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House BILL NO. 585

INTRODUCED BY

*Chris VanDerBeek* *Richard DENNY*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF MONEY IN THE COAL SEVERANCE TAX PERMANENT FUND TO STIMULATE ECONOMIC PROSPERITY IN MONTANA THROUGH COMMUNITY INFRASTRUCTURE DEVELOPMENT, RESEARCH AND DEVELOPMENT, PUBLIC SCHOOL CONSTRUCTION AND TECHNOLOGY ACQUISITION, HISTORIC PRESERVATION, AND LAND STEWARDSHIP; APPROPRIATING COAL SEVERANCE TAX FUNDS TO THE TREASURE STATE ENDOWMENT PROGRAM; ESTABLISHING A RESEARCH AND DEVELOPMENT SPECIAL REVENUE ACCOUNT AND ENDOWMENT FUND; ESTABLISHING A RESEARCH AND DEVELOPMENT ENDOWMENT FUND IN THE COAL SEVERANCE TAX TRUST FUND; APPROPRIATING COAL SEVERANCE TAXES FOR RESEARCH AND DEVELOPMENT; APPROPRIATING COAL SEVERANCE TAX FUNDS FOR SCHOOL FACILITIES AND TECHNOLOGY ACQUISITION; CREATING A MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS TO FINANCE HISTORIC PRESERVATION PROJECTS; CREATING A MONTANA FARM AND RANCH CONSERVATION COMMISSION; APPROPRIATING COAL SEVERANCE TAX FUNDS TO THE FARM AND RANCH CONSERVATION PROGRAM; AMENDING SECTIONS 2-18-103, 17-5-703, 17-5-706, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates rulemaking authority to various entities. The Montana heritage preservation and development commission is authorized to adopt rules establishing policies for the acquisition, maintenance, and management of properties. It is the intent of this bill to provide a means for the commission to acquire, on behalf of the state, properties that possess outstanding historical value, display exceptional qualities worth preserving, are genuinely representative of the state's history and culture, and demonstrate an ability to become economically self-supporting. The rules should address policy considerations for making acquisitions as well as procedures for determining whether proposed properties will be acquired. The rules must limit acquisitions to those that preserve the state's history and culture and that demonstrate the ability to be managed in a way that makes them economically independent from future state support.

1           The Montana farm and ranch conservation commission is also authorized to adopt rules establishing  
2 policies for acquisitions. It is the intent of this bill to provided a means for the commission to acquire, from  
3 willing se lers, a permanent interest in land for the purpose of preserving rural landscapes, while providing  
4 for the continued working of family farms and ranches and maintaining biological and public values. The  
5 rules must provide for a determination as to whether, consistent with agricultural viability and biological  
6 integrity, limited residential development sites may be retained by the seller. The interests may typically  
7 be acquired, on behalf of the state, by the purchase of agriculturally supportive conservation easements.  
8 Rules must establish procedures for proposed acquisitions. The rules may provide for grants to nonprofit  
9 organizations entitled to acquire agriculturally supportive conservation easements that support the purposes  
10 of the program. The rules must give priority to acquisitions that preserve family farms and ranches that  
11 are involved in viable traditional agricultural activities that are threatened. The rules must provide for  
12 continuation of the property in an economically productive capacity, protection of landscapes, protection  
13 of property with significant biological and public values, and consideration of impacts on adjacent public  
14 or private land.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17  
18           NEW SECTION.   **Section 1. Purpose -- definitions.** (1) The purpose of the research and  
19 development special revenue account established in [section 2] and the endowment fund established in  
20 17-5-703 is to provide a predictable, long-term source of funding for research and development projects  
21 to be conducted by research and development centers located in Montana. The state is encouraging a  
22 diversified, technology-based economic sector. The investment in research and development projects will  
23 assist in diversifying Montana's economy, provide employment opportunities for future generations, and  
24 enhance educational opportunities for Montanans.

25           (2) As used in [sections 2 and 3] and this section, the following definitions apply:

26           (a) "Department" means the department of commerce provided for in 2-15-1801.

27           (b) "Program" means the research and development and endowment program provided for in  
28 [sections 2 and 3].

29           (c) "Research and development center" means the university of Montana or Montana state  
30 university.

1           **NEW SECTION. Section 2. Research and development account -- use.** (1) There is a research and  
2 development special revenue account. If the program is ended pursuant to [section 3(1)(c)], the balance  
3 in the account reverts to the coal severance tax permanent fund. The interest income and earnings on the  
4 account are statutorily appropriated, as provided in 17-7-502, to the department for the purposes provided  
5 in [section 1] and this section.

6           (2) The establishment of the research and development special revenue account in this section and  
7 the endowment fund in 17-5-703 and the pledge and appropriation of funds from the coal severance tax  
8 permanent trust fund constitute a valid and binding obligation of the state to provide the money for a period  
9 of 20 years, provided that both research and development centers enter into contracts with the state,  
10 agreeing to undertake research and redevelopment projects and to make contributions to the endowment  
11 fund as required in [sections 1 through 3]. If the program ends prior to the end of the 20-year contract  
12 because of events described in [section 3(1)(c)], the state's obligation to appropriate money to the research  
13 and development special revenue account and the endowment fund ends, money in the account reverts  
14 to the coal severance tax permanent fund, and money in the fund reverts pursuant to [section 3(1)(d)].

15           (3) The research and development special revenue account may be used only for matching funds  
16 for grants from nonstate sources for research and development projects to be conducted at research and  
17 development centers located in Montana.

18           (4) The department shall make grants upon a determination that the proposed project meets the  
19 following goals:

20           (a) to significantly upgrade existing research capabilities within the state's research and  
21 development centers;

22           (b) to provide financial support to individual research projects that have significant potential to:

23           (i) advance technology development in the state; or

24           (ii) be readily commercialized upon completion of the research phase;

25           (c) to facilitate the process of transferring research from the laboratory to the commercial  
26 marketplace; or

27           (d) to enhance the competitiveness of Montana's small and medium-sized firms in the national and  
28 international markets by stimulating the productivity and modernization of the firms.

29           (5) The goals in subsection (4) may be accomplished by:

30           (a) supporting the advanced technology centers of excellence program that will institutionalize

1 cooperative arrangements between the public sector and the private sector and significantly build on  
2 existing research and development capabilities;

3 (b) providing financial support for individual research and development projects that are at a  
4 preprototype or early stage but that hold significant potential for future commercial success;

5 (c) providing financial support for the development of advanced research capabilities within the  
6 state's university system through the acquisition of facilities, equipment, or personnel and for the  
7 development of a university-based technology transfer program; or

8 (d) fostering competitiveness, productivity, and modernization of Montana firms, farms, ranches,  
9 mills, and mines.

10 (6) The department shall make grants based upon a determination that the proposed project  
11 complies with the goals established in subsection (4) and the following criteria:

12 (a) the project has the potential to diversify or add value to a basic industry of the state's economy;

13 (b) the project demonstrates a clear path to commercial development of the research results within  
14 the state;

15 (c) the project involves university system research participation whenever practical;

16 (d) the project employs or otherwise takes advantage of existing research and development  
17 strengths within the state's university and private research establishments;

18 (e) the project involves a realistic and achievable research project design;

19 (f) the project develops or employs an innovative technology;

20 (g) the project activity is located within the state; and

21 (h) the project's research team possesses sufficient expertise in the appropriate technology area  
22 to complete the research objectives of the project.

23 (7) The department shall direct the state treasurer to distribute funds for approved proposals to the  
24 research and development center for administration of the grant project.

