

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By CHAIRMAN ALVIN ELLIS, JR., on February 13,  
1995, at 3:00 p.m.

**ROLL CALL**

**Members Present:**

Rep. Alvin A. Ellis, Jr., Chairman (R)  
Rep. Peggy Arnott, Vice Chairman (Majority) (R)  
Rep. Vicki Cocchiarella, Vice Chairman (Minority) (D)  
Rep. Matt Denny (R)  
Rep. Dan W. Harrington (D)  
Rep. Jack R. Herron (R)  
Rep. Joan Hurdle (D)  
Rep. Bob Keenan (R)  
Rep. Sam Kitzenberg (R)  
Rep. Gay Ann Masolo (R)  
Rep. Norm Mills (R)  
Rep. William Rehbein, Jr. (R)  
Rep. John "Sam" Rose (R)  
Rep. George Heavy Runner (D)  
Rep. Debbie Shea (D)  
Rep. Richard D. Simpkins (R)  
Rep. Diana E. Wyatt (D)

**Members Excused:** Rep. H.S. "Sonny" Hanson (R)

**Members Absent:** None

**Staff Present:** Andrea Merrill, Legislative Council  
Renee Decrevel, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: HB 485, HB 479, HB 480, HJR 21  
Executive Action: HJR 21 DO PASS  
HB 365 DO PASS  
HB 479 DO PASS AS AMENDED  
HB 480 DO PASS

{Tape: 1; Side: A; Approx. Counter: 000; Comments: n/a.}

HEARING ON HB 485Opening Remarks by Sponsor:

**REP. ERNEST BERGSAGEL, HD 95,** said that HB 485 is an act that addresses the operation of the state historic preservation office (SHPO), created as the result of the national historic preservation act. Its principal duty is to review cultural resource studies to determine whether or not historic properties are involved in the development of a project, and if those properties might be adversely affected by that development. The projects that are reviewed are usually those on federally-owned land, state-owned land, or those that have federal funds involved. However, many projects frequently involve private lands, and he wished to stress this fact, because in many instances the decisions made by the SHPO directly affect the ability of private landowners to use their property.

**REP. BERGSAGEL** said the first provision of the bill increases and changes the constitution of the membership of the historic preservation review board. The review board reviews nominations to the National Register of Historic Places. Federal criteria is used as the basis for the composition of the review board and members are mostly in the fields of anthropology and archaeology, and do not represent the views of the "regulated community." The bill would expand the board to include representation from those sectors of the Montana economy who are subject to the actions of the SHPO.

Section 3 clarifies the responsibilities and the reporting relationship of the SHPO. Currently, the SHPO is appointed by the governor and functions independently. The office is normally attached to the Montana Historical Society (MHS), but the independent status of the board is a problem and answers to no one. **REP. BERGSAGEL** stated that the bill would require the SHPO to report directly to the director of the MHS, who is, in turn, appointed by and answerable to the board of trustees of the MHS.

Sections 10 and 11 set forth requirements for cultural resource studies undertaken by the SHPO. Developers have problems with this process because they often do not know what the process requires. He asked that specific procedures and guidelines for evaluation of historic properties be developed so regulated parties know what's required of them.

Section 5 sets out timelines for cultural resource studies by the SHPO and provides for an appeal process if an applicant for a permit is not satisfied with the SHPO's decision. The first level of this appeal would be to the MHS director, then to district court, if necessary.

Section 6 identifies mechanisms for the avoidance and mitigation of the impact to a historic property, and makes clear that a permit applicant cannot be required to pay more than one half of

one percent of the project cost to mitigate potential adverse affects of historic property. **REP. BERGSAGEL** said this bill has some amendments that would be presented and he asked that they be adopted. They eliminated the more controversial parts of the bill and felt the amendments made it a very good bill, both for those being regulated and those doing the regulating.

{Tape: 1; Side: A; Approx. Counter: 128; Comments: n/a.}

**Proponents' Testimony:**

**John Fitzpatrick, Director of Communications, Pegasus Gold Corporation,** spoke in support of this bill. He passed out a diagram of the historic preservation review process and said such reviews are necessary when a federal agency is in a position of issuing a permit or license when conditions are such that they must comply with the national historic preservation act. When state lands are involved, there is a provision in state law for a similar type of review. **EXHIBIT 1**

**Mr. Fitzpatrick** described the diagram in detail and explained that a cultural resource study had to be developed for the Zortman-Landusky Mine, costing over \$40,000 to prepare. He said this study was one of 55 that had been done in the Zortman-Landusky area in the last 15 years. He asked that a set of photographs be entered into the record. They depict a historic homestead site, tipi rings, Native American artifacts, and historic mining sites. **EXHIBIT 2**

He said after the sites are identified, a determination is made as to the eligibility of those sites for listing on the National Register of Historic Places. If not eligible, the process continues, but if sites are found eligible, then the regulatory process kicks in and mitigation may be required to minimize potential damage to the historic site. He said the determination of eligibility does not require landowner knowledge or consent. He provided an example of a landowner whose property was "drug into a historic district without their knowledge." He said when a property is found eligible, the final step of the process, which is rarely used, is a formal nomination to the National Register of Historic Places. When that step is taken, the landowner's consent is required, "but that process is very, very infrequent."

**Mr. Fitzpatrick** referred to a map, that was part of the study done for the Zortman-Landusky mine, showing about 90 listed properties with historic mining attributes, other European settlement activities, and prehistoric and early American sites. He said this study was sent to the Bureau of Land Management who, in turn, sent a recommendation to the SHPO and asked for their concurrence. This recommendation did not include the creation of a historic district. The SHPO did not concur with the BLM's recommendation and said they could not proceed with the mitigation process because it was unclear whether or not there

was a historic district in the area. He said the entire process of permitting this mine and getting compliance with the historic preservation act "stopped in its tracks."

**Mr. Fitzpatrick** stated the BLM consulted with SHPO and wrote a memo detailing their experience, which he summarized for the committee. It said they believed it was irrational of the SHPO to not concur with them, because it would seem to invalidate past actions that have been confirmed by the SHPO. They commented on the "open-ended time frames" and "blind studies" that create data that is never received by the BLM, but only the results, appearing to express a distrust of the agency. The state BLM office related to them that the Washington cultural resource staff urged them to reach an agreement with SHPO.

