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**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
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**MEMORANDUM**

To: Chairman Billinger and members of the Senate Committee on Ways and Means

From: Jill Wolters, First Assistant Revisor and Natalie Scott, Assistant Revisor

Date: March 23, 2021

Subject: **HB 2401** Authorizing the secretary of corrections to enter agreements for public-private partnerships for projects for new or renovated buildings at correctional institutions for education, skills-building and spiritual needs programs; establishing a nonprofit corporation to receive gifts, donations, grants and other moneys and engage in fundraising projects for funding such projects for education, skills-building and spiritual needs programs

HB 2401 authorizes the secretary of corrections to enter into agreements for public-private partnerships for projects for new or renovated buildings at correctional institutions.

New Section 1 provides for definitions to be used throughout the act. A “public-private partnership” means the relationship established between the department of corrections and a private entity by contracting for the performance of any combination of responsibilities to develop/finance/construct/renovate a building at a correctional institution where the department of corrections cost for development/finance/construction /renovation of such building does not exceed 25% of the total cost such project.

New Section 2 authorizes the secretary to enter into agreements with private entities for public-private projects to fund new or renovated buildings at correctional institutions for education and skills building programs and to address the spiritual needs of people who are incarcerated. The secretary shall determine whether a project is suitable by analyzing the feasibility, desirability and convenience to the public of the project and shall consult with the secretary of administration during such analysis. Prior to starting the project, the secretary shall consult the joint committee on state building construction. This section shall not be construed to allow public-private partnerships for the construction or financing of a privately operated correctional institution. The secretary may request approval to issue bonds for the project following the current law on state agency bonding. [K.S.A.74-8905(b) requires legislative or state finance council approval.]

New Section 3 requires the secretary to prepare a budget for each project. The budget shall reflect the source of the funds and the full cost of construction. The budget may include operational costs of such project. The secretary shall include any department of corrections costs for such projects in budget estimates and shall indicate the portion to be paid by the state and the portion to be paid by private funds. The secretary is authorized to establish a nonprofit corporation under section 501(c)(3) of the internal revenue code for the purpose of receiving gifts, donations, grants and other moneys and engage in fundraising for the projects.

New Section 4 requires the secretary to ensure a private entity is qualified to carry out the public-private partnership project and provides a list of qualifications the private entity is required to meet. In a public-private partnership, the secretary is required to enter an agreement that reflect the roles and responsibilities of each party, and the bill provides a list of items that is required to be contained in the agreement.

New Section 5 provides that the act does not waive the sovereign immunity of the state of Kansas and does not create sovereign immunity for any private entity entering a public-private partnership under the act.

Section 6 amends K.S.A. 75-3739 to provide that when a public-private partnership between the secretary of corrections and a private entity exists and the public funds do not exceed 25% of the total cost, the contract shall not be subject to the competitive bid requirements. This provision does not apply to the engineering services procurement process established in K.S.A. 75-5801.

The House Committee on Corrections and Juvenile Justice amended the bill to include juvenile correctional facilities and institutions.

The provisions of the bill would take effect upon publication in the statute book.

The House passed the bill, 123 – 0, on March 23, 2021.