.

~~(4)(5)~~ "Multijurisdictional service district" means a district established in accordance with Title 7, chapter 11, part 11.

~~(5) "Nonprofit corporation" means an organization organized and existing pursuant to Title 35,~~

1 ~~chapter 2, and approved or designated by a local governmental entity.~~

2 (5)(6) "Regional correctional facility" means a correctional facility, except the Montana state prison,
3 the women's correctional system, or the Swan River boot camp, designed, constructed, or operated under
4 this part by a local governmental entity, a nonprofit corporation, or the department, or ~~both~~ any
5 combination of a local governmental entity, a nonprofit corporation, and the department, for the housing
6 of convicted felons."
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8 **Section 2.** Section 53-30-504, MCA, is amended to read:

9 **"53-30-504. Authority to enter into contracts -- terms -- financing.** (1) The department may
10 contract with one or more local governmental entities or nonprofit corporations for the housing of and
11 provision of services to inmates sentenced to the department or the department's correctional institutions
12 at a regional correctional facility designed, financed, constructed, or operated by a local governmental
13 entity, a nonprofit corporation, the department, or ~~both~~ any combination of a local governmental entity, a
14 nonprofit corporation, and the department.

15 (2) The contract must be authorized and approved by the governor, the department, and the
16 governing body of the local governmental entity or the nonprofit corporation, whichever is party to the
17 contract. The contract must set forth fully the purposes, powers, rights, and responsibilities of each party
18 to the contract and address necessary and proper matters set forth in 7-11-105.

19 (3) A contract may include an agreement to jointly design, finance, construct, and operate a
20 regional correctional facility.

21 (4) The department may not enter into a contract unless the department and the local governmental
22 entity or nonprofit corporation has the legal authority and the ability to finance its share of the costs under
23 the contract.

24 (5) A regional correctional facility may be constructed on real property that is owned by the state
25 of Montana, ~~or~~ a local governmental entity, or a nonprofit corporation or that is jointly owned by both.

26 (6) The proceeds of long-range building program general obligation bonds authorized to be issued
27 in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a regional
28 correctional facility that may be owned and operated by a local governmental entity, whether or not the
29 facility or any part of it is to be owned and operated by the state. If the proceeds of long-range building
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 14 state revenue appropriated for regional correctional facilities to negotiate with local ~~government~~
 15 ~~governmental~~ entities, ~~nonprofit corporations~~, or private providers to obtain the greatest number of beds
 16 that is consistent with program objectives for the least cost to the state.

17 (8) A PERSON CONVICTED IN ANOTHER STATE MAY NOT BE CONFINED IN THE STATE PORTION
 18 OF A REGIONAL CORRECTIONAL FACILITY IN THIS STATE UNLESS THE CONFINEMENT IS UNDER AND
 19 GOVERNED BY TITLE 46, CHAPTER 19, PART 3 OR 4."

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22 **"53-30-506. Local governmental entity option to purchase facility owned by state.** If, under a
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23 -END-

APPROVED BY COM ON
FINANCE & CLAIMS

HOUSE BILL NO. 544

INTRODUCED BY GRADY, QUILICI, FELAND, HIBBARD, MENAHAN, LYNCH, BEAUDRY, PAVLOVICH,
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17 contract. The contract must set forth fully the purposes, powers, rights, and responsibilities of each party
18 to the contract and address necessary and proper matters set forth in 7-11-105.

19 (3) A contract may include an agreement to jointly design, finance, construct, and operate a
20 regional correctional facility.

21 (4) The department may not enter into a contract unless the department and the local governmental
22 entity or nonprofit corporation has the legal authority and the ability to finance its share of the costs under
23 the contract.

24 (5) A regional correctional facility may be constructed on real property that is owned by the state
25 of Montana, ~~or~~ a local governmental entity, or a nonprofit corporation or that is jointly owned ~~by both~~.

26 (6) The proceeds of long-range building program general obligation bonds authorized to be issued
27 in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to construct a regional
28 correctional facility that may be owned and operated by a local governmental entity, whether or not the
29 facility or any part of it is to be owned and operated by the state. If the proceeds of long-range building
30 program general obligation bonds or other state revenue is to be used in whole or in part to construct a

1 regional correctional facility that is to be owned and operated by a local governmental entity, the
 2 department of administration is not required to procure the design, engineering, or construction services
 3 for the facility. The contract may provide that the local governmental entity shall procure the services, but
 4 must also provide that the department of administration must be involved in the development and approval
 5 of the plans and specifications for the facility prior to the time the facility is let to bid.

6 ~~(7) The proceeds of long-range building program general obligation bonds authorized to be issued~~
 7 ~~in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to contribute to the costs~~
 8 ~~of constructing a portion of a regional correctional facility that may be partially owned and operated by a~~
 9 ~~nonprofit organization. The bonds may be used for the portion of the facility that is owned by the state~~
 10 ~~if the facility is operated under a contract for services with the state for a state purpose. The contract must~~
 11 ~~provide that the department of administration must be involved in the development and approval of the~~
 12 ~~plans and specifications for the facility prior to the time the facility is let to bid.~~

13 ~~(7)(8)~~(7) The department shall use the proceeds of long-range building program bonds and other
 14 state revenue appropriated for regional correctional facilities to negotiate with local ~~government~~
 15 ~~governmental~~ entities, ~~nonprofit corporations~~, or private providers to obtain the greatest number of beds
 16 that is consistent with program objectives for the least cost to the state.