He stated that the SHPO took a position that prevented the BLM from making a decision on the Little Rocky Mountains until eligibility had been determined. BLM had no choice but to come to an informal agreement, which was the creation of the Little Rockies Traditional Cultural Properties Historic District. He said that was a fancy name for a Native American Cultural District. The SHPO drew some boundaries on a map and wrapped up an area between 80,000 - 100,000 acres into this district, which also encompasses land on the Fort Belknap Reservation, BLM, state land, and private land. He said the private landowners were not consulted about the effect of this on their land use, such as having to go through a federal consultation process if they wished to re-route a road or change an irrigation line.

**Mr. Fitzpatrick** said the SHPO then held three public meetings to let people know their decision. Two were held on the reservation and one in the town of Hays, where three people showed up from the public--two miners and a lawyer. A meeting in Lodgepole attracted four people. A meeting in Landusky brought 65 people to protest the historic district, and the SHPO was not there because of a scheduling error. He said this example had a major impact on Pegasus Gold Corporation and the 250 people who work at the mine, who have found themselves in a situation where Fort Belknap has become a consulting partner in the direction of that development. He felt this was an inappropriate use of the national historic preservation act. He believed the insensitivity shown to the people in the Zortman-Landusky area was "incredulous." He asked the committee to pass this legislation because this office needs to be "reined in" and needs to have guidelines under which to operate and a clear direction as to what degree mitigation will be required.

*{Tape: 1; Side: A; Approx. Counter: 372; Comments: n/a.}*

**Brenda Rummel, Zortman**, read and submitted written testimony.  
**EXHIBIT 3**

**Tom Gossack, Tractor and Equipment Company, Sidney**, read and submitted written testimony. **EXHIBIT 4**

**John Fitzpatrick** stated that they had reviewed the amendments prepared by **REP. BERGSAGEL** and **Mr. Ward Shanahan** on behalf of the board of trustees of the MHS and they endorse them as well.

**Anne Alberts, Montana Association of Realtors**, read and submitted written testimony. **EXHIBIT 5**

**Lesley Robinson, Dodson**, read and submitted written testimony. **EXHIBIT 6**

*{Tape: 1; Side: A; Approx. Counter: 690; Comments: n/a.}*

**Candace Torgerson, Montana Cattlewomen's Association**, said she was also speaking on behalf of the **Montana Stockgrowers Association** and **Women Involved in Farm Economics** to express support for HB 485, because they believed the bill would set appropriate parameters for the historic preservation office and for its directors. She said this legislative session is finally dealing with the recognition of private property rights. Agricultural groups believe it is time direction is given to this "run-away bureaucracy" and asked the committee to give the bill a do pass vote.

**Francis Kolczak, Landusky**, read and submitted written testimony. **EXHIBIT 7**

**Carol Kienenberger, Phillips County Commissioner**, read and submitted written testimony. **EXHIBIT 8**

**Brad Griffin, Montana Retail Association, Montana Tire Dealers, and the Montana Hardware Association**, said they strongly support HB 485 as amended and believed that failure to pass this bill would have a devastating economic impact on the Malta area specifically.

*{Tape: 1; Side: B; Approx. Counter: 000; Comments: The end of Mr. Griffin's testimony was lost while the tape was being turned over.}*

**Jeanne Barnard, Malta Area Chamber of Commerce**, read and submitted written testimony. **EXHIBIT 9**

**Ms. Barnard** read a letter from **Carolyn Schmoeckel, City Clerk, Housing Rehabilitation Department, City of Malta**. **EXHIBIT 10**

**Anne Boothe, Executive Director, Phillco Economic Growth Council**, read and submitted written testimony. **EXHIBIT 11**

**Ms. Boothe** read a letter from **Dick King, Havre**. **EXHIBIT 12**

*{Tape: 1; Side: B; Approx. Counter: 253; Comments: n/a.}*

**Gary Weeks, Montana Electric Cooperative Association**, said they represent 26 rural electric cooperatives serving approximately 300,000 Montanans. They supported HB 485 and take seriously

their responsibilities to protect the environment and archaeological and cultural resources, but find the need for the process to be improved in some way. To some extent, this bill would address those concerns, and they liked the pragmatism, the balance, the common sense, and the compromise.

**Clark Kelly, private homeowner, Malta,** stated that he and his wife wished to rehabilitate their home and applied for a Community Development Block Grant, which was accepted. Once in the program, they had to comply with SHPO requirements to maintain the historical integrity of their home. He described the home as quite common with no historical integrity whatsoever. The SHPO told them what kind of materials they had to use, which he felt did nothing to add to the house's historic value. This was a loan, not a grant, that they are still paying off. **Mr. Kelly** submitted a letter from a neighbor in the next county, **Wayne Hill, Nashua. EXHIBIT 13**

*{Tape: 1; Side: B; Approx. Counter: 318; Comments: n/a.}*

**Kevin Ryan, Zortman Extension Project Manager, Pegasus Gold Corporation,** read and submitted written testimony. **EXHIBIT 14**

**Jim Sandsness, President, Malta Area Chamber of Commerce,** read and submitted written testimony. **EXHIBIT 15**

**Mr. Sandsness** submitted letters from two other Malta citizens. **EXHIBIT 16**

**Larry Brown, Environmental Scientist, Morrison-Maierle Environmental Corporation,** representing the **Agricultural Preservation Association,** mentioned in reference to previous testimony that projects they work on require proposals that expend about 65-80% more revenue than originally assigned to the project.

*{Tape: 1; Side: B; Approx. Counter: 398; Comments: n/a.}*

**Mike Sjostrom, Helena,** read and submitted written testimony. **EXHIBIT 17**

**Mr. Sjostrom** also read testimony from **Jess H. Robinson, Dodson. EXHIBIT 18**

**William Snoddy, Environmental Manager, Montana Tunnels Mining, Jefferson County,** read and submitted written testimony. **EXHIBIT 19**

*{Tape: 1; Side: B; Approx. Counter: 485; Comments: n/a.}*

**Lee Robinson, Malta,** read and submitted written testimony. **EXHIBIT 20**

Gary Howell, Malta, submitted his written testimony. **EXHIBIT 21**  
Mr. Howell then read and submitted the testimony of Lawrence  
Poulton, Malta. **EXHIBIT 22**

Nancy Ereaux, President, Phillips County Cattlewomen, submitted  
written testimony. **EXHIBIT 23**

Roberta Barstad, Secretary, Glasgow Chamber of Commerce,  
submitted written testimony. **EXHIBIT 24**

Numerous letters from Malta, Montana, were submitted in support  
of HB 485. **EXHIBITS 25a-o**

