#### HOUSE BILL NO. 507

## INTRODUCED BY CAMPBELL, BECK

### BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

### IN THE HOUSE

	IN THE HOUSE						
JANUARY 28, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.						
FEBRUARY 11, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.						
FEBRUARY 12, 1987	PRINTING REPORT.						
FEBRUARY 13, 1987	SECOND READING, DO PASS.						
FEBRUARY 14, 1987	ENGROSSING REPORT.						
	THIRD READING, PASSED. AYES, 91; NOES, 3.						
	TRANSMITTED TO SENATE.						
	IN THE SENATE						
FEBRUARY 16, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.						
MARCH 11, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.						
MARCH 16, 1987	SECOND READING, CONCURRED IN.						
MARCH 18, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.						
	RETURNED TO HOUSE.						

RECEIVED FROM SENATE.

SENT TO ENROLLING.

MARCH 18, 1987

4

5

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE STATE OR ANY OTHER GOVERNMENTAL ENTITY TO WAIVE THE REQUIREMENT FOR 6 BONDS OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER \$5,000; AMENDING SECTIONS 18-2-201, 18-2-202, AND 18-2-302, 8 9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 18-2-201, MCA, is amended to read: "18-2-201. Bonding requirements. (1) Except as otherwise provided in 18-1-219 and subsection (4) and (5), of this section, whenever any board, council, commission, trustees, or body acting for the state or any county, municipality, or any public body shall contract with any person or corporation to do any work for the state, county, or municipality or other public body, city, town, or district, such board, council, commission, trustees, or body shall require the corporation, person, or persons with whom such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and sufficient bond with a licensed surety company as surety, conditioned that such corporation, person, or persons shall:

- 1 (a) faithfully perform all of the provisions of such contract;
- (b) pay all laborers, mechanics, subcontractors, and 3 materialmen; and
- (c) pay all persons who shall supply such corporation, person or persons, or subcontractors with provisions, provender, material, or supplies for the carrying on of such work.
- (2) A copy of such bond shall be filed with the county 10 clerk and recorder of the county where such work is performed or improvement made or, if to be performed in more 11 than one county, then with the county clerk of either 12 county, except in cases of cities and towns, in which case 1 3 such bond shall be filed with the city or town clerk 14 15 thereof.
- (3) Notwithstanding the provisions of (1) and (2) 16 above, the state or other governmental entity may, in lieu 17 of a surety bond, permit the deposit with the contracting 18 governmental entity or agency the following securities in an 19 amount at least equal to the contract sum to guarantee the 20 faithful performance of the contract and the payment of all 21 22 laborers. suppliers, materialmen, mechanics,
  - (a) lawful money of the United States; or
  - (b) a cashier's check, certified check, bank money



23

24

subcontractors:

INTRODUCED BILL HB-507

LC 0796/01 LC 0796/01

order, or bank draft, drawn or issued by any banking corporation incorporated under the laws of the state of Montana or by a national banking association located in Montana; or

2

8

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

- 5 (c) certificates of deposit or money market 6 certificates issued by any bank or savings and loan 7 association licensed to do business in Montana.
  - (4) Notwithstanding the provisions of subsections (1) and (2) above, any board, council, commission, trustee, or body acting for any county, municipality, or any public body other than the state may, in lieu of a bond from a licensed surety company, accept a good and sufficient bond with two or more sureties acceptable to the governmental body.
  - (5) The state or other governmental entity may waive the requirements contained in subsections (1) through (4) for building or construction projects, as defined in 18-2-101, that cost less that \$5,000."
  - Section 2. Section 18-2-202, MCA, is amended to read:

    "18-2-202. Failure to require bond waiver of bond.

    If any board, council, commission, trustee, or body acting for the state or any board of county commissioners or any mayor and common council of any incorporated city or town or tribunal transacting the business of any such municipal corporation shall—fail waives or fails to take such bond, cash, checks, drafts, money orders, or certificates of

- deposit as herein required, the state or such county,
- 2 incorporated city or town, or other municipal corporation
- 3 shall be liable to the persons mentioned in 18-2-201 to the
- 4 full extent and for the full amount of all of such debts so
- 5 contracted by any such subcontractor as well as such
- 6 contractor."
- 7 Section 3. Section 18-2-302, MCA, is amended to read:
- 8 "18-2-302. Bid security. (1) Each Except as provided
- 9 in subsection (2), each bid must be accompanied by bid
- 10 security in the amount of 10% of the bid, such security to
- ll consist of cash, cashier's check, certified check, bank
- 12 money order, or bank draft, in any case drawn and issued by
- 13 a national banking association located in the state of
- 14 Montana or by any banking corporation incorporated under the
- 15 laws of the state of Montana, or a bid bond or bonds
- 16 executed by a surety corporation authorized to do business
- 17 in the state of Montana.
- 18 (2) The state or other governmental entity may waive
- 19 the requirements for \_bid security on building or
- 20 construction projects, as defined in 18-2-101, that cost
- 21 less than \$5,000."
- 22 NEW SECTION. Section 4. Extension of authority. Any
- 23 existing authority of the department of administration to
- 24 make rules on the subject of the provisions of this act is
- 25 extended to the provisions of this act.