25  
26 **NEW SECTION. Section 3. Endowment fund -- accounts -- uses.** (1) (a) There is within the coal  
27 severance tax trust fund a research and development endowment fund. The purpose of the endowment  
28 fund is to establish, by July 1, 2017, a permanent source of funding for research and development projects.  
29 The endowment fund must accept contributions as described in subsection (1)(b) and contributions from  
30 other sources. Interest earned on the endowment principal must be retained in the endowment fund until

1 June 30, 2017, or until an earlier time that may occur pursuant to subsection (1)(c). Beginning July 1,  
2 2017, interest earned on the endowment fund must be deposited in the research and development special  
3 revenue account and must be available to provide grants to research and development centers as provided  
4 in [section 2].

5 (b) Contributions by the research and development centers to the endowment fund must be made  
6 by July 1 of each year beginning July 1, 1998, and must continue through July 1, 2017. The contribution  
7 due on July 1, 1998, must be no less than 5% of the pro rata amount received as grants pursuant to  
8 subsection (1) through the end of the preceding fiscal year by each research and development center.  
9 Contributions due each year must increase by 1% from the initial 5% contribution rate. The endowment  
10 fund may receive contributions from other sources. The endowment fund must contain accounts for each  
11 research and development center. Interest earned on each separate account must be retained in that  
12 account.

13 (c) At the end of each fiscal year, the research and development centers may jointly decide to  
14 discontinue participation in the program and shall notify the department that no future grant proposals will  
15 be submitted. The governor shall implement the termination of participation in the program in the budget  
16 submitted to the next regular session of the legislature. If a research and development center does not  
17 make the required annual contribution to the endowment fund, the department may recommend to the  
18 governor that the state's participation in the endowment fund for that research and development center  
19 terminate. The governor shall make the final determination to terminate a research and development  
20 center's participation.

21 (d) If the program terminates in whole or in part pursuant to subsection (1)(c), the deposits from  
22 the coal severance tax permanent fund and the interest on the contributions for each center terminated  
23 from the program revert to the coal severance tax permanent trust fund. The contributions by a research  
24 and development center and interest on the contributions revert to the research and development center.

25 (2) The endowment fund must be invested by the board of investments. Pursuant to subsection  
26 (1), earnings on the endowment fund must be deposited in the research and development special revenue  
27 account for distribution pursuant to [section 2(3)].

28  
29 **NEW SECTION. Section 4. Montana heritage preservation and development commission.** (1)  
30 There is a Montana heritage preservation and development commission. The commission is attached to

1 the Montana historical society for administrative purposes. The commission consists of nine members.  
2 The members shall broadly represent the state. Five members must be appointed by the governor, one  
3 member must be appointed by the president of the senate, and one member must be appointed by the  
4 speaker of the house. The director of the Montana historical society and the director of the department  
5 of fish, wildlife, and parks shall serve as members.

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

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

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

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

11 (d) one member must have broad experience in business; and

12 (e) one member must be a Montana historian.

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

16 (4) The commission may employ an executive director who has general responsibility for the  
17 selection and management of commission staff, developing recommendations for the purchase of property,  
18 and overseeing the management of acquired property. The commission shall prescribe the duties and  
19 annual salary of the executive director.

20

21 **NEW SECTION. Section 5. Purpose.** The purpose of [sections 5 through 7] is to acquire, on behalf  
22 of the state, properties that possess outstanding historical value, display exceptional qualities worth  
23 preserving, are genuinely representative of the state's history and culture, and demonstrate the ability to  
24 become economically self-supporting. The Montana heritage preservation and development commission  
25 shall achieve this purpose by purchasing fee title interests in real property and interests in personal  
26 property.

27

28 **NEW SECTION. Section 6. Powers of commission -- contracts -- rules.** (1) (a) The Montana  
29 heritage preservation and development commission may contract with private organizations to assist in  
30 carrying out the purpose of [section 5]. Notwithstanding the provisions of Title 18, the contracts may be

1 let by direct negotiation. Architectural and engineering review and approval do not apply to the historic  
2 renovation projects. The contracts must provide for the payment of prevailing wages. Management  
3 activities must be undertaken to encourage the profitable operation of properties. A contract for supplies,  
4 services, or both, may be negotiated in accordance with commission rules. The contract may be entered  
5 into directly with a vendor and is not subject to state procurement laws. A contract may be awarded  
6 pursuant to this section only when it is advantageous to the state to use direct negotiation in the  
7 procurement of new or unique requirements or new technologies or to achieve the best net value.  
8 Contracts may include the lease of property managed by the commission. The term of a contract may not  
9 exceed 20 years. Provisions for the renewal of a contract must be contained in the contract.

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

14 (ii) The commission, as part of a contract, shall require that a portion of any profit be reinvested  
15 in the property and that a portion be used to pay commission costs.

16 (c) The commission may solicit funds from other sources. The operations of the commission and  
17 the portion of any contractor's work performed for the commission must be audited by the legislative  
18 auditor at least every biennium.

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

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

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

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

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

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

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

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

1           **NEW SECTION. Section 7. Montana heritage preservation and development account.** There is a  
2 Montana heritage preservation and development account. Proceeds from the operations of heritage  
3 properties acquired pursuant to [sections 5 through 7], contributions, grants, and gifts must be deposited  
4 in the account. The account is available for purchasing heritage properties and for the continuing financial  
5 requirements of the properties. The account is statutorily appropriated as provided in 17-7-502.

6  
7           **NEW SECTION. Section 8. Coal severance tax bonds -- purchase of Virginia City and Nevada City**  
8 **assets.** (1) The board of examiners is authorized to issue \$9.5 million of coal severance tax bonds pursuant  
9 to Title 17, chapter 5, part 7, for historic preservation and development purposes. The bond proceeds must  
10 be deposited in the Montana heritage preservation and development account provided for in [section 7].  
11 The bond proceeds must be used for the acquisition, renovation, and preservation of real and personal  
12 property owned by Bovey restorations inc. and the historic landmark society of Montana in the communities  
13 known as Virginia City and Nevada City and to establish necessary reserves for the bonds and pay the  
14 costs of issuance of the bonds. Bond payments must be made from funds allocated pursuant to 17-7-503.

15           (2) The purchase authorized in subsection (1) may be made as soon as bonds are issued. The  
16 provisions of [section 6] do not apply to the purchase authorized in subsection (1). A portion of the bond  
17 proceeds may be used to construct a facility to preserve the property, and the facility may be constructed  
18 without complying with the provisions of Title 18.

19           (3) The Montana heritage preservation and development commission, created in [section 4], is  
20 authorized to purchase and preserve the real and personal property acquired pursuant to subsection (1).  
21 The commission may deliver the purchase price to an intermediary designated by the seller, in its sole  
22 discretion. In addition, the commission shall comply with the terms of the option agreement entered into  
23 by the state of Montana and the owners of the property. The commission shall cooperate fully with the  
24 seller in executing any documents reasonably necessary to effectuate an exchange of the property and take  
25 other steps necessary to carry out the seller's intent to complete a tax-deferred exchange under section  
26 1031 of the Internal Revenue Code, 26 U.S.C. 1031.

27  
28           **NEW SECTION. Section 9. Montana farm and ranch conservation commission.** (1) There is a  
29 Montana farm and ranch conservation commission. The commission consists of nine members. Seven  
30 members must be appointed by the governor, one member must be appointed by the president of the



1 senate, and one member must be appointed by the speaker of the house. The board is attached to the  
2 governor's office for administrative purposes.