{Tape: 1; Side: B; Approx. Counter: 575; Comments: n/a.}

Informational Testimony:

Ward Shanahan, President, Montana Historical Society, said he  
wished to testify as neither a proponent or opponent, and  
explained the amendments. He stated he was between a "rock and a  
hard place," since he has been a mining industry lobbyist and  
since 1987 has served on the board of directors of the Montana  
Historical Society. He said they operate under a grant that  
administers the State Historic Preservation Program, which is  
part of the national preservation act, and receive federal funds  
for the operation of this office. He stated that the Montana  
Historical Society is the oldest institution in the state, and is  
older than the state itself, created in 1864 by an act of the  
territorial legislature. He opposed the bill as originally  
written, but would support it with the amendments. He reiterated  
**REP. BERGSAGEL'S** statement that if the amendments cannot be  
approved, he would ask them to kill the bill. He said the  
amendments remove the punitive aspect of the bill, set up a  
procedure for ironing out some of the difficulties, and would  
improve the appeal process. **EXHIBIT 26**

Mr. Shanahan said the Montana Historical Society represents all  
the cultural elements in the state, and what they need to  
remember about the Little Rockies area is that it is a Native  
American cultural site. Jeanne Eder, who is on the MHS board, is  
a member of the Sioux-Assiniboine Tribe. "We are trying to talk  
to all parts of Montana. We want to talk to the entire community  
of Montana." He said he hadn't polled the board on this matter,  
so was appearing on his own behalf, but has been working with  
**REP. BERGSAGEL** and Mr. Fitzpatrick to work out the amendments,  
and he urged the committee to adopt them.

{Tape: 1; Side: B; Approx. Counter: 700; Comments: n/a.}

Opponents' Testimony:

Brian Cockhill, Director, Montana Historical Society, said he was  
not truly an opponent since Mr. Shanahan had offered the  
amendments and would agree to them as well, because he was most

concerned about the bill as it could be applied in a punitive fashion to the SHPO. He was also concerned about the cost of the bill. In a recent subcommittee budget hearing, a reduction of 1.5 FTE was made to the SHPO. He said he would be reappearing before this subcommittee the next morning, and was informed by the Legislative Fiscal Analyst that they would be losing more staff from this office. He mentioned this because, "I do not have a clue how we are going to comply with this law."

**Mr. Cockhill** said it isn't just an issue of time lines, and while important, the level of staff to do the work is equally important. The current review staff is currently between 2.5 and 3.0 FTE, and staff are being lost through the budget process, which he indicated appeared "vindictive." His concern was how to accomplish the faster reviews, how to prepare the criteria and notice the public and hold the hearings if staff is further cut. Another point he made was that the experiences the proponents had to which they objected "are nothing more than what they're required to do under the national historic preservation act." He thought it was unfair that blame was being placed on the SHPO staff for making those decisions, because that was not the case. He urged them to listen to the arguments made by the State Historic Preservation Officer.

*{Tape: 1; Side: B; Approx. Counter: 859; Comments: n/a.}*

**Marcella Sherfy, State Historic Preservation Officer**, read and submitted her written testimony but stated beforehand that the 10-person office spends less than a third of their time in the review process as described by the proponents. Much of their energies are directed to technical assistance, helping people who seek national register designation, and assisting property owners who wish to use federal tax credits. **EXHIBIT 27**

*{Tape: 2; Side: A; Approx. Counter: 000; Comments: Part of Ms. Sherfy's testimony was lost while the tape was being changed.}*

**Ms. Sherfy** continued reading her testimony which explained the function of the state historic preservation office.

In addition, **Ms. Sherfy** submitted information on the National Register of Historic Places, and letters from **Michael Beckes, Regional Archaeologist and Heritage Program Officer, U.S. Forest Service, Region 1, Missoula;** and **Keith Beartusk, Acting Director, Bureau of Indian Affairs, Billings Area Office,** opponents to HB 485. **EXHIBITS 28, 29 and 30**

*{Tape: 2; Side: A; Approx. Counter: 147; Comments: n/a.}*

**Janet Cornish, Community Development Services of Montana, Butte,** read and submitted written testimony. **EXHIBIT 31**

*{Tape: 2; Side: A; Approx. Counter: 290; Comments: n/a.}*



**George Ochenski, Confederated Salish and Kootenai Tribes and the Flathead Nation**, said he had not had the benefit of reviewing the proposed amendments. He highlighted parts of a letter from **Michael T. Pablo, Chairman, Confederated Salish and Kootenai Tribes**. EXHIBIT 32

{Tape: 2; Side: A; Approx. Counter: 483; Comments: n/a.}

**Gloria Weisgerber, Historic Preservation Review Board Member, a former historic preservation officer for the Veteran's Administration, and former Kentucky Historic Register Coordinator**, read and submitted written testimony. EXHIBIT 33

{Tape: 2; Side: A; Approx. Counter: 605; Comments: n/a.}

**John Vollertsen, Assiniboine Tribe, Fort Peck Reservation**, presented a paper from **Carl Fourstar, Sioux-Assiniboine Tribe**, stating concern about HB 485. EXHIBIT 34 He said he had not seen the proposed amendments, but commented that the change in the composition of the board, moving more toward economic development interests was not a problem for him. He said there are many success stories about ranchers and farmers who are good stewards of cultural resource amenities. He cited the communities of Augusta, Choteau and Dupuyer as examples of those who have enhanced the areas culturally and collaborate with economic development.

In reference to the mining and logging representatives being proposed for membership on the review board, he asked what mining and logging had in common with cultural preservation. He mentioned the proposed mine near Yellowstone National Park and other areas in the state where logging and mining have made their mark. He asked what the glaring similarities were, and said there were historic conflicts between tribal uses of natural areas and the interests of logging and mining industries.

The statute, as it currently exists, eliminates many of these interests, but the way it is being proposed, the interests of industry will be given more weight. They are trying to dilute Native American interests and adding more special interests. He said Native American interests go far beyond non-tribal interests. He said this legislation is an embarrassment to the attempts to collaborate the interests of the public, industry, government and Native Americans. He mentioned the letter from **Carl Fourstar** from which he quoted that the proposed action will create a loss of federal funds up to \$1 million.

**Mr. Vollertsen** recommended they do not pass HB 485, but if they do, it should be amended to include modification of the hard rock mining board, which currently has five members (county commissioner, financial institution, school board member, a member of industry, and a public member), to include an archaeologist and one member from each of the seven Indian reservations in Montana. Equity is the issue here.