LC 0796/01

- 1 NEW SECTION. Section 5. Effective date. This act is
- 2 effective on passage and approval.

1

25

# APPROVED BY COMM. ON BUSINESS AND LABOR

2 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION 3 A RILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE STATE OR 5 ANY OTHER GOVERNMENTAL ENTITY TO WAIVE THE REQUIREMENT FOR 6 BONDS OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER 7 \$5,000; AMENDING SECTIONS 18-2-201, 18-2-202, AND 18-2-302, 8 MCA: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 18-2-201, MCA, is amended to read: 12 "18-2-201. Bonding requirements. (1) Except as 13 otherwise provided in 18-1-219 and subsection (4) and (5), 14 of this section, whenever any board, council, commission, 15 trustees, or body acting for the state or any county, 16 municipality, or any public body shall contract with any 17 person or corporation to do any work for the state, county, 18 or municipality or other public body, city, town, or 19 20 district, such board, council, commission, trustees, or body shall require the corporation, person, or persons with whom 21 22 such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and 23 24 sufficient bond with a licensed surety company as surety,

conditioned that such corporation, person, or persons shall:

- 1 (a) faithfully perform all of the provisions of such
  2 contract;
- 3 (b) pay all laborers, mechanics, subcontractors, and 4 materialmen; and
- 5 (c) pay all persons who shall supply such corporation,
  6 person or persons, or subcontractors with provisions,
  7 provender, material, or supplies for the carrying on of such
  8 work.
- 9 (2) A copy of such bond shall be filed with the county
  10 clerk and recorder of the county where such work is
  11 performed or improvement made or, if to be performed in more
  12 than one county, then with the county clerk of either
  13 county, except in cases of cities and towns, in which case
  14 such bond shall be filed with the city or town clerk
  15 thereof.
- 16 (3) Notwithstanding the provisions of (1) and (2) 17 above, the state or other governmental entity may, in lieu 18 of a surety bond, permit the deposit with the contracting 19 governmental entity or agency the following securities in an amount at least equal to the contract sum to quarantee the 20 faithful performance of the contract and the payment of all 21 22 laborers, suppliers, materialmen, mechanics. and 23 subcontractors:
  - (a) lawful money of the United States; or
- 25 (b) a cashier's check, certified check, bank money

LC 0796/01 LC 0796/01

order, or bank draft, drawn or issued by any banking corporation incorporated under the laws of the state of Montana or by a national banking association located in Montana; or

1

2

3

4

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

- 5 (c) certificates of deposit or money market 6 certificates issued by any bank or savings and loan 7 association licensed to do business in Montana.
  - (4) Notwithstanding the provisions of subsections (1) and (2) above, any board, council, commission, trustee, or body acting for any county, municipality, or any public body other than the state may, in lieu of a bond from a licensed surety company, accept a good and sufficient bond with two or more sureties acceptable to the governmental body.
  - (5) The state or other governmental entity may waive the requirements contained in subsections (1) through (4) for building or construction projects, as defined in 18-2-101, that cost less that \$5,000."
  - Section 2. Section 18-2-202, MCA, is amended to read:

    "18-2-202. Failure to require bond waiver of bond.

    If any board, council, commission, trustee, or body acting for the state or any board of county commissioners or any mayor and common council of any incorporated city or town or tribunal transacting the business of any such municipal corporation shall—fail waives or fails to take such bond, cash, checks, drafts, money orders, or certificates of

- deposit as herein required, the state or such county, incorporated city or town, or other municipal corporation shall be liable to the persons mentioned in 18-2-201 to the full extent and for the full amount of all of such debts so contracted by any such subcontractor as well as such contractor."
- Section 3. Section 18-2-302, MCA, is amended to read: 7 "18-2-302. Bid security. (1) Each Except as provided 8 in subsection (2), each bid must be accompanied by bid 9 10 security in the amount of 10% of the bid, such security to consist of cash, cashier's check, certified check, bank 11 12 money order, or bank draft, in any case drawn and issued by a national banking association located in the state of 13 Montana or by any banking corporation incorporated under the 14 laws of the state of Montana, or a bid bond or bonds 15 16 executed by a surety corporation authorized to do business 17 in the state of Montana.
- 18 (2) The state or other governmental entity may waive

  19 the requirements for bid security on building or

  20 construction projects, as defined in 18-2-101, that cost

  21 less than \$5,000."
- NEW SECTION. Section 4. Extension of authority. Any existing authority of the department of administration to make rules on the subject of the provisions of this act is extended to the provisions of this act.

