

Opinion No. 39

ADJUTANT GENERAL; Powers of; authorized to enter agreements with Federal Government—NATIONAL GUARD; Facilities; authorized to make joint-utilization agreements with Federal Government—Section 77-417, RCM, 1947; Chapter 168, Laws of 1955

Held: The State of Montana may participate in joint utilization projects with the Federal Government pursuant to the National Defense Facilities Act of 1950.

October 29, 1959

S. H. Mitchell, Adjutant General
State Arsenal Building
Helena, Montana

Dear General Mitchell:

My opinion has been requested whether there are any state restrictions precluding the State of Montana's participation in a project for the joint utilization of military facilities.

The enactment by our Legislature of Chapter 168, Laws of 1955 (Sections 77-415 through 77-420, RCM, 1947) accepted the provisions of the National Defense Facilities Act of 1950 (50 U.S.C. § 881) and authorized the state Adjutant General to enter into contracts and agreements pursuant to the Federal Act on behalf of the State of Montana. Section 77-417, RCM, 1947, provides:

"For and on behalf of the state of Montana, and in conformity with the requirements and provisions of that certain act of Congress approved September 11, 1950, known as the 'National Defense Facilities Act,' and entitled 'An act to provide for the acquisition, construction, expansion, rehabilitation, conversion, and joint utilization of facilities necessary for the administration and training of the reserve components of the armed forces of the United States,' and for other purposes, which act is also known as 'The National

Defense Facilities Act of 1950, Public Law 783, Congress of the United States of America,' and amendments and/or extensions thereof as may hereafter be made, is hereby assented to. The adjutant-general of the state of Montana is hereby authorized to, for, and on behalf of the State of Montana, to enter into all contracts and agreements with the United States government, or any office, department, or bureau thereof, relative to the location, acquisition, construction, expansion, rehabilitation, or conversion of facilities necessary for the administration and training of the Montana national guard, its units, its components, or any organization affiliated therewith, and other purposes in connection therewith, in order to comply with the requirements and provisions of said act of Congress; and the adjutant-general for and on behalf of the state of Montana is hereby authorized to do all things necessary, or required, to carry out fully the cooperation contemplated by said act of Congress and hereby assented to relative to the location, acquisition, construction, expansion, rehabilitation, conversion, and joint utilization of facilities necessary for the administration and training of the Montana national guard, its units, its components, or any organization affiliated therewith."

It is my opinion that enactment of the above quoted law removes any legal restrictions which would preclude the State of Montana from entering into a joint utilization project pursuant to the Federal Act.

Very truly yours,

FORREST H. ANDERSON

Attorney General