17 (8) A PERSON CONVICTED IN ANOTHER STATE MAY NOT BE CONFINED IN THE STATE PORTION
 18 OF A REGIONAL CORRECTIONAL FACILITY IN THIS STATE UNLESS THE CONFINEMENT IS UNDER AND
 19 GOVERNED BY TITLE 46, CHAPTER 19, PART 3 OR 4."

20
 21 **Section 3.** Section 53-30-506, MCA, is amended to read:

22 **"53-30-506. Local governmental entity option to purchase facility owned by state.** If, under a
 23 contract entered into under 53-30-504, the state constructs and owns a regional correctional facility, the
 24 contract may provide an option for the local governmental entity ~~or nonprofit corporation~~ to purchase the
 25 facility."

26
 27 **Section 4.** Section 53-30-507, MCA, is amended to read:

28 **"53-30-507. Rulemaking authority.** The department may adopt rules to implement this part,
 29 including rules for the determination of how sites are to be chosen for regional correctional facilities. The
 30 rules must provide that in selecting a site the department shall consider the need for a regional correctional

1 facility in the area, the ability and willingness of ~~the~~ a local governmental entity or a nonprofit corporation
2 to enter into a long-term contract with the department, and the availability of rehabilitative services to
3 inmates. THE RULES MUST REQUIRE THAT A CORPORATION RESPOND TO A REQUEST FOR PROPOSALS
4 PREPARED BY THE DEPARTMENT FOR A REGIONAL CORRECTIONAL FACILITY BEFORE A CONTRACT
5 MAY BE ENTERED WITH THAT CORPORATION."

6
7 **NEW SECTION. Section 5. Local governmental entity authorized to enter into long-term contracts**
8 **and to incur indebtedness -- noncompetition clause.** (1) A local governmental entity may enter into a
9 long-term lease or agreement, not to exceed a term of 30 years, with a ~~nonprofit~~ nonprofit corporation proposing to
10 operate a regional detention facility under this part. The local governmental entity may agree in the
11 long-term lease or agreement to acquire the facility from the ~~nonprofit~~ nonprofit corporation through a lease or a lease
12 option to purchase, subject to the limitations of Title 7, chapter 7, part 21.

13 (2) A contract may also contain a covenant by the local governmental entity that if the contract
14 is terminated for nonappropriation of funds by the local governmental entity, the local governmental entity
15 agrees not to purchase, lease, or rent property to perform the functions performed by the ~~nonprofit~~ nonprofit
16 corporation and agrees not to permit the functions to be performed by its own employees or by any local
17 governmental entity for a specified period of not less than 1 year and not more than the remaining original
18 term of the contract.

19
20 **NEW SECTION. Section 6. Codification instruction.** [Section 5] is intended to be codified as an
21 integral part of Title 53, chapter 30, part 5, and the provisions of Title 53, chapter 30, part 5, apply to
22 [section 5].

23 -END-

1 HOUSE BILL NO. 544

2 INTRODUCED BY GRADY, QUILICI, FELAND, HIBBARD, MENAHAN, LYNCH, BEAUDRY, PAVLOVICH,
3 SWYSGOOD, BECK, SHEA, MCCARTHY, HARRINGTON, SMITH

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REGIONAL CORRECTIONAL FACILITY ACT TO
6 PERMIT THE DEPARTMENT OF CORRECTIONS TO ENTER INTO AGREEMENTS WITH NONPROFIT
7 CORPORATIONS; ~~ALLOWING THE PROCEEDS OF THE LONG-RANGE BUILDING PROGRAM GENERAL~~
8 ~~OBLIGATION BONDS TO BE USED TO CONTRIBUTE TO THE STATE'S PORTION OF CONSTRUCTION~~
9 ~~COSTS; ALLOWING THE NONPROFIT CORPORATION AN OPTION TO PURCHASE A FACILITY OWNED~~
10 BY THE STATE; ALLOWING A LOCAL GOVERNMENTAL ENTITY TO ENTER INTO LONG-TERM
11 CONTRACTS AND TO INCUR INDEBTEDNESS TO ACQUIRE A FACILITY THROUGH A LEASE OR
12 LEASE-PURCHASE OPTION; AND AMENDING SECTIONS 53-30-503, 53-30-504, 53-30-506, AND
13 53-30-507, MCA."

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

16
17 **Section 1.** Section 53-30-503, MCA, is amended to read:

18 **"53-30-503. Definitions.** As used in this part, the following definitions apply:

19 (1) "CORPORATION" MEANS AN ENTITY ORGANIZED AND EXISTING PURSUANT TO TITLE 35,
20 CHAPTER 1 OR 2, AND APPROVED OR DESIGNATED BY A LOCAL GOVERNMENTAL ENTITY.