LC 0796/01

- 1 NEW SECTION. Section 5. Effective date. This act is
- 2 effective on passage and approval.

3

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 House BILL NO. 507
2 INTRODUCED BY Confield Beat

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE STATE OR ANY OTHER GOVERN....NTAL ENTITY TO WAIVE THE REQUIREMENT FOR BONDS OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER \$5,000; AMENDING SECTIONS 18-2-201, 18-2-202, AND 18-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 18-2-201, MCA, is amended to read:

"18-2-201. Bonding requirements. (1) Except as otherwise provided in 18-1-219 and subsection (4) and (5), of this section, whenever any board, council, commission, trustees, or body acting for the state or any county, municipality, or any public body shall contract with any person or corporation to do any work for the state, county, or municipality or other public body, city, town, or district, such board, council, commission, trustees, or body shall require the corporation, person, or persons with whom such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and sufficient bond with a licensed surety company as surety, conditioned that such corporation, person, or persons shall:

- 1 (a) faithfully perform all of the provisions of such
  2 contract;
- 3 (b) pay all laborers, mechanics, subcontractors, and 4 materialmen; and
- 5 (c) pay all persons who shall supply such corporation,
  6 person or persons, or subcontractors with provisions,
  7 provender, material, or supplies for the carrying on of such
  8 work.
- 9 (2) A copy of such bond shall be filed with the county
  10 clerk and recorder of the county where such work is
  11 performed or improvement made or, if to be performed in more
  12 than one county, then with the county clerk of either
  13 county, except in cases of cities and towns, in which case
  14 such bond shall be filed with the city or town clerk
  15 thereof.
  - (3) Notwithstanding the provisions of (1) and (2) above, the state or other governmental entity may, in lieu of a surety bond, permit the deposit with the contracting governmental entity or agency the following securities in an amount at least equal to the contract sum to guarantee the faithful performance of the contract and the payment of all laborers, suppliers, materialmen, mechanics, and subcontractors:
    - (a) lawful money of the United States; or
- 25 (b) a cashier's check, certified check, bank money

Montana Legislative Council

16

17

19

21

23

24

THIRD READING

#8-507

order, or bank draft, drawn or issued by any banking corporation incorporated under the laws of the state of Montana or by a national banking association located in Montana; or

1

2

3

- 5 (c) certificates of deposit or money market 6 certificates issued by any bank or savings and loan 7 association licensed to do business in Montana.
- 8 (4) Notwithstanding the provisions of subsections (1)
  9 and (2) above, any board, council, commission, trustee, or
  10 body acting for any county, municipality, or any public body
  11 other than the state may, in lieu of a bond from a licensed
  12 surety company, accept a good and sufficient bond with two
  13 or more sureties acceptable to the governmental body.
- 14 (5) The state or other governmental entity may waive
  15 the requirements contained in subsections (1) through (4)
  16 for building or construction projects, as defined in
  17 18-2-101, that cost less that \$5,000."
- 18 Section 2. Section 18-2-202, MCA, is amended to read: 19 "18-2-202. Failure to require bond -- waiver of bond. 20 If any board, council, commission, trustee, or body acting 21 for the state or any board of county commissioners or any 22 mayor and common council of any incorporated city or town or 23 tribunal transacting the business of any such municipal 24 corporation shall--fail waives or fails to take such bond, 25 cash, checks, drafts, money orders, or certificates of

- deposit as herein required, the state or such county, incorporated city or town, or other municipal corporation
- 3 shall be liable to the persons mentioned in 18-2-201 to the
- 4 full extent and for the full amount of all of such debts so
- 5 contracted by any such subcontractor as well as such
- 6 contractor."
- 7 Section 3. Section 18-2-302, MCA, is amended to read:
  - "18-2-302. Bid security. (1) Each Except as provided
- 9 in subsection (2), each bid must be accompanied by bid
- 10 security in the amount of 10% of the bid, such security to
- 11 consist of cash, cashier's check, certified check, bank
- 12 money order, or bank draft, in any case drawn and issued by
- 13 a national banking association located in the state of
- 14 Montana or by any banking corporation incorporated under the
- 15 laws of the state of Montana, or a bid bond or bonds
- 16 executed by a surety corporation authorized to do business
- 17 in the state of Montana.
- 18 (2) The state or other governmental entity may waive
- 19 the requirements for bid security on building or
- 20 construction projects, as defined in 18-2-101, that cost
- 21 less than \$5,000."
- 22 <u>NEW SECTION.</u> Section 4. Extension of authority. Any
- 23 existing authority of the department of administration to
- 24 make rules on the subject of the provisions of this act is
- 25 extended to the provisions of this act.

LC 0796/01

- 1 NEW SECTION. Section 5. Effective date. This act is
- effective on passage and approval.