{Tape: 2; Side: A; Approx. Counter: 850; Comments: n/a.}

**Nicol Price, Medicine Wheel Alliance**, read and submitted written testimony. **EXHIBIT 35**

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Part of Ms. Price's testimony was lost while tape was being turned over.}

Ms. Price continued reading her testimony which was submitted in writing.

{Tape: 2; Side: B; Approx. Counter: 80; Comments: n/a.}

**CHAIRMAN ELLIS** announced that opponents would be limited to 10 minutes which would equal the time given to proponents. He said this bill did not have much significance to education, so thought they should proceed quickly.

**Gail Kenson, Historic Preservation Officer, Yellowstone County Planning Board**, read and submitted written testimony. **EXHIBIT 36**

**Gretchen Olheiser, Montana Preservation Alliance**, read and submitted written testimony. She stressed tax benefits afforded owners of properties that are listed on the National Register of Historic Places. **EXHIBIT 37**

{Tape: 2; Side: A; Approx. Counter: 203; Comments: n/a.}

**Steve Aaberg, President, Montana Archaeological Association and Owner, Cultural Resource Consulting Service**, read and submitted written testimony. He reiterated previous concerns that the SHPO should not be punished, and said the procedures were well outlined by **Ms. Sherfy**. The ultimate authority lies with federal and state agencies. The SHPO goes beyond compliance and review and asked that they not be disabled by HB 485. **EXHIBIT 38**

**Kathy Macefield, Historic Preservation Officer, City of Helena and Lewis and Clark County**, submitted her written testimony (**EXHIBIT 39**) and read a letter from **Ruth Gerke, President, American Institute of Architects**, who asked the committee not to modify the existing review board composition. "It is imperative that the system remain geared toward productive use of preservation of our historic structures and sites. Architecture clients in Montana are able to use federal tax credits to restore and preserve historic structures in our communities. Without these tax credits, none of these projects would be constructed due to the tremendous monetary investment involved in restoration."

**Peter Joseph, Montana Federation of State Employees**, rose in opposition to HB 485.

{Tape: 2; Side: B; Approx. Counter: 303; Comments: n/a.}

**Tim Englehardt, Historical Research Associates, Inc., Missoula,** read and submitted written testimony. **EXHIBIT 40**

**Cindy Kittredge, Cascade County Historical Society and the City/County Historic Advisory Commission,** read and submitted written testimony. **EXHIBIT 41**

*{Tape: 2; Side: B; Approx. Counter: 419; Comments: n/a.}*

**CHAIRMAN ELLIS** asked remaining opponents to just state their name and submit any written testimony they may have.

**Allan Mathews, Alberton,** submitted written testimony. **EXHIBIT 42**

**Claire Cantrell, Bozeman,** submitted written testimony. **EXHIBIT 43**

**Steve Forrest, Junior at Great Falls High School,** said his first experience with preservation came through SHPO when they taught him about the historic values of his school building, which was in jeopardy of being impacted by proposed construction. He wrote a series of articles in the school newspaper telling students about the history of their school. He stated that SHPO is not broken, so doesn't need fixing. They provide leadership and make sure history is saved. He asked the committee to defeat HB 485.

**Gloria Hermanson, Montana Cultural Advocacy,** said they are opposed to HB 485.

**Virginia Arensberg, Historic Preservation Commission and Missoula Downtown Association,** said they are opposed to this bill.

*{Tape: 2; Side: B; Approx. Counter: 507; Comments: n/a.}*

The following individuals did not appear in person at the hearing, but submitted written testimony:

**Norene Freistadt, Lewis and Clark County Preservation Board,** submitted written testimony. **EXHIBIT 44**

**Gar Wood, Loma,** submitted written testimony. **EXHIBIT 45**

**Thomas A. Foor, Ph.D., Department of Anthropology, University of Montana,** submitted written testimony. **EXHIBIT 46**

**Rowland T. Bowers, Acting Associate Director, Cultural Resources, National Park Service,** submitted written testimony. **EXHIBIT 47**

**John M. Fowler, Advisory Council on Historic Preservation, Washington, D.C.,** submitted written testimony. **EXHIBIT 48**

**Questions from Committee Members and Responses:**

**REP. DEBBIE SHEA** asked **Janet Cornish** if she could look at both sides of this issue and if she could point out the main issue.

**Ms. Cornish** said they are increasingly frustrated in Montana to solve economic problems and are searching for ways to become more development-friendly. She believed that **REP. BERGSAGEL** is trying to address those issues; however, she thought the SHPO has not been adequately integrated into the environmental review process. They have an opportunity, not necessarily through legislation, to work together to make some of the desired changes. The Task Force to Renew State Government began to address those problems, but they have not yet resolved them. A greater understanding of the role of state agencies, such as SHPO, would go a long way in serving the public. That can be done by making it more conducive to development, but she didn't believe increased legislation was the answer.

**REP. SAM ROSE** told **Ms. Sherfy** the buzzwords he remembered from the proponents' testimony were "passionate, recognized by federal law, bureaucracy, long-term collaboration, compromise, showing respect, misperception, mitigation, sit down together." He addressed the concerns of ranchers who were not informed about the SHPO's interest in their property, and he found that offensive. He asked why that was happening.

**Ms. Sherfy** replied that she was equally disturbed and said she didn't like a world where they point fingers, but had no choice given the environment in the committee room. She said she could provide information on why the BLM is obligated to tell landowners about the federal process they are part of, and she said she was also upset about the meaning in which it was described. She said those landowners were involved in a process that a federal agency must go through before a federal project can proceed. When they list a property in the National Register of Historic Places, they send individual notices to all property owners. They cannot list a property in the National Register without the individual approval of that owner or a majority of owners in a historic district. She said the process in question is not register listing, but is BLM's required federal process, and they are the ones, then, who are obligated to notify the owners.

**REP. ROSE** told **Mr. Cockhill** he heard the figure of \$490,000 of federal funding, but was also aware of over \$240,000 of state money given to the library for research. **Mr. Cockhill** replied that he believed **REP. ROSE** was referring to the state library, that also supports a Geographic Information System program. **REP. ROSE** stated that this program goes through the Nature Conservancy who is supposed to survey sites. He asked for confirmation of this. **Mr. Cockhill** said that was true. **REP. ROSE** then stated that the people who were not notified were entitled to common courtesy. **Mr. Cockhill** said he agreed, but didn't want to blame other people for mistakes that were made, but in this case it was not SHPO's mistake. They were only participants in the required federal process, but the BLM was the responsible party in that particular case. **REP. ROSE** said he sat on a BLM board for six years and related the public meetings that took place to answer

questions. **Mr. Cockhill** said it was a public meeting that the BLM arranged to which the SHPO was invited.

