

## 1 SENATE BILL NO. 80

2 INTRODUCED BY D. MAHLUM

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE MANAGEMENT RESPONSIBILITIES OF THE  
 5 MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION; ADDING THREE MEMBERS  
 6 TO THE COMMISSION; ALLOWING FOR THE HIRING OF ADDITIONAL COMMISSION STAFF; ALLOWING  
 7 THE COMMISSION TO CONDUCT BUILDING PRESERVATION, STABILIZATION, OR MAINTENANCE  
 8 COSTING OVER \$200,000 WITHOUT LEGISLATIVE CONSENT UNDER CERTAIN CIRCUMSTANCES;  
 9 PROVIDING THAT INTEREST ON MONEY IN THE MONTANA HERITAGE PRESERVATION AND  
 10 DEVELOPMENT ACCOUNT BE DEPOSITED IN THE STATE SPECIAL REVENUE FUND TO THE CREDIT OF  
 11 THE COMMISSION; AND AMENDING SECTIONS 22-3-1001, 22-3-1002, 22-3-1003, AND 22-3-1004,  
 12 MCA."

13

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

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16 **Section 1.** Section 22-3-1001, MCA, is amended to read:

17 **"22-3-1001. Purpose.** The purpose of this part is to acquire and manage, on behalf of the state,  
 18 properties that possess outstanding historical value, display exceptional qualities worth preserving, are  
 19 genuinely representative of the state's culture and history, and demonstrate the ability to become  
 20 economically self-supporting. The Montana heritage preservation and development commission shall  
 21 achieve this purpose by purchasing fee title interests in real and personal property and by managing those  
 22 properties in a manner that protects the properties and encourages economic independence."

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24 **Section 2.** Section 22-3-1002, MCA, is amended to read:

25 **"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana  
 26 heritage preservation and development commission. The commission is attached to the Montana historical  
 27 society for administrative purposes. The commission consists of ~~11~~ 14 members. The members shall  
 28 broadly represent the state. ~~Seven~~ Nine members must be appointed by the governor, one member must  
 29 be appointed by the president of the senate, and one member must be appointed by the speaker of the  
 30 house. The director of the Montana historical society, ~~and~~ the director of the department of fish, wildlife,

1 and parks, ~~and the travel director of the department of commerce's travel promotion and development~~  
 2 ~~division~~ AND THE DIRECTOR OF THE DEPARTMENT OF COMMERCE shall serve as members.

3 (2) Of the members appointed by the governor:

4 (a) one member must have extensive experience in managing facilities that cater to the needs of  
 5 tourists;

6 (b) one member must have experience in community planning;

7 (c) one member must have experience in historic preservation;

8 (d) two members must have broad experience in business;

9 (e) one member must be a member of the tourism advisory council established in 2-15-1816; ~~and~~

10 (f) one member must be a Montana historian; and

11 (g) two members must be from the public at large.

12 (3) Except for the initial appointments, members appointed by the governor shall serve 3-year  
 13 terms. Legislative appointees shall serve 2-year terms. If a vacancy occurs, the appointing authority shall  
 14 make an appointment for the unexpired portion of the term.

15 (4) (a) The commission may employ:

16 (i) an executive director who has general responsibility for the selection and management of  
 17 commission staff, developing recommendations for the purchase of property, and overseeing the  
 18 management of acquired property ~~and~~;

19 (ii) a curator who is responsible for the display and preservation of the acquired property; and

20 (iii) other staff that the commission and the executive director determine are necessary to manage  
 21 and operate commission properties.

22 (b) The commission shall prescribe the duties and annual salary of the executive director, ~~and~~ the  
 23 curator, and other commission staff."

24

25 **Section 3.** Section 22-3-1003, MCA, is amended to read:

26 **"22-3-1003. Powers of commission -- contracts -- rules.** (1) (a) The Montana heritage preservation  
 27 and development commission may contract with private organizations to assist in carrying out the purpose  
 28 of 22-3-1001. The term of a contract may not exceed 20 years.

