1   SENATE BILL NO. 51

2   INTRODUCED BY S. FITZPATRICK

3   BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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5   A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE OPENING, SUBMISSION, AND INSPECTION

6   OF BIDS AND PROPOSALS; ALLOWING PUBLIC COMMENT WITHIN 7 DAYS OF NOTICE OF INTENT TO

7   AWARD A CONTRACT; AND AMENDING SECTIONS 18-3-110, 18-4-132, 18-4-303, 18-4-304, AND 18-4-

8   307, MCA."

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10   WHEREAS, modernizing the law governing procurement by the state of Montana is a stated purpose of

11   the Montana Procurement Act; and

12   WHEREAS, the provisions regarding invitations for bid and requests for proposals have not been

13   updated in more than 15 years; and

14   WHEREAS, business and technology have changed significantly in the last 15 years with innovations

15   such as smart phones and video conferencing tools and the prevalence of remote work and electronic

16   meetings; and

17   WHEREAS, unnecessarily complex government procurement and contracting processes discourage

18   Montana small and medium-sized businesses from competing with large and sophisticated multinational and

19   out-of-state corporations; and

20   WHEREAS, current procurement processes place business innovations and intellectual property at

21   risk; and

22   WHEREAS, innovations and intellectual property are the most valuable assets of most small

23   businesses in the information age and one of the primary competitive advantages small businesses have over

24   large companies; and

25   WHEREAS, small businesses lack the resources of large companies to defend their innovations and

26   intellectual property; and

27   WHEREAS, vendor and business surveys indicate current procurement processes and requirements

28   provide an advantage to incumbent contractors and create other barriers and disincentives to seeking public

1   contracts in Montana; and

2   WHEREAS, procurement methods that discourage competition are in direct conflict with the Montana

3   Procurement Act's objectives to provide increased economy in state purchasing and to maximize, to the fullest

4   extent practicable, the purchasing value of public funds of the state; and

5   WHEREAS, the Montana Procurement Act exists to ensure the fair and equitable treatment of all

6   persons who deal with the procurement system of the state and to foster effective, broad-based competition

7   within the free enterprise system; and

8   WHEREAS, more than 40 states and the federal government utilize modern procurement practices that

9   allow free, open, and transparent government contracting without compromising the security of businesses'

10   innovations and intellectual property; and

11   WHEREAS, a stated purpose of the Montana Procurement Act is to make as consistent as possible the

12   procurement laws among various jurisdictions; and

13   WHEREAS, modern procurement practices allow citizens to observe and participate in government

14   contracting decisions while protecting the confidentiality of businesses' innovations and intellectual property and

15   allow free and open competition that maximizes the purchasing value of public funds.

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

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19   **Section 1.** Section 18-3-110, MCA, is amended to read:

20   **"18-3-110.   Requests for proposals.** (1) The department, with the cooperation of the departments

21   that will occupy the rental property, shall develop a request for proposals defining the state's program and

22   building specification requirements. A request for proposals must be administered in accordance with 18-4-

23   304(3) through (6) (7).

24   (2)   For projects valued at less than $2 million, the departments may develop the request for

25   proposals. For projects valued at $2 million or more, the departments shall contract with a licensed architect or

26   engineer selected in accordance with 18-2-112 for the development of the request for proposals.

27   (3)   A successful proposer, general contractor, or subcontractor engaged in construction under this

28   part shall pay the standard prevailing rate of wages to employees engaged in the construction of the leased