

HOUSE BILL NO. 494

INTRODUCED BY C. GLIMM

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF TRANSPORTATION TO INSPECT CONSTRUCTION, REPAIR, OR PUBLIC WORKS CONTRACTS WITHIN 30 DAYS OF COMPLETION; REQUIRING THE DEPARTMENT TO NOTIFY CONTRACTORS OF DEFICIENCIES; AND REQUIRING FINAL PAYMENT FOR CONTRACTS TO BE MADE WITHIN 90 DAYS AFTER THE DEPARTMENT'S FINAL ACCEPTANCE, AFTER DEFICIENCIES ARE CURED, OR AFTER WARRANTIES FOR DEFICIENCIES LAPSE."

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

NEW SECTION. Section 1. Final acceptance of department contracts -- final payment. (1) Except

as provided by 18-2-306 and unless otherwise provided by law or the contract, if the department enters into a contract for construction, repair, or public works, the department shall:

(a) within 30 days after a request by the contractor for final acceptance, perform an inspection of the project, decide whether or not to make final acceptance, notify the contractor of the department's decision, and provide the contractor with a list of deficiencies if the department decides not to make final acceptance; and

(b) except as provided by 60-2-115, make the final payment of the contract price specified in the contract to the other party to the contract within 90 days:

(i) after final acceptance by the department;

(ii) after the contractor has notified the department that any deficiencies have been cured and the department has not provided a new notification of remaining deficiencies to the contractor; or

(iii) if the warranty periods for any remaining deficiencies have expired according to the terms of the contract.

(2) For the purposes of this section, the following definitions apply:

(a) "Final acceptance" means the department's acceptance of the construction, maintenance, or public works project upon certification by the architect, project engineer, or other representative of the department of final completion of the project.

(b) "Final completion" means that the project has been completed in accordance with the terms and



1 conditions of the contract documents.

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3 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
4 integral part of Title 60, chapter 2, part 2, and the provisions of Title 60, chapter 2, part 2, apply to [section 1].

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6 NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that matured,
7 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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