*{Tape: 2; Side: B; Approx. Counter: 788; Comments: n/a.}*

**REP. DICK SIMPKINS** asked **Ms. Sherfy** if her position on the review board was appointed by the governor. She answered that she was a civil servant of the state of Montana, and that the title of state historic preservation officer is given by the governor, who can take it away and give it to someone else. She administers the program within the Montana Historical Society.

**REP. SIMPKINS** said his opinion of Montana law is to protect Montana citizens and not the federal government. He stated that all through the hearing he was told not to do this or that because the federal government would get mad. He wondered why the SHPO couldn't straighten out this communication problem with the BLM. **Ms. Sherfy** responded that she had not proposed legislation, as he suggested, but said that she did make suggestions for the rewriting of federal regulations that would serve the state well.

**REP. SIMPKINS** asked what if they killed the whole historical preservation society, they would lose \$490,000 from the federal government, and "what we're saying is we're putting up with the grief and agony on the part of the citizens of Montana for a measly \$490,000 bucks?" **Ms. Sherfy** reminded him that others testified that this funding provides for the national register program as well.

**Mr. Shanahan** clarified that the state has rights too, and that's why they've agreed to the amendments. He said that **Ms. Sherfy** was right and was a commentator in the federal process. She doesn't make the decisions, but offers her comments to federal agencies who, in turn, make the decisions and take action. He said they need the bill as amended.

*{Tape: 2; Side: B; Approx. Counter: 949; Comments: n/a.}*

**REP. PEGGY ARNOTT** said she was still confused about the process that was used to designate the Little Rockies as a historic site. She asked if that was requested by SHPO or by the National Register of Historic Places. **Ms. Sherfy** said the process is outlined for the BLM to determine the significance of a property, and when they come forward with a finding and seek the SHPO's consultation, they comment on it. She said it was correct that the first determination was "not eligible," and they looked at a variety of other findings, including the National Register, at which time they agreed there was a historic site there.

*{Tape: 3; Side: A; Approx. Counter: 000; Comments: n/a.}*

**REP. ARNOTT** asked how it could be determined a historic site without their permission. **Ms. Sherfy** said there were two points:

eligibility for the Register or an actual Register listing designation still does not change what private property owners can do with their own funds. While the BLM is obligated to notify the public and are responsible for informing local governments and landowners, the premise is still that the information is provided as a courtesy and is not done because private property rights are at issue.

**REP. DIANA WYATT** asked **Mr. Shanahan** to clarify if a property is a National Register designation, what personal private property rights does the owner lose. He replied if an owner accepts a tax credit, such as the Montana Club's acceptance of funds to restore the facade of the building, they cannot change the facade of the building again. **REP. WYATT** stated that that was a choice they made when they accepted the funds.

**REP. GEORGE HEAVY RUNNER** asked **Mr. Fitzpatrick** if he represented the mining company adjacent to the Fort Belknap Reservation. **Mr. Fitzpatrick** said he did. **REP. HEAVY RUNNER** said he reviewed documentation showing that he made the first request for this bill, and the first draft had to do with the approval or disapproval by the review board, but has since been amended. He asked if part of the battle was the proximity of the mine to the tribal land, and said there have been fundamental differences in the production at the mine because of conflicts with the Tribe.

**Mr. Fitzpatrick** replied that the Tribe has filed many appeals to delay the mining operation. **REP. HEAVY RUNNER** asked about other motives that led to the language drafted into the first bill. **Mr. Fitzpatrick** said there were several attempts made by the members of the Fort Belknap Reservation to use the National Historic Preservation Act as a way of halting mining in the Little Rocky Mountains on land off the reservation. He said they made several appeals, which have been rejected by the Board of Land Appeals in Washington, D.C. He stated that district designation seemed to have a personal impetus at the SHPO, but he didn't know if **Ms. Sherfy** was in contact with those entities.

**REP. HEAVY RUNNER** wondered, with respect to the stewardship of this particular area, if the inclusion of industry-related members on the board would add more realists than idealists. **Mr. Fitzpatrick** said that was the terminology he used, but thought that the historic preservation process needed a voice from others who are not benefitting from contracts involving cultural resource studies. **REP. HEAVY RUNNER** asked if he would also agree that changing the appointment of the preservation officer should come from the review board. **Mr. Fitzpatrick** said the legislation suggested that the review board identify that the SHPO be appointed by the governor. He stated that **Mr. Shanahan's** amendment, which they endorsed, suggested that the SHPO be appointed by the director of the MHS in consultation with the board of trustees.

{Tape: 3; Side: A; Approx. Counter: 157; Comments: n/a.}

**REP. HEAVY RUNNER** asked a question to which **Mr. Fitzpatrick** replied that their company is not the only one that has had problems with SHPO. He provided other examples and letters that describe similar experiences. He stated that the Department of State Lands has had nothing but trouble with the SHPO in the area of cleaning up abandoned mine sites. He said he was there as part of a coalition of groups who have had problems with the SHPO and "the way it acts." He said the SHPO is not a simple review and comment agency as presented in testimony, but has "a very aggressive regulatory role and a very inappropriate regulatory role, and that's the reason for this legislation."

**CHAIRMAN ELLIS** asked **Bud Clinch, Commissioner, Department of State Lands (DSL)**, to address the resources required of DSL to meet the requirements of SHPO. **Mr. Clinch** said DSL is involved with SHPO in a number of ways, one of which is a regulatory manner in terms of maintenance of abandoned mine sites. He said this work has been delayed a number of times as a result of those consultations. The management of 5.2 million of acres of state land--whether for forest timber sales or seismic testing for oil and gas--sometimes requires a similar process and in some instances that clearance, following inventory and analysis, creates delays and has an adverse impact on those activities.

**Closing by Sponsor:**

**REP. BERGSAGEL** said this is an issue where there is a lot of concern. He reiterated the main points of the purpose of the bill and encouraged the committee to review the amendments and he and **Mr. Ward Shanahan** would be present during the executive session to discuss them.