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

4 (a) two members must be operating family farms or ranches and be active in regional or local  
5 agricultural organizations;

6 (b) two members must be representatives of statewide conservation organizations that have been  
7 in operation for at least 10 years and that have in excess of 2,000 dues paying members;

8 (c) one member must represent a regional or statewide land trust that has been in operation for  
9 at least 5 years;

10 (d) one member must be an elected county official; and

11 (e) one member must be an employee or board member of a statewide agricultural organization that  
12 has been in operation for at least 10 years.

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

16  
17 **NEW SECTION. Section 10. Purpose.** The Montana farm and ranch conservation commission shall  
18 make funds available to acquire a permanent interest in land for the purpose of preserving rural landscapes  
19 while preserving working family farms and ranches and protecting lands with high biological and public  
20 values. The commission shall achieve this purpose by:

21 (1) purchasing agriculturally supportive conservation easements; and

22 (2) by making grants available to nonprofit organizations entitled to acquire agriculturally supportive  
23 conservation easements in accordance with the purposes of the commission.

24  
25 **NEW SECTION. Section 11. Commission powers and duties.** (1) The commission may contract  
26 with private nonprofit organizations to assist in carrying out the purpose of [section 10].

27 (2) The commission shall adopt rules that establish a policy for making acquisitions. With respect  
28 to each acquisition, the policy must consider:

29 (a) only family farms and ranches;

30 (b) the threat of the use of the property being converted from traditional viable agriculture use;

1 (c) cooperation among other landowners;

2 (c) positive impacts on long-term agricultural productivity beyond the boundaries of the acquired  
3 property interests;

4 (e) watershed quality and riparian zones;

5 (f) landscape integrity and watershed integrity in the context of water quality and natural resource  
6 protection;

7 (g) habitats for fish and wildlife, including habitats for important, rare, or sensitive species;

8 (h) potential social and economic impacts to affected local governments and the state; and

9 (i) other matters the commission considers necessary or appropriate.

10 (3) The policy may not conflict with standards or the authority delegated to any other agency.

11 (4) The commission shall approve proposals for acquisition and recommend the approved proposal  
12 to the board.

13 (5) The commission may solicit funds from other sources to support the purposes established in  
14 [section 10].

15

16 **NEW SECTION. Section 12. Montana farm and ranch conservation account.** There is a Montana  
17 farm and ranch conservation account in the state special revenue fund. The state treasurer shall deposit  
18 money in the account quarterly from the funds available under 17-5-703. The account is statutorily  
19 appropriated as provided in 17-7-502.

20

21 **Section 13.** Section 2-18-103, MCA, is amended to read:

22 **"2-18-103. Officers and employees excepted.** (1) Parts 1 and 2 do not apply to the following  
23 positions in state government:

24 (a) elected officials;

25 (b) county assessors and their chief ~~deputy~~ deputies;

26 (c) employees of the office of consumer counsel;

27 (c) judges and employees of the judicial branch;

28 (e) members of boards and commissions appointed by the governor, the legislature, or other elected  
29 state officials;

30 (f) officers or members of the militia;

- 1 (g) agency heads appointed by the governor;
- 2 (h) academic and professional administrative personnel with individual contracts under the authority  
3 of the board of regents of higher education;
- 4 (i) academic and professional administrative personnel and live-in houseparents who have entered  
5 into individual contracts with the state school for the deaf and blind under the authority of the state board  
6 of public education;
- 7 (j) teachers under the authority of the department of corrections or the department of public health  
8 and human services;
- 9 (k) the investment officer, assistant investment officer, executive director, and three professional  
10 staff positions of the board of investments;
- 11 (l) four professional staff positions under the board of oil and gas conservation;
- 12 (m) the assistant director for security of the Montana state lottery;
- 13 (n) the executive director and senior investment officer of the Montana board of science and  
14 technology development;
- 15 (o) the executive director and employees of the state compensation insurance fund;
- 16 (p) state racing stewards employed by the executive secretary of the Montana board of  
17 horseracing;
- 18 (q) the executive director of the Montana wheat and barley committee;
- 19 (r) the commissioner of banking and financial institutions; ~~and~~
- 20 (s) the training coordinator for county attorneys; and
- 21 (t) the executive director of the heritage preservation and development commission.
- 22 (2) Employees of an entity of the legislative branch, other than the office of consumer counsel, are  
23 exempt from the application of 2-18-1011 through 2-18-1013. With respect to entities of the legislative  
24 branch, other than the office of consumer counsel:
- 25 (a) as used in parts 1 through 3 of this chapter, references to the "department of administration"  
26 or "department" apply to the legislative council established by 5-11-101, which may delegate administrative  
27 duties to the legislative services division established by 5-11-111;
- 28 (b) as used in 2-18-102, the term "governor" applies to the legislature; and
- 29 (c) as used in 2-18-204, the term "budget director" applies to the "approving authority" as defined  
30 in 17-7-102."

1           **Section 14.** Section 17-5-703, MCA, is amended to read:

2           "**17-5-703. Coal severance tax trust funds.** (1) The trust established under Article IX, section 5,  
3 of the Montana constitution is composed of the following funds:

4           (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
5 severance tax must be deposited;

6           (b) a treasure state endowment fund;

7           (c) a coal severance tax permanent fund;

8           (d) a coal severance tax income fund; ~~and~~

9           (e) a coal severance tax school bond contingency loan fund; and

10          (f) a research and development endowment fund.

11          (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet  
12 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next  
13 12 months and retain that amount in the coal severance tax bond fund.

14          (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
15 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

16          (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by  
17 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in  
18 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond  
19 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is  
20 specified in subsection (2) to be retained in the fund.

21          (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless  
22 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as  
23 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next  
24 following 12 months.

25          (4) ~~(a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly~~  
26 ~~transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in~~  
27 ~~excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts~~  
28 ~~that are transferred pursuant to subsection (3).~~

29          ~~(b)~~ The state treasurer shall monthly transfer from the treasure state endowment fund to the  
30 treasure state endowment special revenue account the amount of earnings required to meet the obligations

1 of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to  
 2 the treasure state endowment special revenue account must be retained in the treasure state endowment  
 3 fund.

4 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
 5 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
 6 deposited ~~in the coal severance tax permanent fund~~ quarterly as follows:

7 (a) if the amount of debt service on coal severance tax bonds issued for historic preservation  
 8 projects is less than \$1 million, then the difference between \$1 million and the amount of debt service to  
 9 the Montana heritage preservation and development account provided for in [section 7];

10 (b) beginning July 1, 1997, and ending June 30, 1998, \$625,000 and beginning on July 1, 1998,  
 11 and ending June 30, 2017, \$750,000 to the superintendent of public instruction for the school facilities  
 12 entitlement program provided for in 20-9-370 and 20-9-371;

13 (c) all remaining amounts must be distributed as follows:

14 (i) 56.25% to the treasure state endowment state special revenue account;

15 (ii) 18.75% to the research and development account provided for in [section 2] for allocation  
 16 pursuant to 90-3-501, 90-3-502, 90-3-505, and 90-3-506;

17 (iii) 6.25% to the research and development endowment fund provided for in [section 3];

18 (iv) 12.5% to the farm and ranch conservation special revenue account provided for in [section 12];

19 and

20 (v) 6.25% to the technology acquisition fund provided for in 20-9-533 and 20-9-534.