29 (b) Notwithstanding the provisions of Title 18, the contracts may be let by direct negotiation. The  
 30 contracts may be entered into directly with a vendor and are not subject to state procurement laws.

1 (c) Architectural and engineering review and approval do not apply to the historic renovation  
2 projects.

3 (d) The contracts must provide for the payment of prevailing wages.

4 (e) A contract for supplies or services, or both, may be negotiated in accordance with commission  
5 rules.

6 (f) Management activities must be undertaken to encourage the profitable operation of properties.

7 (g) Contracts may include the lease of property managed by the commission. Provisions for the  
8 renewal of a contract must be contained in the contract.

9 (2) (a) The Except as provided in subsection (2)(b), the commission may not contract for the  
10 construction of a building, as defined in 18-2-101, in excess of \$200,000 without the consent of the  
11 legislature. Building construction must be in conformity with applicable guidelines developed by the  
12 national park service of the U.S. department of the interior, the Montana historical society, and the  
13 Montana department of fish, wildlife, and parks.

14 (b) The commission may contract for the preservation, stabilization, or maintenance of existing  
15 structures or buildings for an amount that exceeds \$200,000 without legislative consent if the commission  
16 determines that waiting for legislative consent would cause unnecessary damage to the structures or  
17 buildings or would result in a significant increase in cost to conduct those activities in the future.

18 (3) (a) Subject to subsection (3)(b), the commission, as part of a contract, shall require that a  
19 portion of any profit be reinvested in the property and that a portion be used to pay the administrative  
20 costs of the property and the commission.

21 (b) (i) Until the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission  
22 shall deposit the portion of profits not used for administrative costs and restoration of the properties in the  
23 cultural and aesthetic trust.

24 (ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall  
25 deposit the portion of profits not used for administrative costs and restoration of the properties in the  
26 general fund.

27 ~~(c) It is the intent of the 55th legislature that no general fund money be provided for the operation~~  
28 ~~and maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th~~  
29 ~~legislature.~~

30 (c) IT IS THE INTENT OF THE 57TH LEGISLATURE THAT NO GENERAL FUND MONEY BE PROVIDED FOR THE

1 OPERATION AND MAINTENANCE OF VIRGINIA CITY AND NEVADA CITY BEYOND WHAT HAS BEEN APPROPRIATED BY THE  
 2 55TH LEGISLATURE.

3 (4) The commission may solicit funds from other sources for the purchase, management, and  
 4 operation of properties.

5 (5) The commission shall adopt rules establishing a policy for making acquisitions. With respect  
 6 to each acquisition, the policy must give consideration to:

7 (a) whether the property represents the state's culture and history;

8 (b) whether the property can become self-supporting;

9 (c) whether the property can contribute to the economic and social enrichment of the state;

10 (d) whether the property lends itself to programs to interpret Montana history;

11 (e) whether the acquisition will create significant social and economic impacts to affected local  
 12 governments and the state; and

13 (f) other matters that the commission considers necessary or appropriate.

14 (6) Public notice and the opportunity for a hearing must be given in the geographical area of a  
 15 proposed acquisition before a final decision to acquire a property is made. The commission shall approve  
 16 proposals for acquisition and recommend the approved proposal to the board of land commissioners.

17 (7) Prior to the convening of each regular session, the commission shall report to the governor and  
 18 the legislature, as provided in 5-11-210, concerning financial activities during the prior biennium."

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20 **Section 4.** Section 22-3-1004, MCA, is amended to read:

21 **"22-3-1004. Montana heritage preservation and development account.** (1) There is a Montana  
 22 heritage preservation and development account in the state special revenue fund.

23 (2) Money deposited in the account must be used for:

24 (a) the purchase of properties in Virginia City and Nevada City;

25 (b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City;

26 and

27 (c) purchasing, restoring, and maintaining historically significant properties in Montana that are  
 28 in need of preservation.

29 (3) The account is statutorily appropriated, as provided in 17-7-502, to the Montana heritage  
 30 preservation and development commission to be used as provided in this section.