**CHAIRMAN ELLIS** said they will take executive action at the next meeting on February 15.

*{Tape: 3; Side: A; Approx. Counter: 300-320; Comments: CHAIRMAN ELLIS called the meeting to order and said they would take a five minute break.}*

**HEARING ON HB 479**

**Opening Statement by Sponsor:**

**REP. PEGGY ARNOTT, HD 20**, said HB 479 is designed to allow districts to set aside up to four percent of their budget or \$20,000 for long-range planning, which needs to be encouraged. Currently, funds are expended or turned back to the state. No encouragement is made to save or plan for the future. At the end of the year, a furious pattern of spending takes place, and every school district goes through it. They buy everything as fast as they can in order to spend all their funds, the result of which is a lot of mismatched equipment. This is not the best use of tax dollars. This bill would allow for money to be set aside for a specific purpose and length of time, with public review.

**Proponents' Testimony:**

**REP. BILL WISEMAN, HD 41,** said he visited with his school board prior to the session. He described Centerville, which is 12 miles outside the city limits of Great Falls. This community prides itself on recent growth in the district. He said the school board president expressed an interest in being able to run the board like a business. They could see that they will need to build an addition to the school, but if they put money into a special fund for this purpose, they would get punished with the GTP funds the next year. He said this bill makes sense, and if they pass this legislation, it will enable school boards to operate more like a business.

**Don Waldron, Montana Rural Education Association,** said this bill has some positive aspects but he was concerned about the title for the funds, so they can be identified separately from other funds. He was also concerned with language on page 3, having to do with the date of December 31 and said they usually go by the fiscal year and not the calendar year. He addressed the controls involved on pages 2 and 3 and thought they were fairly accurate. He expressed support for the bill.

**Bob Anderson, Montana School Boards Association,** supported HB 479 and said he remembered, as a school board member, that they sometimes made some frivolous expenditures at the end of the year. He thought this bill made more sense; however, he pointed out that this should not imply that there is a lot of money "out there lying around to do this with." If they had a mild winter, they might have some options, but with the December 31 date, they would have to do some planning beyond that date. He said the public review provision is good because it might encourage future support for a necessary bond issue. They supported the bill.

**Loren Frazier, School Administrators of Montana,** supported HB 479. He said as budgets get tighter and districts wish to plan with funds they do not yet have, the bill makes sense because it would ask the school districts to present a plan to the public, and that money is placed into the account for that plan. He said it would show the sincerity and seriousness of the district to plan for something when they are required to put the money in the account by December 31. It is different than the year-end monies that are left over, because the district is taking a risk. He said it would especially help small school districts that would like to save for more technology or building additions over several years.

*{Tape: 3; Side: A; Approx. Counter: 597; Comments: n/a.}*

**Opponents' Testimony:** None



**Questions from Committee Members and Responses:**

**REP. COCCHIARELLA** asked **Mr. Anderson** what the difference is between this savings account and what reserves were intended for. **Mr. Anderson** replied that he could not explain that difference.

**REP. COCCHIARELLA** asked if there was someone who could. **Mr. Waldron** said this account should not be confused with building reserves, because building reserve funds come from tax money that is raised only for a specific project. This special account would allow monies from the regular fund to be deposited into it and they could have more than one fund going at a time.

**REP. COCCHIARELLA** said she had a problem because in the special session they saw building reserves get cut, and she asked if there would have been a need for this bill if those cuts had not been made. **Mr. Waldron** said the cuts in other reserves could change the budget before they had budget limitations, and now they want to be able to put funds away to pay for parking lots or playgrounds.

**REP. SIMPKINS** asked that the question regarding the December 31 date be answered. **REP. ARNOTT** replied that this date is an effort to put in a measure to ensure sincerity on the part of the district to set aside those funds for a specific purpose, and not to put it in at the end of the year. At the end of the year, they could transfer all their funds into the account, and wouldn't have to go in for a state appropriation, so this measure was put in to prevent that from happening and encourage thoughtful planning.

**REP. SIMPKINS** asked if they had a similar bill last session providing for four percent being allocated to a building reserve account. **REP. ARNOTT** said that was a bill by **REP. COBB** which failed.

**REP. BOB KEENAN** asked **Mr. Anderson** if the December 31 date might impact negotiations that extend into the school year. **Mr. Anderson** said he didn't understand how negotiations would be affected, and wondered if he thought they'd be considering the same pot of money. He didn't think it would have any impact on negotiations.

**REP. COCCHIARELLA** asked **Mr. Waldron** to respond to **REP. SIMPKINS'** first question regarding the December 31 date. **Mr. Waldron** expressed his concern by describing how school funds are managed by districts. When they start in the fall, the school year is pretty well planned, but when they get to December, they don't really know. He said they lock in 80-85% of their budget for wages, and on top of that they have utilities, snow removal and other costs that determine how much money they will have for the year. He would want to start planning in November or December, but wouldn't want to commit the budget until the end of March. If he could, he would move that date a few months,

because they can't be sure about their budgets until spring. That's why he questioned the December 31 date.

REP. SIMPKINS said he thought the last session REP. JOHN COBB was able to pass a bill for the university system to save money in a special reserve account. Since mill levies are fixed, if this money could be saved up, it might save taxpayers some money. He thought they could actually go until June 30th to transfer the monies, even if it is left over. He wondered if that wasn't the goal.

Mr. Waldron said when he read the bill, he thought they should be given more time to transfer the funds, but understood that the December 31 date assures that districts are planning ahead and it's not a last minute effort. He thought the number one question was if that money can be used to reduce taxes.

*{Tape: 3; Side: B; Approx. Counter: 000; Comments: n/a.}*

Mr. Waldron continued describing the necessity of the December 31 date, which is to encourage the practice of planning ahead.

CHAIRMAN ELLIS asked Mr. Waldron how many kinds of reserves they already have, besides the regular reserve. Mr. Waldron stated that the regular reserve is called a general fund and there's a tax appeal reserve. CHAIRMAN ELLIS wondered what the special name of this reserve was, and was told it is called an excess reserve fund. He mentioned the building fund reserve, transportation fund reserve, and he wondered if there were any others. Mr. Waldron said he only named about a half of the existing reserves. Each one is for a certain purpose. For example, a compensation reserve is for employees who retire or leave the district. One third of the general fund is set aside to be transferred into a reserve account, as needed. He thought there might be about eight or nine reserve accounts.

Closing by Sponsor:

REP. ARNOTT said in reference to the December 31 date, she would be willing to amend it, and said that it was set for purposes of assuring sincerity in long-range planning, but if it needs review for an amendment, she is agreeable. She stated that the goal of this bill is to encourage the widest possible use of tax dollars.

