

SENATE BILL NO. 232

INTRODUCED BY M. REGIER, G. HERTZ, T. MCGILLVRAY, M. NOLAND, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING EXEMPTIONS UNDER THE MONTANA  
PROCUREMENT ACT; AMENDING ~~SECTION SECTIONS~~ 18-4-132, AND 90-14-110, MCA; AND PROVIDING  
AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 18-4-132, MCA, is amended to read:

**"18-4-132. Application.** (1) This chapter applies to:

(a) the expenditure of public funds irrespective of their source, including federal assistance money,  
by this state acting through a governmental body under any contract, except a contract exempted from this  
chapter by this section or by another statute;

(b) a procurement of supplies or services that is at no cost to the state and from which income may  
be derived by the vendor and to a procurement of supplies or services from which income or a more  
advantageous business position may be derived by the state; and

(c) the disposal of state supplies; and

(d) the Montana university system.

(2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body  
or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative  
agreement.

(3) This chapter does not apply to:

(a) either grants or contracts between the state and its political subdivisions or other governments,  
except as provided in part 4;

(b) construction contracts;

~~(c) expenditures of or the authorized sale or disposal of equipment purchased with money raised  
by student activity fees designated for use by the student associations of the university system;~~

1           ~~(d)~~(c) contracts entered into by the Montana state lottery that have an aggregate value of less than  
2     \$250,000;

3           ~~(e)~~(d) contracts entered into by the state compensation insurance fund to procure insurance-related  
4     services;

5           ~~(f)~~(e) ~~contracts with the employment of:~~

6           (i)     a registered professional engineer, surveyor, real estate appraiser, or registered architect;

7           (ii)    a physician, dentist, pharmacist, or other medical, dental, or health care provider;

8           (iii)   an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested  
9     case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive  
10    order of the governor;

11          (iv)    consulting actuaries;

12          (v)     a private person contracted by the student associations of the university system with money  
13    raised from student activity fees designated for use by those student associations;

14          (vi)    a private ~~person contracted~~ consultant employed by the Montana state lottery;

15          (vii)   a private investigator licensed by any jurisdiction;

16          (viii)   a claims adjuster; or

17          (ix)    a court reporter appointed as an independent contractor under 3-5-601;

18          ~~(g)~~(f) electrical energy purchase contracts by the university of Montana or Montana state university,  
19    as defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the  
20    purchase or acquisition of energy must be retained by the board of regents of higher education for university  
21    allocation and expenditure.

22          ~~(h)~~(g) the purchase or commission of art for a museum or public display;

23          ~~(i)~~(h) contracting under 47-1-121 of the Montana Public Defender Act;

24          ~~(j)~~(i) contracting under Title 90, chapter 4, part 11; or

25          ~~(k)~~(j) contracting under Title 90, chapter 14, part 1.

26          (4)     (a) Food products produced in Montana may be procured by either standard procurement  
27    procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:  
28          (i)     the quality of available Montana-produced food products is substantially equivalent to the

- 1 quality of similar food products produced outside the state;
- 2 (ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and
- 3 (iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the
- 4 lowest bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the
- 5 lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food
- 6 products for a governmental body, the higher bid is reasonable and capable of being paid out of that
- 7 governmental body's existing budget without any further supplemental or additional appropriation.
- 8 (b) The department shall adopt any rules necessary to administer the optional procurement
- 9 exception established in this subsection (4).
- 10 (5) As used in this section, the following definitions apply:
- 11 (a) "Food" means articles normally used by humans as food or drink, including articles used for
- 12 components of articles normally used by humans as food or drink.
- 13 (b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or
- 14 manufactured."

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16 **Section 2.** Section 90-14-110, MCA, is amended to read:

17 **"90-14-110. Contracts and cooperative agreements authorized under part.** A contract or

18 cooperative agreement may be authorized under this part for the purposes of an exemption from the Montana

19 Procurement Act pursuant to 18-4-132~~(3)(k)~~~~(3)(i)~~ only if:

- 20 (1) the contract implements a community service project consistent with the provisions of 90-14-
- 21 105; and
- 22 (2) the contract does not involve an activity prohibited under 90-14-106."

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24 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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