

1 HOUSE BILL NO. 594

2 INTRODUCED BY D. LENZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE MONTANA HISTORICAL SOCIETY BOARD OF
5 TRUSTEES TO SELL CERTAIN OBJECTS TO FUND THE CONSTRUCTION OF THE MONTANA HERITAGE
6 CENTER; REQUIRING FUNDS TO BE DEPOSITED INTO THE LONG-RANGE BUILDING PROGRAM
7 ACCOUNT; REQUIRING THAT UNUSED FUNDS AND INTEREST EARNINGS BE TRANSFERRED TO THE
8 ACQUISITIONS TRUST; PROVIDING FOR A CONTINGENT APPROPRIATION; AMENDING SECTIONS
9 17-7-205, 22-3-107, 22-3-114, AND 22-3-423, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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11 WHEREAS, Article IX, section 4, of the Montana Constitution provides that the legislature shall "provide
12 for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic,
13 archeologic, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment
14 by the people"; and

15 WHEREAS, the Historical Society of Montana was originally organized under the provisions of an act of
16 the legislative assembly of the territory of Montana entitled "An Act to Incorporate the Historical Society of
17 Montana", approved February 2, 1865; and

18 WHEREAS, the Montana Legislature, on March 4, 1891, enacted "An Act Concerning the Historical
19 Society for the State of Montana and Making an Appropriation Therefor" and on March 1, 1949, enacted "An Act
20 to Perpetuate the Historical Society of the State of Montana"; and

21 WHEREAS, these legislative acts provide that the Montana Historical Society constitutes the agency of
22 state government for the use, learning, culture, and enjoyment of the citizens of the state and for the "acquisition,
23 preservation, and protection of historical records, art, archival, and museum objects, historical places, sites, and
24 monuments and the custody, maintenance, and operation of the historical library, museums, art galleries, and
25 historical places, sites, and monuments"; and

26 WHEREAS, the Historical Society has been successful in its mission and its prestigious collection has
27 expanded to the point where construction of an expansion to the society is warranted in order to allow the society
28 to continue its mission; and

29 WHEREAS, the Legislature has oversight of this state agency and wishes to assist it in providing the
30 means by which it can fund an expansion.

1

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

3

4 **Section 1.** Section 17-7-205, MCA, is amended to read:5 **"17-7-205. Long-range building program account.** (1) There is a long-range building program account
6 in the capital projects fund type.

7 (2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

8 (3) Coal severance taxes allocated to the account under 15-35-108 may be appropriated for the
9 long-range building program or debt service payments on building projects. Coal severance taxes required for
10 general obligation bond debt service may be transferred to the debt service fund.11 (4) Revenue deposited in the account pursuant to 22-3-107 is dedicated to the construction of the
12 Montana heritage center. Money in the account can be used only for the construction of the building and grounds
13 and may not be used to purchase furnishings. If construction of the Montana heritage center has not commenced
14 by July 1, 2023, the state treasurer shall transfer all funds deposited pursuant to 22-3-107 and the interest
15 earnings on those funds from the account into the acquisitions trust provided for in 22-3-113. Upon completion
16 of the heritage center, the department of administration shall transfer any unencumbered or unexpended funds
17 deposited into the account pursuant to 22-3-107 and interest earnings on those funds into the acquisitions trust
18 provided for in 22-3-113.19 ~~(4)~~(5) Interest Except as provided in subsection (4), interest earnings, project carryover funds,
20 administrative fees, and miscellaneous revenue must be retained in the account."