*{Tape: 3; Side: B; Approx. Counter: 99; Comments: n/a.}*

HEARING ON HB 480

Opening Statement by Sponsor:

REP. PEGGY ARNOTT, HD 20, said this bill would allow trustees to hire the management they deem appropriate. It is an act to implement Article 10, Section 8, of the Montana Constitution by

clarifying the board of public education's authority to adopt accreditation standards that require a school district to employ administrative personnel, and clarifying the local board's authority to establish an appropriate management structure. It would eliminate requirements of a school district to hire certain district administrators. It originated from a public perception that there is an excess of dollars spent on administration for school districts.

She reviewed how much money is spent on schools and found that 65% of state dollars go to the schools. She wondered how they could become more economical and empower local districts to have input into the level of administration they have. She said in some cases the perception of excess administration is accurate; other times, it is a misperception. This bill addresses local control, and acknowledges the necessity of administration. She said administrators are hired by the board, and that board tells them how to manage the budget; generally this advice is accepted, but they usually start cutting budgets at the teaching level, rather than the administrative level. She stated that a return of control to the local level would pressure trustees to be more accountable. She distributed the fiscal note and said there would be no impact on state revenues or expenditures on local schools. In addition, she distributed a handout from the Office of Public Instruction showing the salaries of some school administrators. **EXHIBIT 49**

*{Tape: 3; Side: B; Approx. Counter: 262; Comments: n/a.}*

**REP. ARNOTT** described information on a second handout from OPI on general fund administrative expenditures. **EXHIBIT 50** She said smaller districts have made efforts to combine to have one superintendent. She hoped this bill would make consolidation of districts an easier task.

**Proponents' Testimony:** None

**Opponents' Testimony:**

**Wayne Buchanan, Board of Public Education,** complimented **REP. ARNOTT** on a balanced and well-researched presentation; however, he wished to discuss the constitutional question. He mentioned a court decision to overturn the right of the legislature to impact the gifted and talented rule in the books and discussed other aspects of the bill that he found problematic. He urged the committee to reject this bill.

**Gail Gray, Assistant Superintendent, Office of Public Instruction,** said they had four concerns about HB 480. The first had to do with the constitutional legitimacy. She said it would create a confrontation similar to the one they had with the gifted and talented rule limitation which lasted over eight years. She said the legislature and the board of public

education need to be working together for the betterment of education.

Second, they already have options for addressing accreditation standards, including administrative requirements. Among others, the board of public education has the alternative standards, which allows schools to apply for an inspection on alternatives to a standard. She said several schools have been awarded that status. It is granted for one year, and if successful, is then approved for five years.

Third, she stressed the effectiveness of local control and the decrease over the past three years in administrative personnel. In FY 93 there were 677 people with the title of principal or superintendent; in FY 94 it was 654; and in FY 95 it was 627. She provided other examples of how administration has decreased. Many are not full time positions, or the principals are teaching part time. She stated that the number of students is going up and the ratio of teacher to administrator is going up--there are more teachers per administrator than in the past. She stated that she understood their concern and desire to send a message to the board of public education and the administrators and school boards of Montana, but they would be more interested in a resolution, rather than this bill.

*{Tape: 3; Side: B; Approx. Counter: 720; Comments: n/a.}*

**Don Waldron, Montana Rural Education Association**, said this is a simple bill, but when they get to page 8 and 9, lines 20, the standards as described in the bill concern him. The standards for superintendent and principal sometimes conflict so it makes it difficult when one person may work both positions in a rural area; they have been able to modify the standards to meet their needs. He believed they should take the pressure off the state board and he urged them to oppose this bill.

**Loren Frazier, School Administrators**, said there was nothing in the bill they presently cannot do. He said the intent of the bill is another attack on K-12 state accreditation standards, and who basically is in control of the standards. He reminded the committee that never in the history of education have they, as legislators, had more control of the budgets than they do currently. He said the question is do they want the board of education to set standards, and give schools something to look toward, or do they basically want the legislative standards. He reiterated statements made by **Ms. Gray** about the decreasing numbers of administrators while students and teachers are increasing. He said if they pass the bill, it should be amended to show the following deleted: page 8, lines 1-3 and page 9, lines 20-23.

*{Tape: 4; Side: A; Approx. Counter: 000; Comments: n/a.}*

**Bob Anderson, Montana School Boards Association**, said he didn't want to repeat what had already been said, but said in reference to clerks, when they talk about accreditation standards, there are statutory provisions for clerks to serve on school boards. He said they had a hard time determining what side to take on this bill, because they have been in favor of local control and having a change to determine their destiny. He agreed with previous testimony and didn't think it would make much difference. They have spent a great deal of time with district unifications and the consolidation of administrators and gave examples of rural areas where this had taken place. He addressed the question about the number of administrators and referred to a chart that was distributed to the committee. **EXHIBIT 51** He explained that the reason the number of administrators for schools is so high is because this is "such a people-intensive business" and they are not just working as supervisors, but teachers and other personnel. He corrected the ratio to reflect the number of people served by school personnel to a figure closer to 1:261.

**Questions from Committee Members and Responses:**

**REP. JOAN HURDLE** referred to the U.S. Bureau of Labor Statistics ratios and asked **Mr. Anderson** if he thought many of the other supervisors are supervising people who have 4-5 years of post-secondary education in their field. **Mr. Anderson** said he couldn't be sure, but expected that in some of the areas they may not.

**REP. SIMPKINS** asked **Mr. Anderson** about the issue of local control and asked where they start. They believe this bill would give local control for the board of trustees the authority to determine what they need for administration. **Mr. Anderson** indicated that he wasn't sure what the proper ratios are in those categories and thought it sounded as if the legislature wanted to remove the accreditation rights from the board of public education. He was concerned that too much has been made of problems with accreditation standards, which are not obstacles to having the local control they want.

*{Tape: 4; Side: A; Approx. Counter: 230; Comments: n/a.}*

**REP. SIMPKINS** asked where it says in the bill that the legislature wants to create the accreditation standards, when it says they don't want the board to do it, but want the local board of trustees to do it. **Mr. Anderson** said the way he interpreted it is that they are pulling out one category and saying they'll give local control to that, but all the other categories, such as counselors, are left out of the bill and he wondered why they were singling out just the category of administrators.