21 (6) There is statutorily appropriated, as provided in 17-7-502, from the coal severance tax  
 22 permanent fund, the amount of annual deposits to the coal severance tax permanent fund for the purposes  
 23 of subsection (5)."

24

25 **Section 15.** Section 17-5-706, MCA, is amended to read:

26 "17-5-706. **Authority to issue coal severance tax bonds.** The board of examiners, upon approval  
 27 of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance approved  
 28 renewable resource and historic preservation projects when authorized to do so by any law that sets out  
 29 the amount and purpose of the issue. Each project must be separately approved as to amount by a  
 30 two-thirds vote of each house of the legislature."

1           **Section 16.** Section 17-7-502, MCA, is amended to read:

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency  
4 without the need for a biennial legislative appropriation or budget amendment.

5           (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply  
6 with both of the following provisions:

7           (a) The law containing the statutory authority must be listed in subsection (3).

8           (b) The law or portion of the law making a statutory appropriation must specifically state that a  
9 statutory appropriation is made as provided in this section.

10           (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;  
11 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;  
12 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
13 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-703; 17-5-804; 17-6-101; 17-6-201;  
14 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606;  
15 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; [section 2]; 20-26-1503; [section 7];  
16 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537;  
17 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102;  
18 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101;  
19 75-5-1108; 75-6-214; 75-11-313; 76-12-123; [section 12]; 80-2-103; 80-2-222; 80-4-416; 81-5-111;  
20 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and  
21 90-9-306.

22           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
26 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the  
27 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.  
28 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
29 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates  
30 July 1, 2001.)"

1           **NEW SECTION. Section 17. Montana heritage preservation and development commission -- initial**  
2 **appointments.** The initial appointments to the commission must be for the following terms:

- 3           (1) the member with experience managing facilities that cater to the needs of tourists, 3 years;  
4           (2) the member with experience in community planning, 4 years;  
5           (3) the member with experience in historic preservation, 5 years;  
6           (4) the member with broad experience in business, 3 years;  
7           (5) the Montana historian, 5 years; and  
8           (6) the legislative appointments, 2 years.

9  
10           **NEW SECTION. Section 18. Montana farm and ranch conservation commission -- initial**  
11 **appointments.** The initial appointments to the commission must be for the following terms:

- 12           (1) of the two members who operate family farms or ranches, one member for 5 years and one  
13 member for 3 years;  
14           (2) of the two members who represent conservation organizations, one member for 3 years and  
15 one member for 4 years;  
16           (3) the member representing a regional or statewide land trust, 4 years;  
17           (4) the elected county official, 3 years;  
18           (5) the employee or board member of a statewide agricultural organization, 5 years; and  
19           (6) the legislative appointments, 2 years.

20  
21           **NEW SECTION. Section 19. Codification instructions.** (1) [Sections 1 through 3] are intended to  
22 be codified as an integral part of Title 20, chapter 25, part 4, and the provisions of Title 20, chapter 25,  
23 part 4, apply to [sections 1 through 3].

24           (2) [Sections 4 through 7] are intended to be codified as an integral part of Title 22, chapter 3, and  
25 the provisions of Title 22, chapter 3, apply to [sections 4 through 7].

26           (3) [Sections 10 through 12] are intended to be codified as an integral part of Title 77, chapter 2,  
27 and the provisions of Title 77, chapter 2, apply to [sections 10 through 12].

28           (4) [Section 9] is intended to be codified as an integral part of Title 2, chapter 15, part 2, and the  
29 provisions of Title 2, chapter 15, part 2, apply to [section 9].  
30

1            NEW SECTION. **Section 20. Two-thirds vote.** Because this bill authorizes the creation of state  
2 debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of  
3 each house of the legislature for passage.

4

5            NEW SECTION. **Section 21. Three-fourths vote required.** Because this bill statutorily appropriates  
6 money from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires  
7 a vote of three-fourths of the members of each house of the legislature for passage.

8

9            NEW SECTION. **Section 22. Effective date.** [This act] is effective July 1, 1997.

10

-END-



STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB 585 as introduced

DESCRIPTION OF PROPOSED LEGISLATION: A act providing for the use of money in the coal severance tax permanent fund to stimulate economic prosperity in Montana through community infrastructure development, research and development, public school construction and technology acquisition, historic preservation, and land stewardship. Establishes a research and development special revenue account and endowment fund; and a research and development endowment fund in the coal severance tax trust fund. Creates a Montana Heritage preservation and development commission and authorizes the issuance of coal severance tax bonds to finance historic preservation projects. Creates a Montana farm and ranch conservation commission.

ASSUMPTIONS:

1. Under current law, \$9,708,000 in FY 98 and \$9,556,000 in FY 99 will be deposited in the coal severance tax permanent trust. Like amounts will be deposited in the treasure state endowment fund (HJR 2).
2. Amounts allocated to the new accounts created by the proposal are statutorily appropriated. Hence, no additional appropriation authority is required and the expenditure of these funds are not shown below. Expenditures are assumed to equal available revenues.
3. Bonds totalling \$9.5 million will be issued in July, 1997. Debt service and issuance costs are assumed to be \$853,000 in FY 98 and \$787,000 in FY 99. These amounts are assumed to be retained in the coal severance tax bond fund. These amounts will be deducted from the \$1 million per quarter transfer to the historic preservation account (see technical note).
3. The historic preservation and development commission will purchase Virginia City and Nevada City for \$6.5 million. The remaining proceeds from the bond sale will be used for: Renovation and restoration at \$2,000,000; Provide an artifact storage and a curator building at \$500,000; and an endowment fund at \$430,000.
4. All research and development funds will be granted to the university system each year and the required contributions to the endowment fund will be made from current restricted funds.
5. Matching research and development university system funds are ignored in the fiscal note because they are non-appropriated current restricted funds.

FISCAL IMPACT:

<u>Revenues:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<b>Trust Funds:</b>		
Coal Severance Tax Bond Fund	853,000	787,000
Coal Severance Permanent Trust	(9,708,000)	(9,556,000)
Treasure State Endowment Fund	(9,708,000)	(9,556,000)
Research & Dev Endowment Fund	952,000	989,000
<b>Other Accounts:</b>		
General Fund	(236,000)	(1,007,000)
Treasure State Endowment SSR	7,029,000	5,806,000
Historic Preservation SSR	3,147,000	3,213,000
School Facility Entitlement SSR	2,500,000	3,000,000
Research & Development SSR	2,422,000	2,271,000
Farm & Rance Conservation SSR	1,615,000	1,514,000
Technology Acquisition (K-12)	807,000	757,000

(Continued)

*Dave Lewis 2-25-97*  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

KARL OHS, PRIMARY SPONSOR      DATE

Fiscal Note for HB0585, as introduced  
**HB 585**

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The general fund impact of the proposal will compound through time due to the diversion of deposits to the permanent trust. General fund losses increase by approximately \$2.7 million per biennium.

TECHNICAL NOTES:

1. Section 8(1) references 17-7-503, MCA in error. The correct reference is 17-5-703, MCA.
2. Section 2 statutorily appropriates the "interest and earnings" from the research and development account. It is assumed all "deposits" to the account are intended to be statutorily appropriated.
3. The bill does not provide an administering agency for the Montana heritage preservation and development account.
4. Section 14 provides for **quarterly** deposits of up to \$1 million to the heritage preservation account. Was this intended to be an annual amount rather than quarterly?

