

As Amended by House Committee

Session of 2021

**HOUSE BILL No. 2401**

By Committee on Appropriations

2-18

1 AN ACT concerning the department of corrections; authorizing the  
2 secretary of corrections to enter agreements for public-private  
3 partnerships for projects for new or renovated buildings at correctional  
4 institutions for education, skills-building and spiritual needs programs;  
5 establishing a nonprofit corporation to receive gifts, donations, grants  
6 and other moneys and engage in fundraising projects for funding such  
7 projects; amending K.S.A. 75-3739 and repealing the existing section.  
8

9 WHEREAS, The Legislature finds that it is in the public's interest to  
10 prepare incarcerated persons to be ready to meet Kansas workforce needs  
11 when released, by providing education and skills-building programs and  
12 services; and

13 WHEREAS, There is a public need for the construction or renovation  
14 of facilities that are used predominantly for education and skills-building  
15 programs and services for persons housed in adult correctional institutions,  
16 to prepare incarcerated persons for employment and successful reentry  
17 after incarceration; and

18 WHEREAS, It is in the public interest to authorize, encourage and  
19 incentivize public-private partnerships to support projects to raise funds  
20 for and construct or renovate buildings to provide space to deliver  
21 education and skills-building programs and services; and

22 WHEREAS, It is the intent of the Legislature to encourage investment  
23 in the state by private entities, to facilitate various bond financing  
24 mechanisms, private capital and other funding sources for constructing and  
25 upgrading buildings for education and skills-building programs at  
26 correctional institutions and to provide the greatest possible flexibility to  
27 public and private entities for entering public-private partnerships for that  
28 purpose; and

29 WHEREAS, It is the intent of the Legislature to encourage and enable  
30 partnerships with faith-based organizations to address the spiritual needs  
31 of incarcerated persons:

32 Now, therefore:

33 *Be it enacted by the Legislature of the State of Kansas:*

34 New Section 1. As used in K.S.A. 75-3739, and amendments thereto,  
35 and sections 1 through 5, and amendments thereto:

36 (a) "Private entity" means any partnership, firm, association,

1 corporation, sole proprietorship or other business organization, whether  
2 organized for profit or not-for-profit and includes any faith-based  
3 organization.

4 (b) "Secretary" means the secretary of corrections.

5 (c) "Public-private partnership" means the relationship established  
6 between the department of corrections and a private entity by contracting  
7 for the performance of any combination of specified functions or  
8 responsibilities to develop, finance, construct or renovate a building at a  
9 correctional institution where the department of corrections cost for  
10 development, finance, construction or renovation of such building does not  
11 exceed 25% of the total cost of the developing, financing, constructing or  
12 renovating such building.

13 (d) "Correctional institution" means the Lansing correctional facility,  
14 Hutchinson correctional facility, Topeka correctional facility, Norton  
15 correctional facility, Ellsworth correctional facility, Winfield correctional  
16 facility, Osawatomie correctional facility, Larned correctional mental  
17 health facility, Toronto correctional work facility, Stockton correctional  
18 facility, Wichita work release facility, El Dorado correctional facility, **any**  
19 **juvenile correctional facility or institution as defined in K.S.A. 2020**  
20 **Supp. 38-2302, and amendments thereto**, and any other correctional  
21 institution established by the state for the confinement of adult or juvenile  
22 offenders under control of the secretary.

23 (e) "Public-private project" means the project to develop, finance,  
24 construct or renovate a building at a correctional institution pursuant to a  
25 public-private partnership.

26 (f) "Faith-based organization" means any religious, charitable and  
27 other organization as defined by article 17 of chapter 17 of the Kansas  
28 Statutes Annotated, and amendments thereto, or any other organization  
29 whose values are based on faith and beliefs, or both, that has a mission  
30 based on social values of the particular faith and whose members are from  
31 a particular faith group.

32 (g) "Spiritual needs" means any program or service that addresses any  
33 issue related to sincerely held religious beliefs.

34 New Sec. 2. (a) The secretary is hereby authorized to enter  
35 agreements with private entities for public-private project for the purpose  
36 of funding new or renovated buildings at a correctional institution for:

37 (1) Education and skills-building programs and services; and

38 (2) purposes of addressing the spiritual needs of incarcerated persons.

39 (b) The secretary shall determine whether the project is suitable for a  
40 public-private partnership agreement, by conducting an analysis of the  
41 feasibility, desirability and the convenience to the public of the project and  
42 whether the project furthers the public policy goals of the department of  
43 corrections. The secretary shall consult with the secretary of administration

1 for input from the office of facilities and property management when  
2 conducting such analysis.

3 (c) Prior to commencement of a public-private project, the secretary  
4 shall advise and consult with the joint committee on state building  
5 construction concerning such project, including the budget for such  
6 project.

7 (d) Nothing in this act shall be construed to mean that a public-private  
8 partnership may be established for the purpose of developing, financing or  
9 construction of a privately operated correctional institution.

10 (e) The secretary may request approval for the issuance of bonds for a  
11 public-private project from the department of administration for the  
12 purposes of K.S.A. 74-8905(b), and amendments thereto, and the  
13 authorization of the issuance of bonds by the Kansas development finance  
14 authority in accordance with K.S.A. 74-8905, and amendments thereto.

15 New Sec. 3. (a) For any proposed public-private project, the secretary  
16 shall cause to be prepared a budget for the project.

17 (b) The budget shall reflect the source of the funds and set out with  
18 particularity the full cost of construction and acquisition of such project.  
19 The budget may, but is not required to, include operational costs of such  
20 project.

21 (c) The secretary shall include any department of corrections costs for  
22 such projects in budget estimates pursuant to K.S.A. 75-3717 and 75-  
23 3717b, and amendments thereto, and clearly indicate the portion to be paid  
24 by the state and the portion to be paid by private funds.

25 (d) The secretary is authorized to establish a nonprofit corporation  
26 organized under section 501(c)(3) of the internal revenue code of 1986.  
27 The board of directors of the nonprofit corporation shall consist of  
28 representatives of the department of corrections and department of  
29 administration. The purpose of the nonprofit corporation shall be to  
30 receive gifts, donations, grants and other moneys and engage in  
31 fundraising to fund new or renovated building projects for education,  
32 skills-building and spiritual needs programs at any correctional institution.

33 New Sec. 4. (a) In any public-private partnership, the secretary shall  
34 ensure the private entity is qualified to carry out the project, including, but  
35 not limited to, ensuring that the private entity:

36 (1) Has available such lawful sources of funding, capital, securities or  
37 other financial resources as are necessary to carry out the project;

38 (2) possesses either through its staff, subcontractors, a consortium or  
39 joint venture agreement the managerial, organizational, technical capacity  
40 and experience in the type of project undertaken;

41 (3) is qualified to lawfully conduct business in Kansas;

42 (4) certifies that no director, officer, partner, owner or other individual  
43 with direct and significant control over the policy of the private entity has

(f) The secretary shall submit to the house of representatives committee on corrections and juvenile justice and the senate committee on judiciary at the beginning of the regular session of the legislature in 2022 and annually thereafter a report of the following: Status of any public-private project entered into; funds raised for the education, skills-building and spiritual needs programs and services; buildings renovated or constructed for such programs or services; names of all education and skills-building program and service providers; brief description of the programs and services offered; number of inmates enrolled in an education or skills-building program or service; and graduation or completion outcomes of each education or skills-building program or service