21

22 **Section 2.** Section 22-3-107, MCA, is amended to read:23 **"22-3-107. Authority of board.** The powers and duties of the trustees are as follows:

24 (1) to elect annually from among their number a president, a vice president, and a secretary;

25 (2) to adopt bylaws for their own government and to make rules, not inconsistent with law, for the proper
26 administration of the society in the interests of preserving the rich heritage of this state and its people;

27 (3) to appoint a director, fix the director's salary, and prescribe the director's duties and responsibilities;

28 (4) to create classes of memberships in the society as they consider desirable, to determine the
29 qualifications for any class of membership, and to set the fees to be paid for memberships;

30 (5) to sell or exchange publications and other museum or art objects and use the money arising from

1 sales for the operation of the society and for the acquisition of historical materials and objects of art;
 2 (6) to sell museum or art objects that do not possess outstanding historical value relative to Montana,
 3 do not display exceptional qualities of Montana's history worth preserving, or do not tell the story of Montana.
 4 Money from sales may not exceed \$50 million and must be deposited into the long-range building program
 5 account established in 17-7-205 to be used solely for the construction of the Montana heritage center. This
 6 subsection does not prevent the museum from honoring all contracts related to a particular museum or art object
 7 or from renegotiating contracts to provide a new Montana heritage center and to further the historical society's
 8 mission.

9 ~~(6)~~(7) to sell or exchange surplus or duplicate books, surplus museum or art objects, or artifacts not
 10 pertinent to the region encompassed by the Montana historical society mission and to use the money arising from
 11 the sales exclusively for acquisitions of library, art, and museum artifacts;

12 ~~(7)~~(8) to see that the collections and properties of the society are maintained in good order and repair;
 13 ~~(8)~~(9) to report to the governor and, as provided in 5-11-210, the legislature biennially. The report must
 14 include a statement of all important transactions and acquisitions, with suggestions and recommendations for the
 15 better realization of the purposes of the society and the improvement of its collections and services.

16 ~~(9)~~(10) to accept, receive, and administer in the name of the society any gifts, donations, properties,
 17 securities, bequests, and legacies that may be made to the society. Money received by donation, gift, bequest,
 18 or legacy, unless otherwise provided by the donor, must be deposited in the state treasury and used for the
 19 general operation of the society.

20 ~~(10)~~(11) to collect, assemble, preserve, and display, when appropriate, all obtainable books, pamphlets,
 21 maps, charts, manuscripts, journals, diaries, papers, business records, paintings, drawings, engravings,
 22 photographs, statuary, models, relics, and all other materials illustrative of the history of Montana in particular and
 23 generally of the Pacific Northwest, Northern Rocky Mountain, and Northern Great Plains regions and of the United
 24 States of America when pertinent;

25 ~~(11)~~(12) to procure from pioneers, early settlers, and others narratives of the events relative to the early
 26 settlement of Montana, the Indian occupancy, Indian and other wars, overland travel and immigration to the
 27 territories of the west, and all other related documents of Montana's history, development, and society;

28 ~~(12)~~(13) to gather contemporary information, specimens, and all other materials that exhibit faithfully the
 29 distinctive historical and contemporary characteristics of the area, with particular attention to Indian, military, and
 30 pioneer artifacts and implements;

1 ~~(13)~~(14) to collect and preserve such natural history objects as fossils, plants, minerals, and animals;
 2 ~~(14)~~(15) to collect and preserve books, maps, manuscripts, and other materials as will tend to facilitate
 3 historical, scientific, and antiquarian research;
 4 ~~(15)~~(16) to promote the study of Montana history by lectures and publications;
 5 ~~(16)~~(17) to publish a roadside history of Montana, with maps, photographs, and text that will enable
 6 tourists, citizens, and students to understand the history of the countryside seen from the state's main roads;
 7 ~~(17)~~(18) to generally foster and encourage the fine arts and cultural activities in Montana;
 8 ~~(18)~~(19) to receive for and on behalf of the state, by donation or otherwise, art objects of any kind and
 9 description and to exhibit and circulate the objects in Montana and elsewhere;
 10 ~~(19)~~(20) to microfilm papers or documents in danger of disappearance or injury; and
 11 ~~(20)~~(21) to coordinate the administration of the historic records network established in 22-3-211."