## 1 HOUSE BILL NO. 585

2 INTRODUCED BY OHS, QUILICI, PAVLOVICH, DENNY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF MONEY IN THE COAL  
5 SEVERANCE TAX PERMANENT FUND TO STIMULATE ECONOMIC PROSPERITY IN MONTANA THROUGH  
6 COMMUNITY INFRASTRUCTURE DEVELOPMENT, RESEARCH AND DEVELOPMENT, PUBLIC SCHOOL  
7 CONSTRUCTION AND TECHNOLOGY ACQUISITION, AND HISTORIC PRESERVATION, ~~AND LAND~~  
8 ~~STEWARDSHIP~~; APPROPRIATING COAL SEVERANCE TAX FUNDS TO THE TREASURE STATE  
9 ENDOWMENT PROGRAM; ESTABLISHING A RESEARCH AND DEVELOPMENT SPECIAL REVENUE  
10 ACCOUNT AND ENDOWMENT FUND; ESTABLISHING A RESEARCH AND DEVELOPMENT ENDOWMENT  
11 FUND IN THE COAL SEVERANCE TAX TRUST FUND; APPROPRIATING COAL SEVERANCE TAXES FOR  
12 RESEARCH AND DEVELOPMENT; APPROPRIATING COAL SEVERANCE TAX FUNDS FOR SCHOOL  
13 FACILITIES AND TECHNOLOGY ACQUISITION; CREATING A MONTANA HERITAGE PRESERVATION AND  
14 DEVELOPMENT COMMISSION; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS TO  
15 FINANCE HISTORIC PRESERVATION PROJECTS; ~~CREATING A MONTANA FARM AND RANCH~~  
16 ~~CONSERVATION COMMISSION; APPROPRIATING COAL SEVERANCE TAX FUNDS TO THE FARM AND~~  
17 ~~RANCH CONSERVATION PROGRAM~~; AMENDING SECTIONS 2-18-103, 17-5-703, 17-5-706, AND  
18 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

19  
20 STATEMENT OF INTENT

21 A statement of intent is required for this bill because it delegates rulemaking authority to ~~various~~  
22 ~~entities~~ A NEW ENTITY. The Montana heritage preservation and development commission is authorized  
23 to adopt rules establishing policies for the acquisition, maintenance, and management of properties. It is  
24 the intent of this bill to provide a means for the commission to acquire, on behalf of the state, properties  
25 that possess outstanding historical value, display exceptional qualities worth preserving, are genuinely  
26 representative of the state's history and culture, and demonstrate an ability to become economically  
27 self-supporting. The rules should address policy considerations for making acquisitions as well as  
28 procedures for determining whether proposed properties will be acquired. The rules must limit acquisitions  
29 to those that preserve the state's history and culture and that demonstrate the ability to be managed in a  
30 way that makes them economically independent from future state support.

~~The Montana farm and ranch conservation commission is also authorized to adopt rules establishing policies for acquisitions. It is the intent of this bill to provide a means for the commission to acquire, from willing sellers, a permanent interest in land for the purpose of preserving rural landscapes, while providing for the continued working of family farms and ranches and maintaining biological and public values. The rules must provide for a determination as to whether, consistent with agricultural viability and biological integrity, limited residential development sites may be retained by the seller. The interests may typically be acquired, on behalf of the state, by the purchase of agriculturally supportive conservation easements. Rules must establish procedures for proposed acquisitions. The rules may provide for grants to nonprofit organizations entitled to acquire agriculturally supportive conservation easements that support the purposes of the program. The rules must give priority to acquisitions that preserve family farms and ranches that are involved in viable traditional agricultural activities that are threatened. The rules must provide for continuation of the property in an economically productive capacity, protection of landscapes, protection of property with significant biological and public values, and consideration of impacts on adjacent public or private land.~~

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

**NEW SECTION.** **Section 1. Purpose -- definitions.** (1) The purpose of the research and development special revenue account established in [section 2] and the endowment fund established in 17-5-703 is to provide a predictable, long-term source of funding for research and development projects to be conducted by research and development centers located in Montana. The state is encouraging a diversified, technology-based economic sector. The investment in research and development projects will assist in diversifying Montana's economy, provide employment opportunities for future generations, and enhance educational opportunities for Montanans.

(2) As used in [sections 2 and 3] and this section, the following definitions apply:

(a) "Department" means the department of commerce provided for in 2-15-1801.

(b) "Program" means the research and development and endowment program provided for in [sections 2 and 3].

(c) "Research and development center" means the university of Montana or Montana state university.

1           **NEW SECTION. Section 2. Research and development account -- use.** (1) There is a research and  
2 development special revenue account. If the program is ended pursuant to [section 3(1)(c)], the balance  
3 in the account reverts to the coal severance tax permanent fund. The interest income and earnings on the  
4 account are statutorily appropriated, as provided in 17-7-502, to the department for the purposes provided  
5 in [section 1] and this section.

6           (2) The establishment of the research and development special revenue account in this section and  
7 the endowment fund in 17-5-703 and the pledge and appropriation of funds from the coal severance tax  
8 permanent trust fund constitute a valid and binding obligation of the state to provide the money for a period  
9 of 20 years, provided that both research and development centers enter into contracts with the state,  
10 agreeing to undertake research and redevelopment projects and to make contributions to the endowment  
11 fund as required in [sections 1 through 3]. If the program ends prior to the end of the 20-year contract  
12 because of events described in [section 3(1)(c)], the state's obligation to appropriate money to the research  
13 and development special revenue account and the endowment fund ends, money in the account reverts  
14 to the coal severance tax permanent fund, and money in the fund reverts pursuant to [section 3(1)(d)].

15           (3) The research and development special revenue account may be used only for matching funds  
16 for grants from nonstate sources for research and development projects to be conducted at research and  
17 development centers located in Montana.

18           (4) The department shall make grants upon a determination that the proposed project meets the  
19 following goals:

20           (a) to significantly upgrade existing research capabilities within the state's research and  
21 development centers;

22           (b) to provide financial support to individual research projects that have significant potential to:

23           (i) advance technology development in the state; or

24           (ii) be readily commercialized upon completion of the research phase;

25           (c) to facilitate the process of transferring research from the laboratory to the commercial  
26 marketplace; or

27           (d) to enhance the competitiveness of Montana's small and medium-sized firms in the national and  
28 international markets by stimulating the productivity and modernization of the firms.

29           (5) The goals in subsection (4) may be accomplished by:

30           (a) supporting the advanced technology centers of excellence program that will institutionalize

1 cooperative arrangements between the public sector and the private sector and significantly build on  
2 existing research and development capabilities;

3 (b) providing financial support for individual research and development projects that are at a  
4 preprototype or early stage but that hold significant potential for future commercial success;

5 (c) providing financial support for the development of advanced research capabilities within the  
6 state's university system through the acquisition of facilities, equipment, or personnel and for the  
7 development of a university-based technology transfer program; or

8 (d) fostering competitiveness, productivity, and modernization of Montana firms, farms, ranches,  
9 mills, and mines.

10 (6) The department shall make grants based upon a determination that the proposed project  
11 complies with the goals established in subsection (4) and the following criteria:

12 (a) the project has the potential to diversify or add value to a basic industry of the state's economy;

13 (b) the project demonstrates a clear path to commercial development of the research results within  
14 the state;

15 (c) the project involves university system research participation whenever practical;

16 (d) the project employs or otherwise takes advantage of existing research and development  
17 strengths within the state's university and private research establishments;

18 (e) the project involves a realistic and achievable research project design;

19 (f) the project develops or employs an innovative technology;

20 (g) the project activity is located within the state; and

21 (h) the project's research team possesses sufficient expertise in the appropriate technology area  
22 to complete the research objectives of the project.