21 ~~(1)(2)~~ "Department" means the department of corrections.

22 ~~(2)(3)~~ "Interlocal cooperation commission" means a commission established in accordance with
23 Title 7, chapter 11, part 2.

24 ~~(3)(4)~~ "Local governmental entity" means:

- 25 (a) a local governmental unit;
26 (b) a multijurisdictional service district; or
27 (c) an interlocal cooperation commission.

28 ~~(4)(5)~~ "Multijurisdictional service district" means a district established in accordance with Title 7,
29 chapter 11, part 11.

30 ~~(5) "Nonprofit corporation" means an organization organized and existing pursuant to Title 35,~~

1 ~~chapter 2, and approved or designated by a local governmental entity.~~

2 (5)(6) "Regional correctional facility" means a correctional facility, except the Montana state prison,
3 the women's correctional system, or the Swan River boot camp, designed, constructed, or operated under
4 this part by a local governmental entity, ~~a nonprofit corporation,~~ or the department, or ~~both~~ any
5 combination of a local governmental entity, a nonprofit corporation, and the department, for the housing
6 of convicted felons."

7

8 **Section 2.** Section 53-30-504, MCA, is amended to read:

9 **"53-30-504. Authority to enter into contracts -- terms -- financing.** (1) The department may
10 contract with one or more local governmental entities or nonprofit corporations for the housing of and
11 provision of services to inmates sentenced to the department or the department's correctional institutions
12 at a regional correctional facility designed, financed, constructed, or operated by a local governmental
13 entity, a nonprofit corporation, the department, or ~~both~~ any combination of a local governmental entity, a
14 nonprofit corporation, and the department.

15 (2) The contract must be authorized and approved by the governor, the department, and the
16 governing body of the local governmental entity or the nonprofit corporation, whichever is party to the
17 contract. The contract must set forth fully the purposes, powers, rights, and responsibilities of each party
18 to the contract and address necessary and proper matters set forth in 7-11-105.

19 (3) A contract may include an agreement to jointly design, finance, construct, and operate a
20 regional correctional facility.

21 (4) The department may not enter into a contract unless the department and the local governmental
22 entity or nonprofit corporation has the legal authority and the ability to finance its share of the costs under
23 the contract.

24 (5) A regional correctional facility may be constructed on real property that is owned by the state
25 of Montana, ~~or~~ a local governmental entity, or a nonprofit corporation or that is jointly owned ~~by both~~.

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29 facility or any part of it is to be owned and operated by the state. If the proceeds of long-range building
30 program general obligation bonds or other state revenue is to be used in whole or in part to construct a

1 regional correctional facility that is to be owned and operated by a local governmental entity, the
2 department of administration is not required to procure the design, engineering, or construction services
3 for the facility. The contract may provide that the local governmental entity shall procure the services, but
4 must also provide that the department of administration must be involved in the development and approval
5 of the plans and specifications for the facility prior to the time the facility is let to bid.

6 ~~(7) The proceeds of long-range building program general obligation bonds authorized to be issued
7 in accordance with Title 17, chapter 5, part 8, may be used, in whole or in part, to contribute to the costs
8 of constructing a portion of a regional correctional facility that may be partially owned and operated by a
9 nonprofit organization. The bonds may be used for the portion of the facility that is owned by the state
10 if the facility is operated under a contract for services with the state for a state purpose. The contract must
11 provide that the department of administration must be involved in the development and approval of the
12 plans and specifications for the facility prior to the time the facility is let to bid.~~

13 ~~(7)(8)(7)~~ The department shall use the proceeds of long-range building program bonds and other
14 state revenue appropriated for regional correctional facilities to negotiate with local ~~government~~
15 governmental entities, nonprofit corporations, or private providers to obtain the greatest number of beds
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 2 to enter into a long-term contract with the department, and the availability of rehabilitative services to
 3 inmates. THE RULES MUST REQUIRE THAT A CORPORATION RESPOND TO A REQUEST FOR PROPOSALS
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 10 operate a regional detention facility under this part. The local governmental entity may agree in the
 11 long-term lease or agreement to acquire the facility from the ~~nonprofit~~ corporation through a lease or a lease
 12 option to purchase, subject to the limitations of Title 7, chapter 7, part 21.

13 (2) A contract may also contain a covenant by the local governmental entity that if the contract
 14 is terminated for nonappropriation of funds by the local governmental entity, the local governmental entity
 15 agrees not to purchase, lease, or rent property to perform the functions performed by the ~~nonprofit~~
 16 corporation and agrees not to permit the functions to be performed by its own employees or by any local
 17 governmental entity for a specified period of not less than 1 year and not more than the remaining original
 18 term of the contract.

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 21 integral part of Title 53, chapter 30, part 5, and the provisions of Title 53, chapter 30, part 5, apply to
 22 [section 5].

23

-END-