12
 13 **Section 3.** Section 22-3-114, MCA, is amended to read:
 14 **"22-3-114. Use of acquisitions trust funds -- principal nonexpendable -- investment of principal**
 15 **-- reversion of unspent revenue.** (1) The principal of the acquisitions trust established in 22-3-113 is intended
 16 to be a permanent fund subject to investment by the board of investments in accordance with investment
 17 principles established for the investment of state funds in Title 17, chapter 6, part 2.
 18 (2) Revenue earned by the Montana historical society from sales provided for by ~~22-3-107(6)~~ 22-3-107(7)
 19 must be placed in the acquisitions trust.
 20 (3) Interest earned on the principal of the acquisitions trust may be used only for the purpose of acquiring
 21 society library, museum, archive, and photoarchive items or collections.
 22 (4) Revenue that is not expended on appropriate acquisitions authorized in subsection (3) and that
 23 remains at the end of each fiscal year reverts to the principal of the acquisitions trust for investment as provided
 24 in subsection (1).
 25 (5) The provisions of 17-2-108 that require the expenditure of nongeneral fund money prior to the
 26 expenditure of general fund money do not apply to the expenditure of revenue made available to the society from
 27 the acquisitions trust."

28
 29 **Section 4.** Section 22-3-423, MCA, is amended to read:
 30 **"22-3-423. Duties of historic preservation officer.** Subject to the supervision of the director of the

1 historical society, the historic preservation officer has the following duties and responsibilities:

2 (1) follow necessary procedures to qualify the state for money that is now or will be made available under
3 any act of congress of the United States or otherwise for purposes of historic preservation;

4 (2) conduct an ongoing statewide survey to identify and document heritage properties and
5 paleontological remains;

6 (3) maintain a state inventory file of heritage properties and paleontological remains and maintain a
7 repository for all inventory work done in the state;

8 (4) evaluate and formally nominate potential register properties according to the criteria established by
9 the register;

10 (5) prepare and annually review the state preservation plan, register nominations, and historic
11 preservation grant activity;

12 (6) maintain, publish, and disseminate information relating to heritage properties and paleontological
13 remains in the state;

14 (7) cooperate with and assist local, state, and federal government agencies in comprehensive planning
15 that allows for the preservation of heritage properties and paleontological remains;

16 (8) enter into cooperative agreements with the federal government, local governments, and other
17 governmental entities or private landowners or the owners of objects to ensure preservation and protection of
18 registered properties;

19 (9) adopt rules outlining procedures by which a state agency that has no approved rules under
20 22-3-424(1) shall systematically consider heritage properties or paleontological remains on lands owned by the
21 state and avoid, whenever feasible, state actions or state assisted or licensed actions that substantially alter the
22 properties;

23 (10) respond to requests for consultation under section 106 of the National Historic Preservation Act, as
24 provided for in 22-3-429;

25 (11) develop procedures and guidelines for the evaluation of heritage property or paleontological remains
26 as provided in 22-3-428;

27 (12) protect from disclosure to the public any information relating to the location or character of heritage
28 properties when disclosure would create a substantial risk of harm, theft, or destruction to the resources or to the
29 area or place where the resources are located;

30 (13) report the information gathered pursuant to 22-3-422(6), along with any recommendations by the

1 historic preservation officer or the review board, to an appropriate legislative interim committee established under
2 Title 5, chapter 5, part 2. The report required in this subsection must also be incorporated into the biennial report
3 required to be submitted to the governor and the legislature under ~~22-3-107(8)~~ 22-3-107(9).

4 (14) any other necessary or appropriate activity permitted by law to carry out and enforce the provisions
5 of this part."

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7 **NEW SECTION. Section 5. Contingent appropriation.** For the biennium beginning July 1, 2017, there
8 is appropriated up to \$50 million from the long-range building program account established in 17-7-205 to the
9 department of administration for the construction of the Montana heritage center. The appropriation is contingent
10 upon the department of administration certifying to the state treasurer there are sufficient funds in the account
11 to complete the project.

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13 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

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