23 (7) The department shall direct the state treasurer to distribute funds for approved proposals to the  
24 research and development center for administration of the grant project.

25  
26 **NEW SECTION. Section 3. Endowment fund -- accounts -- uses.** (1) (a) There is within the coal  
27 severance tax trust fund a research and development endowment fund. The purpose of the endowment  
28 fund is to establish, by July 1, 2017, a permanent source of funding for research and development projects.  
29 The endowment fund must accept contributions as described in subsection (1)(b) and contributions from  
30 other sources. Interest earned on the endowment principal must be retained in the endowment fund until

1 June 30, 2017, or until an earlier time that may occur pursuant to subsection (1)(c). Beginning July 1,  
2 2017, interest earned on the endowment fund must be deposited in the research and development special  
3 revenue account and must be available to provide grants to research and development centers as provided  
4 in [section 2].

5 (b) Contributions by the research and development centers to the endowment fund must be made  
6 by July 1 of each year beginning July 1, 1998, and must continue through July 1, 2017. The contribution  
7 due on July 1, 1998, must be no less than 5% of the pro rata amount received as grants pursuant to  
8 subsection (1) through the end of the preceding fiscal year by each research and development center.  
9 Contributions due each year must increase by 1% from the initial 5% contribution rate. The endowment  
10 fund may receive contributions from other sources. The endowment fund must contain accounts for each  
11 research and development center. Interest earned on each separate account must be retained in that  
12 account.

13 (c) At the end of each fiscal year, the research and development centers may jointly decide to  
14 discontinue participation in the program and shall notify the department that no future grant proposals will  
15 be submitted. The governor shall implement the termination of participation in the program in the budget  
16 submitted to the next regular session of the legislature. If a research and development center does not  
17 make the required annual contribution to the endowment fund, the department may recommend to the  
18 governor that the state's participation in the endowment fund for that research and development center  
19 terminate. The governor shall make the final determination to terminate a research and development  
20 center's participation.

21 (d) If the program terminates in whole or in part pursuant to subsection (1)(c), the deposits from  
22 the coal severance tax permanent fund and the interest on the contributions for each center terminated  
23 from the program revert to the coal severance tax permanent trust fund. The contributions by a research  
24 and development center and interest on the contributions revert to the research and development center.

25 (2) The endowment fund must be invested by the board of investments. Pursuant to subsection  
26 (1), earnings on the endowment fund must be deposited in the research and development special revenue  
27 account for distribution pursuant to [section 2(3)].

28

29 **NEW SECTION. Section 4. Montana heritage preservation and development commission.** (1)  
30 There is a Montana heritage preservation and development commission. The commission is attached to

1 the Montana historical society for administrative purposes. The commission consists of nine members.  
 2 The members shall broadly represent the state. Five members must be appointed by the governor, one  
 3 member must be appointed by the president of the senate, and one member must be appointed by the  
 4 speaker of the house. The director of the Montana historical society and the director of the department  
 5 of fish, wildlife, and parks shall serve as members.

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

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

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

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

11 (d) one member must have broad experience in business; and

12 (e) one member must be a Montana historian.

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

16 (4) The commission may employ an executive director who has general responsibility for the  
 17 selection and management of commission staff, developing recommendations for the purchase of property,  
 18 and overseeing the management of acquired property. The commission shall prescribe the duties and  
 19 annual salary of the executive director.

20

21 **NEW SECTION. Section 5. Purpose.** The purpose of [sections 5 through 7] is to acquire, on behalf  
 22 of the state, properties that possess outstanding historical value, display exceptional qualities worth  
 23 preserving, are genuinely representative of the state's history and culture, and demonstrate the ability to  
 24 become economically self-supporting. The Montana heritage preservation and development commission  
 25 shall achieve this purpose by purchasing fee title interests in real property and interests in personal property  
 26 **WITH PROCEEDS FROM THE HERITAGE PRESERVATION AND DEVELOPMENT ACCOUNT.**

27

28 **NEW SECTION. Section 6. Powers of commission -- contracts -- rules.** (1) (a) The Montana  
 29 heritage preservation and development commission may contract with private organizations to assist in  
 30 carrying out the purpose of [section 5]. Notwithstanding the provisions of Title 18, the contracts may be



1 let by direct negotiation. Architectural and engineering review and approval do not apply to the historic  
2 renovation projects. The contracts must provide for the payment of prevailing wages. Management  
3 activities must be undertaken to encourage the profitable operation of properties. A contract for supplies,  
4 services, or both, may be negotiated in accordance with commission rules. The contract may be entered  
5 into directly with a vendor and is not subject to state procurement laws. A contract may be awarded  
6 pursuant to this section only when it is advantageous to the state to use direct negotiation in the  
7 procurement of new or unique requirements or new technologies or to achieve the best net value.  
8 Contracts may include the lease of property managed by the commission. The term of a contract may not  
9 exceed 20 years. Provisions for the renewal of a contract must be contained in the contract.

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

14 (ii) The commission, as part of a contract, shall require that a portion of any profit be reinvested  
15 in the property and that a portion be used to pay commission costs.

16 (c) The commission may solicit funds from other sources. The operations of the commission and  
17 the portion of any contractor's work performed for the commission must be audited by the legislative  
18 auditor at least every biennium.

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

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

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

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

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

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

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

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

1           **NEW SECTION. Section 7. Montana heritage preservation and development account.** There is a  
 2 Montana heritage preservation and development account. Proceeds from the operations of heritage  
 3 properties acquired pursuant to [sections 5 through 7], contributions, grants, and gifts must be deposited  
 4 in the account. The account is available for purchasing heritage properties and for the continuing financial  
 5 requirements of the properties. The account is statutorily appropriated as provided in 17-7-502.

6  
 7           **NEW SECTION. Section 8. Coal severance tax bonds -- purchase of Virginia City and Nevada City**  
 8 **assets.** (1) The board of examiners is authorized to issue \$9.5 million of coal severance tax bonds pursuant  
 9 to Title 17, chapter 5, part 7, for historic preservation and development purposes. The bond proceeds must  
 10 be deposited in the Montana heritage preservation and development account provided for in [section 7].  
 11 The bond proceeds must be used for the acquisition, renovation, and preservation of real and personal  
 12 property owned by Bovey restorations inc. and the historic landmark society of Montana in the communities  
 13 known as Virginia City and Nevada City and to establish necessary reserves for the bonds and pay the  
 14 costs of issuance of the bonds. Bond payments must be made from funds allocated pursuant to ~~17-7-503~~  
 15 17-5-703.

16           (2) The purchase authorized in subsection (1) may be made as soon as bonds are issued. The  
 17 provisions of [section 6] do not apply to the purchase authorized in subsection (1). A portion of the bond  
 18 proceeds may be used to construct a facility to preserve the property, and the facility may be constructed  
 19 without complying with the provisions of Title 18.

20           (3) The Montana heritage preservation and development commission, created in [section 4], is  
 21 authorized to purchase and preserve the real and personal property acquired pursuant to subsection (1).  
 22 The commission may deliver the purchase price to an intermediary designated by the seller, in its sole  
 23 discretion. In addition, the commission shall comply with the terms of the option agreement entered into  
 24 by the state of Montana and the owners of the property. The commission shall cooperate fully with the  
 25 seller in executing any documents reasonably necessary to effectuate an exchange of the property and take  
 26 other steps necessary to carry out the seller's intent to complete a tax-deferred exchange under section  
 27 1031 of the Internal Revenue Code, 26 U.S.C. 1031.

