

SENATE BILL NO. 109

INTRODUCED BY J. SESSO

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A BILL FOR AN ACT ENTITLED: "AN ACT ADJUSTING AUTHORIZATION LIMITS RELATED TO CONSTRUCTION OF STATE BUILDINGS; AMENDING SECTIONS 18-2-101, 18-2-102, AND 18-2-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 18-2-101, MCA, is amended to read:

**"18-2-101. Definitions of building, costs, and construction.** In part 1 of this chapter, with the exception of 18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123, the following definitions apply:

(1) (a) "Building" includes a building, facility, or structure:

- (i) constructed or purchased wholly or in part with state money;
- (ii) at a state institution;
- (iii) owned or to be owned by a state agency, including the department of transportation; or
- (iv) constructed for the use or benefit of the state with federal or private money as provided in

~~18-2-102(2)(d)~~ 18-2-102(2)(e).

(b) "Building" does not include a building, facility, or structure:

- (i) owned or to be owned by a county, city, town, school district, or special improvement district;
  - (ii) used as a component part of an environmental remediation or abandoned mine land reclamation project, a highway, or a water conservation project, unless the building will require a continuing state general fund financial obligation after the environmental remediation or abandoned mine land reclamation project is completed;
- or
- (iii) leased or to be leased by a state agency.

(2) (a) "Construction" includes the construction, alteration, repair, maintenance, and remodeling of a building and the equipping and furnishing of a building during construction, alteration, repair, maintenance, and remodeling.

(b) "Construction" does not include work performed under an energy performance contract entered into pursuant to Title 90, chapter 4, part 11.

1 (3) "Costs" means those expenses defined in 17-5-801."  
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3 **Section 2.** Section 18-2-102, MCA, is amended to read:

4 **"18-2-102. Authority to construct buildings.** (1) Except as provided in 22-3-1003 and subsection (2)  
5 of this section, a building costing more than ~~\$150,000~~ \$350,000 may not be constructed without the consent of  
6 the legislature. Legislative approval of repair and maintenance costs as part of an agency's operating budget  
7 constitutes the legislature's consent. When a building costing more than ~~\$150,000~~ \$350,000 is to be financed in  
8 a manner that does not require legislative appropriation of money, the consent may be in the form of a joint  
9 resolution.

10 (2) (a) The governor may authorize the emergency repair or alteration of a building and is authorized  
11 to transfer funds and authority as necessary to accomplish the project. Transfers may not be made from the funds  
12 for an uncompleted capital project unless the project is under the supervision of the same agency.

13 (b) The regents of the Montana university system may authorize the construction of revenue-producing  
14 facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

15 (c) The regents of the Montana university system, with the consent of the governor, may authorize the  
16 construction of a building that is financed wholly with federal or private money if the construction of the building  
17 will not result in any new programs.

18 (d) The regents of the Montana university system may authorize the construction of facilities as provided  
19 in 20-25-309.

20 (e) The department of military affairs, with the consent of the governor, may authorize the construction  
21 of a building that is financed wholly with federal or private money on federal land for the use or benefit of the  
22 state."  
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24 **Section 3.** Section 18-2-103, MCA, is amended to read:

25 **"18-2-103. Supervision of construction of buildings.** (1) For the construction of a building costing  
26 more than \$150,000, the department shall:

27 (a) review and accept all plans, specifications, and cost estimates prepared by architects or consulting  
28 engineers;

29 (b) approve all bond issues or other financial arrangements and supervise and approve the expenditure  
30 of all money;

1 (c) solicit, accept, and reject bids and, except as provided in Title 18, chapter 2, part 5, award all  
2 contracts to the lowest qualified bidder considering conformity with specifications and terms and reasonableness  
3 of the bid amount;

4 (d) review and approve all change orders; and

5 (e) accept the building when completed according to accepted plans and specifications.

6 (2) The department may delegate on a project-by-project basis any powers and duties under subsection  
7 (1) to other state agencies, including units of the Montana university system, upon terms and conditions specified  
8 by the department.

9 (3) Before a contract under subsection (1) is awarded, two formal bids must have been received, if  
10 reasonably available.

11 (4) The department need not require the provisions of Montana law relating to advertising, bidding, or  
12 supervision when proposed construction costs are \$75,000 or less. However, with respect to a project having a  
13 proposed cost of \$75,000 or less but more than \$25,000, the agency awarding the contract shall procure at least  
14 three informal bids from contractors registered in Montana, if reasonably available.

15 (5) For the construction of buildings owned or to be owned by a school district, the department shall,  
16 upon request, provide inspection to ensure compliance with the plans and specifications for the construction of  
17 the buildings. "Construction" includes construction, repair, alteration, equipping, and furnishing during  
18 construction, repair, or alteration. These services must be provided at a cost to be contracted for between the  
19 department and the school district, with the receipts to be deposited in the department's construction regulation  
20 account in a state special revenue fund.

21 (6) It is the intent of the legislature that student housing and other facilities constructed under the  
22 authority of the regents of the university system are subject to the provisions of subsections (1) through (3).

23 (7) The department of military affairs may act as the contracting agency for buildings constructed under  
24 the authority of ~~18-2-102(2)(d)~~ 18-2-102(2)(e). However, the department of administration may agree to act as  
25 the contracting agency on behalf of the department of military affairs. Montana law applies to any controversy  
26 involving a contract."

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28 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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