

Opinion No. 344.**Contracts—Bid Bond in Lieu of
Certified Check.**

HELD: Any contract pertaining to the construction, alteration, repair or improvement of the chemistry, pharmacy building at the State University must be governed by the provision of Section 259.3, which requires that a bid be accompanied by a certified check and, therefore, since the statute does not authorize it, a bid bond may not be received in lieu of a certified check.

October 25, 1938.

Hon. W. L. Fitzsimmons
Clerk, State Board of Examiners
The Capitol

Dear Mr. Fitzsimmons:

On behalf of the State Board of Examiners you have requested my

opinion as to whether a bid bond may be received in lieu of a certified check from a contractor bidding for the construction of the chemistry, pharmacy building at the State University in Missoula.

Section 259.1, R. C. M. 1935, makes it unlawful for the board of examiners or any offices, departments, institutions, or any agent of the State of Montana acting for or in behalf of the state to let any contract for the construction of buildings or the alteration, repair and improvement of buildings and grounds on behalf of and for the benefit of the state where the amount involved is five hundred dollars or more without first advertising in the manner therein recited.

Section 259.3 Id. provides that each bid must be accompanied by a certified check for 5% of the amount of the bid.

Sections 259.1 to 259.6 Id. were originally enacted as the several sections in Chapter 149, Laws of 1927. All of these sections must be read in connection with Section 259.1 and pertain to the contracts specified therein.

In my opinion any bid let in connection with the construction, alteration, repair or improvement of the chemistry, pharmacy building at the State University (presumably by the state board of education) would be governed by all of these sections. Since no bid bond is authorized, such bond may not be received in lieu of a certified check, which is expressly required by Section 259.3.