28  
 29           ~~**NEW SECTION. Section 9. Montana farm and ranch conservation commission.** (1) There is a~~  
 30 ~~Montana farm and ranch conservation commission. The commission consists of nine members. Seven~~

1 ~~members must be appointed by the governor, one member must be appointed by the president of the~~  
2 ~~senate, and one member must be appointed by the speaker of the house. The board is attached to the~~  
3 ~~governor's office for administrative purposes.~~

4 ~~(2) Of the members appointed by the governor:~~

5 ~~(a) two members must be operating family farms or ranches and be active in regional or local~~  
6 ~~agricultural organizations;~~

7 ~~(b) two members must be representatives of statewide conservation organizations that have been~~  
8 ~~in operation for at least 10 years and that have in excess of 2,000 dues-paying members;~~

9 ~~(c) one member must represent a regional or statewide land trust that has been in operation for~~  
10 ~~at least 5 years;~~

11 ~~(d) one member must be an elected county official; and~~

12 ~~(e) one member must be an employee or board member of a statewide agricultural organization that~~  
13 ~~has been in operation for at least 10 years.~~

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

17  
18 ~~**NEW SECTION. Section 10. Purpose.** The Montana farm and ranch conservation commission shall~~  
19 ~~make funds available to acquire a permanent interest in land for the purpose of preserving rural landscapes~~  
20 ~~while preserving working family farms and ranches and protecting lands with high biological and public~~  
21 ~~values. The commission shall achieve this purpose by:~~

22 ~~(1) purchasing agriculturally supportive conservation easements; and~~

23 ~~(2) by making grants available to nonprofit organizations entitled to acquire agriculturally supportive~~  
24 ~~conservation easements in accordance with the purposes of the commission.~~

25  
26 ~~**NEW SECTION. Section 11. Commission powers and duties.** (1) The commission may contract~~  
27 ~~with private nonprofit organizations to assist in carrying out the purpose of [section 10].~~

28 ~~(2) The commission shall adopt rules that establish a policy for making acquisitions. With respect~~  
29 ~~to each acquisition, the policy must consider:~~

30 ~~(a) only family farms and ranches;~~

1 ~~(b) the threat of the use of the property being converted from traditional viable agriculture use;~~

2 ~~(c) cooperation among other landowners;~~

3 ~~(d) positive impacts on long term agricultural productivity beyond the boundaries of the acquired~~  
4 ~~property interests;~~

5 ~~(e) watershed quality and riparian zones;~~

6 ~~(f) landscape integrity and watershed integrity in the context of water quality and natural resource~~  
7 ~~protection;~~

8 ~~(g) habitats for fish and wildlife, including habitats for important, rare, or sensitive species;~~

9 ~~(h) potential social and economic impacts to affected local governments and the state; and~~

10 ~~(i) other matters the commission considers necessary or appropriate.~~

11 ~~(3) The policy may not conflict with standards or the authority delegated to any other agency.~~

12 ~~(4) The commission shall approve proposals for acquisition and recommend the approved proposal~~  
13 ~~to the board.~~

14 ~~(5) The commission may solicit funds from other sources to support the purposes established in~~  
15 ~~[section 10].~~

16  
17 ~~NEW SECTION. Section 12. Montana farm and ranch conservation account. There is a Montana~~  
18 ~~farm and ranch conservation account in the state special revenue fund. The state treasurer shall deposit~~  
19 ~~money in the account quarterly from the funds available under 17-5-703. The account is statutorily~~  
20 ~~appropriated as provided in 17-7-502.~~

21  
22 **Section 9.** Section 2-18-103, MCA, is amended to read:

23 **"2-18-103. Officers and employees excepted.** (1) Parts 1 and 2 do not apply to the following  
24 positions in state government:

25 (a) elected officials;

26 (b) county assessors and their chief ~~deputy~~ deputies;

27 (c) employees of the office of consumer counsel;

28 (d) judges and employees of the judicial branch;

29 (e) members of boards and commissions appointed by the governor, the legislature, or other elected  
30 state officials;

- 1 (f) officers or members of the militia;
- 2 (g) agency heads appointed by the governor;
- 3 (h) academic and professional administrative personnel with individual contracts under the authority  
4 of the board of regents of higher education;
- 5 (i) academic and professional administrative personnel and live-in houseparents who have entered  
6 into individual contracts with the state school for the deaf and blind under the authority of the state board  
7 of public education;
- 8 (j) teachers under the authority of the department of corrections or the department of public health  
9 and human services;
- 10 (k) the investment officer, assistant investment officer, executive director, and three professional  
11 staff positions of the board of investments;
- 12 (l) four professional staff positions under the board of oil and gas conservation;
- 13 (m) the assistant director for security of the Montana state lottery;
- 14 (n) the executive director and senior investment officer of the Montana board of science and  
15 technology development;
- 16 (o) the executive director and employees of the state compensation insurance fund;
- 17 (p) state racing stewards employed by the executive secretary of the Montana board of  
18 horseracing;
- 19 (q) the executive director of the Montana wheat and barley committee;
- 20 (r) the commissioner of banking and financial institutions; ~~and~~
- 21 (s) the training coordinator for county attorneys; and
- 22 the executive director of the heritage preservation and development commission.
- 23 (2) Employees of an entity of the legislative branch, other than the office of consumer counsel, are  
24 exempt from the application of 2-18-1011 through 2-18-1013. With respect to entities of the legislative  
25 branch, other than the office of consumer counsel:
- 26 (a) as used in parts 1 through 3 of this chapter, references to the "department of administration"  
27 or "department" apply to the legislative council established by 5-11-101, which may delegate administrative  
28 duties to the legislative services division established by 5-11-111;
- 29 (b) as used in 2-18-102, the term "governor" applies to the legislature; and
- 30 (c) as used in 2-18-204, the term "budget director" applies to the "approving authority" as defined

1 in 17-7-102."

2

3 **Section 10.** Section 17-5-703, MCA, is amended to read:

4 **"17-5-703. Coal severance tax trust funds.** (1) The trust established under Article IX, section 5,  
5 of the Montana constitution is composed of the following funds:

6 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
7 severance tax must be deposited;

8 (b) a treasure state endowment fund;

9 (c) a coal severance tax permanent fund;

10 (d) a coal severance tax income fund; ~~and~~

11 (e) a coal severance tax school bond contingency loan fund; and

12 (f) a research and development endowment fund.

13 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet  
14 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next  
15 12 months and retain that amount in the coal severance tax bond fund.

16 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
17 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

18 (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by  
19 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in  
20 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond  
21 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is  
22 specified in subsection (2) to be retained in the fund.

23 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless  
24 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as  
25 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next  
26 following 12 months.

27 (4) ~~(a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly  
28 transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in  
29 excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts  
30 that are transferred pursuant to subsection (3).~~

1           ~~(b)~~ The state treasurer shall monthly transfer from the treasure state endowment fund to the  
2 treasure state endowment special revenue account the amount of earnings required to meet the obligations  
3 of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to  
4 the treasure state endowment special revenue account must be retained in the treasure state endowment  
5 fund.