HB 0507/02

1

2	INTRODUCED BY CAMPBELL, BECK								
3	BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION								
4									
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE STATE OR								
6	ANY OTHER GOVERNMENTAL ENTITY TO WAIVE THE REQUIREMENT FOR								
7	BONDS OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER								
8	\$5,000; AMENDING SECTIONS 18-2-201, 18-2-202, AND 18-2-302,								
9	MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."								
LO									
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:								
12	Section 1. Section 18-2-201, MCA, is amended to read:								
13	"18-2-201. Bonding requirements. (1) Except as								
14	otherwise provided in 18-1-219 and subsection (4) and (5),								
15	of this section, whenever any board, council, commission,								
16	trustees, or body acting for the state or any county,								
17	municipality, or any public body shall contract with any								
18	person or corporation to do any work for the state, county,								
19	or municipality or other public body, city, town, or								
20	district, such board, council, commission, trustees, or body								
21	shall require the corporation, person, or persons with whom								
22	such contract is made to make, execute, and deliver to such								
23	board, council, commission, trustees, or body a good and								
24	sufficient bond with a licensed surety company as surety,								
25	conditioned that such corporation person or persons chall:								

HOUSE BILL NO. 507

1	(a)	faithfully	perform	all	o£	the	provisions	of	such
2	contract;								

- 3 (b) pay all laborers, mechanics, subcontractors, and 4 materialmen; and
- 5 (c) pay all persons who shall supply such corporation,
  6 person or persons, or subcontractors with provisions,
  7 provender, material, or supplies for the carrying on of such
  8 work.
- 9 (2) A copy of such bond shall be filed with the county
  10 clerk and recorder of the county where such work is
  11 performed or improvement made or, if to be performed in more
  12 than one county, then with the county clerk of either
  13 county, except in cases of cities and towns, in which case
  14 such bond shall be filed with the city or town clerk
  15 thereof.
  - (3) Notwithstanding the provisions of (1) and (2) above, the state or other governmental entity may, in lieu of a surety bond, permit the deposit with the contracting governmental entity or agency the following securities in an amount at least equal to the contract sum to guarantee the faithful performance of the contract and the payment of all laborers, suppliers, materialmen, mechanics, and subcontractors:
    - (a) lawful money of the United States; or
  - (b) a cashier's check, certified check, bank money

16 17

18 19

20

21

23

24

HB 0507/02

order, or bank draft, drawn or issued by any banking corporation incorporated under the laws of the state of Montana or by a national banking association located in Montana; or

- 5 (c) certificates of deposit or money market 6 certificates issued by any bank or savings and loan 7 association licensed to do business in Montana.
- 8 (4) Notwithstanding the provisions of subsections (1)
  9 and (2) above, any board, council, commission, trustee, or
  10 body acting for any county, municipality, or any public body
  11 other than the state may, in lieu of a bond from a licensed
  12 surety company, accept a good and sufficient bond with two
  13 or more sureties acceptable to the governmental body.
- 14 (5) The state or other governmental entity may waive
  15 the requirements contained in subsections (1) through (4)
  16 for building or construction projects, as defined in
  17 18-2-101, that cost less that \$5,000."
- Section 2. Section 18-2-202, MCA, is amended to read: 18 "18-2-202. Failure to require bond -- waiver of bond. 19 20 If any board, council, commission, trustee, or body acting for the state or any board of county commissioners or any 21 22 mayor and common council of any incorporated city or town or 23 tribunal transacting the business of any such municipal 24 corporation shall--fail waives or fails to take such bond, 25 cash, checks, drafts, money orders, or certificates of

deposit as herein required, the state or such county, incorporated city or town, or other municipal corporation shall be liable to the persons mentioned in 18-2-201 to the full extent and for the full amount of all of such debts so contracted by any such subcontractor as well as such contractor."

Section 3. Section 18-2-302, MCA, is amended to read: "18-2-302. Bid security. (1) Each Except as provided in subsection (2), each bid must be accompanied by bid security in the amount of 10% of the bid, such security to 10 consist of cash, cashier's check, certified check, bank 12 money order, or bank draft, in any case drawn and issued by a national banking association located in the state of 14 Montana or by any banking corporation incorporated under the laws of the state of Montana, or a bid bond or bonds 15 16 executed by a surety corporation authorized to do business in the state of Montana. 17

- 18 (2) The state or other governmental entity may waive

  19 the requirements for bid security on building or

  20 construction projects, as defined in 18-2-101, that cost

  21 less than \$5,000."
- NEW SECTION. Section 4. Extension of authority. Any existing authority of the department of administration to make rules on the subject of the provisions of this act is extended to the provisions of this act.

HB 0507/02

1 NEW SECTION. Section 5. Effective date. This act is

2 effective on passage and approval.