6           (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
7 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
8 deposited ~~in the coal severance tax permanent fund~~ quarterly as follows:

9           (a) if the amount of debt service on coal severance tax bonds issued for historic preservation  
10 projects is less than \$1 million PER YEAR, then ONE-FOURTH OF the difference between \$1 million and  
11 the amount of debt service to the Montana heritage preservation and development account provided for  
12 in [section 7];

13           (b) beginning July 1, 1997, and ending June 30, 1998, \$625,000 and beginning on July 1, 1998,  
14 and ending June 30, 2017, \$750,000 to the superintendent of public instruction for the school facilities  
15 entitlement program provided for in 20-9-370 and 20-9-371;

16           (c) all remaining amounts must be distributed as follows:

17           (i) 56.25% to the treasure state endowment state special revenue account;

18           (ii) 18.75% to the research and development account provided for in [section 2] for allocation  
19 pursuant to 90-3-501, 90-3-502, 90-3-505, and 90-3-506;

20           (iii) 6.25% to the research and development endowment fund provided for in [section 3];

21           (iv) 12.5% to the ~~farm and ranch conservation special revenue account provided for in [section 12];~~

22 COAL SEVERANCE TAX PERMANENT FUND PROVIDED FOR IN 17-5-703(1)(C); and

23           (v) 6.25% to the technology acquisition fund provided for in 20-9-533 and 20-9-534.

24           (6) There is statutorily appropriated, as provided in 17-7-502, from the coal severance tax  
25 permanent fund, the amount of annual deposits to the coal severance tax permanent fund for the purposes  
26 of subsection SUBSECTIONS (5)(A), (5)(B), (5)(C)(I) THROUGH (5)(C)(III), AND (5)(C)(V)."

27  
28           **Section 11.** Section 17-5-706, MCA, is amended to read:

29           "**17-5-706. Authority to issue coal severance tax bonds.** The board of examiners, upon approval  
30 of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance approved

1 renewable resource and historic preservation projects when authorized to do so by any law that sets out  
 2 the amount and purpose of the issue. Each project must be separately approved as to amount by a  
 3 two-thirds vote of each house of the legislature."  
 4

5 **Section 12.** Section 17-7-502, MCA, is amended to read:

6 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
 7 appropriation is an appropriation made by permanent law that authorizes spending by a state agency  
 8 without the need for a biennial legislative appropriation or budget amendment.

9 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply  
 10 with both of the following provisions:

11 (a) The law containing the statutory authority must be listed in subsection (3).

12 (b) The law or portion of the law making a statutory appropriation must specifically state that a  
 13 statutory appropriation is made as provided in this section.

14 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;  
 15 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;  
 16 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
 17 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-703; 17-5-804; 17-6-101; 17-6-201;  
 18 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606;  
 19 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; [section 2]; 20-26-1503; [section 7];  
 20 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537;  
 21 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102;  
 22 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101;  
 23 75-5-1108; 75-6-214; 75-11-313; 76-12-123; ~~section 12~~; 80-2-103; 80-2-222; 80-4-416; 81-5-111;  
 24 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and  
 25 90-9-306.

26 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
 27 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
 28 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
 29 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
 30 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the



1 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.  
 2 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
 3 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates  
 4 July 1, 2001.)"

5  
 6 **NEW SECTION. Section 13. Montana heritage preservation and development commission -- initial**  
 7 **appointments.** The initial appointments to the commission must be for the following terms:

- 8 (1) the member with experience managing facilities that cater to the needs of tourists, 3 years;
- 9 (2) the member with experience in community planning, 4 years;
- 10 (3) the member with experience in historic preservation, 5 years;
- 11 (4) the member with broad experience in business, 3 years;
- 12 (5) the Montana historian, 5 years; and
- 13 (6) the legislative appointments, 2 years.

14  
 15 **NEW SECTION. ~~Section 18. Montana farm and ranch conservation commission -- initial~~**  
 16 **~~appointments.~~** ~~The initial appointments to the commission must be for the following terms:~~

- 17 ~~(1) of the two members who operate family farms or ranches, one member for 5 years and one~~  
 18 ~~member for 3 years;~~
- 19 ~~(2) of the two members who represent conservation organizations, one member for 3 years and~~  
 20 ~~one member for 4 years;~~
- 21 ~~(3) the member representing a regional or statewide land trust, 4 years;~~
- 22 ~~(4) the elected county official, 3 years;~~
- 23 ~~(5) the employee or board member of a statewide agricultural organization, 5 years; and~~
- 24 ~~(6) the legislative appointments, 2 years.~~

25  
 26 **NEW SECTION. Section 14. Codification instructions.** (1) [Sections 1 through 3] are intended to  
 27 be codified as an integral part of Title 20, chapter 25, part 4, and the provisions of Title 20, chapter 25,  
 28 part 4, apply to [sections 1 through 3].

29 (2) [Sections 4 through 7] are intended to be codified as an integral part of Title 22, chapter 3, and  
 30 the provisions of Title 22, chapter 3, apply to [sections 4 through 7].

1           ~~(3) [Sections 10 through 12] are intended to be codified as an integral part of Title 77, chapter 2,~~  
2           ~~and the provisions of Title 77, chapter 2, apply to [sections 10 through 12].~~

3           ~~(4) [Section 9] is intended to be codified as an integral part of Title 2, chapter 15, part 2, and the~~  
4           ~~provisions of Title 2, chapter 15, part 2, apply to [section 9].~~

5

6           **NEW SECTION. Section 15. Two-thirds vote.** Because this bill authorizes the creation of state  
7           debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of  
8           each house of the legislature for passage.

9

10           **NEW SECTION. Section 16. Three-fourths vote required.** Because this bill statutorily appropriates  
11           money from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires  
12           a vote of three-fourths of the members of each house of the legislature for passage.

13

14           **NEW SECTION. Section 17. Effective date.** [This act] is effective July 1, 1997.

15

-END-

## 1 HOUSE BILL NO. 585

2 INTRODUCED BY OHS, QUILICI, PAVLOVICH, DENNY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF MONEY IN THE COAL  
5 SEVERANCE TAX PERMANENT FUND TO STIMULATE ECONOMIC PROSPERITY IN MONTANA THROUGH  
6 COMMUNITY INFRASTRUCTURE DEVELOPMENT, RESEARCH AND DEVELOPMENT, PUBLIC SCHOOL  
7 CONSTRUCTION AND TECHNOLOGY ACQUISITION, AND HISTORIC PRESERVATION, ~~AND LAND~~  
8 ~~STEWARDSHIP~~; APPROPRIATING COAL SEVERANCE TAX FUNDS TO THE TREASURE STATE  
9 ENDOWMENT PROGRAM; ESTABLISHING A RESEARCH AND DEVELOPMENT SPECIAL REVENUE  
10 ACCOUNT AND ENDOWMENT FUND; ESTABLISHING A RESEARCH AND DEVELOPMENT ENDOWMENT  
11 FUND IN THE COAL SEVERANCE TAX TRUST FUND; APPROPRIATING COAL SEVERANCE TAXES FOR  
12 RESEARCH AND DEVELOPMENT; APPROPRIATING COAL SEVERANCE TAX FUNDS FOR SCHOOL  
13 FACILITIES AND TECHNOLOGY ACQUISITION; CREATING A MONTANA HERITAGE PRESERVATION AND  
14 DEVELOPMENT COMMISSION; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS TO  
15 FINANCE HISTORIC PRESERVATION PROJECTS; ~~CREATING A MONTANA FARM AND RANCH~~  
16 ~~CONSERVATION COMMISSION; APPROPRIATING COAL SEVERANCE TAX FUNDS TO THE FARM AND~~  
17 ~~RANCH CONSERVATION PROGRAM~~; AMENDING SECTIONS 2-18-103, 17-5-703, 17-5-706, AND  
18 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**