**REP. SIMPKINS** asked **Mr. Buchanan** a question pertaining to his reference to the constitutional provision that automatically includes their right to publish their own rules, and therefore

the legislature cannot use their administrative rules procedure to cancel any of the rules by the state board of public education, therefore, HB 116 was found unconstitutional by Judge Jeffrey Sherlock. He asked if that was the conclusion. **Mr. Buchanan** said he thought that was correct and stated that it specifically called the bill, the gifted and talented rule, and declared that action unconstitutional.

**REP. SIMPKINS** said this decision said they could not use their rules procedure to cancel their rulemaking; and did not press the issue of whether the board of public education could pass a rule contrary to the legislature. **Mr. Buchanan** said he believed that was correct, and that they could not pass a rule that was against the law. However, as long as the rule was lawful and within their sphere of authority, they could pass it and the legislature could not intervene.

**REP. SIMPKINS** said the way this bill was drafted, if it is passed, it becomes law, and any rules adopted by the board would be invalid. **Mr. Buchanan** said he didn't understand it that way, but was specifically like HB 116. This bill said they may not pass a gifted and talented rule that is in opposition to the current legislative rule which says they "may" and the board of public education said they "shall" provide gifted and talented instruction. HB 116 specifically attempted to repeal their rule, and as he understood Judge Sherlock's decision, that was declared to be unconstitutional.

**REP. SIMPKINS** asked if the school decides they want a different arrangement and not meet the accreditation standards for the supervisors as laid out in the rules, they now have to request a waiver from the board of public education. **Mr. Buchanan** said it would depend on what portion of the rule they are referencing; some have deferrals and then don't have to come to anyone, they just notify OPI. If they're using the alternative standard, then they have to make a request to OPI who then takes it to the board for a recommendation.

*{Tape: 4; Side: A; Approx. Counter: 434; Comments: n/a.}*

**REP. SIMPKINS** asked if a request such as this can be turned down. **Mr. Buchanan** replied that the board clarified that recently when it said it did not intend to remove the deferrals until the funding picture improved for school districts. He said the first deferral is automatic, but after that they have to give reasons to the superintendent of public instruction.

**REP. SIMPKINS** asked if permission for a deferral can be denied by the board of public education and **Mr. Buchanan** said the board would have to set other rules and standards for the deferrals.

*{Tape: 4; Side: A; Approx. Counter: 495; Comments: n/a.}*

**REP. BOB KEENAN** said discussion on this bill has revealed that there is a conflict in the statutes in MCA, Article 10, Section 8 and 9, subsection (3) (a). He asked if the board of public education is drafting accreditation standards or did they draft them under the general supervision, which is "other duties of the board shall be provided by law," which would be the legislature.

**Mr. Buchanan** responded that because the board has always used MAPA, that they did adopt those rules under the state's legislation, but general supervision has been clarified by Supreme Courts across the country to include two things: accreditation standards and certification standards. He said that constitutional authority is separate from legislative authority with one exception: they have passed their rules always in compliance with the laws.

*{Tape: 4; Side: A; Approx. Counter: 585; Comments: n/a.}*

**Closing by Sponsor:**

**REP. ARNOTT** asked the committee to review the perception of the public on the number of administrators in the schools. She related a story about a textbook salesman who told her that the administrator in the town where she was teaching was never there, but always at the local health club. **REP. ARNOTT** said that was not effective leadership, and while this administrator might be an exception, accreditation standards require an elementary principal, a secondary principal, and a superintendent to serve a class C school with 140 children--the same number of students she is responsible for in her high school classroom.

She agreed with **Mr. Buchanan's** statement about the need for effective leadership and referred to her handout on administrative expenditures (see Exhibit 50) stating that Elysian Elementary School with 141 students has a principal who also teaches half time. She believed they have effective leadership when they are required to be in the classroom and are directly involved with the students. She made comparisons to other schools and the difference in administrators. She said this is excessive administration and needs to be brought to the attention of the Board of Public Education and addressed by the legislature. She said no one would be fired from their jobs. **REP. ARNOTT** said she had a degree in school administration and she could be jeopardizing her own career potential. She was trying to provide for local control.

*{Tape: 4; Side: A; Approx. Counter: 739; Comments: n/a.}*

**HEARING ON HJR 21**

**Opening Statement by Sponsor:**

**REP. DORE SCHWINDEN, Wolf Point,** said this joint resolution of the Senate and the House of Representatives requested the Board

of Regents of Higher Education to study methods of containing the rising costs of tuition for in-state students. It also requested the Board of Regents to report its findings to the 55th Legislature. The following issues were requested as part of the study: 1) elimination of future increases in tuition and fees; 2) access to higher education for all economic segments of Montana population; and 3) methods of offsetting increasing costs of tuition and fees for low- and middle-income Montanans through scholarships, grants and loans.

The report must also include budget recommendations including increases in state support commensurate with tuition increases and the needs of low- and middle-income Montanans and their ability to gain access to higher education.

**Proponents' Testimony:**

**Jeff Baker, Ph.D., Commissioner of Higher Education**, said they are most definitely in support of this resolution because it touches on the issues that permeate "everything I do in higher education" and everything the system is doing, which is trying to address access, quality and price. He explained why these three issues must be considered as a whole and in relation to one another. He said they are expecting an additional 1,500 in-state students and access is one of the most critical issues. The Regents have stated that quality is the number one priority in the University System. And price is a problem they are addressing as tuition costs keep increasing.

*{Tape: 4; Side: B; Approx. Counter: 000; Comments: n/a.}*

**Commissioner Baker** distributed a graph showing the rising costs of tuition and fees at all Montana universities and colleges and comparable campuses in neighboring states. **EXHIBIT 52** He pointed out the 10-year gain in appropriations of state funds for operating expenses of higher education. He said the report submitted to the legislature in 1990 is a study he used extensively in the restructuring of the system and in formulating a policy that makes sense beyond the year 2000. He reiterated the concerns for students not able to access higher education as tuition costs increase, and the issue of maintaining a high quality university system.

**Mary Gilluly, Associated Students of Montana State University-Billings and MSU-Bozeman**, said they support this resolution and this study would document the needs of low-income students to access higher education.

*{Tape: 4; Side: B; Approx. Counter: 110; Comments: n/a.}*

**Jim Brown, graduate student, University of Montana**, submitted written testimony. **EXHIBIT 53**

**Opponents' Testimony:** None



Questions from Committee Members and Responses:

REP. KITZENBERG asked Commissioner Baker about the 22% increase in the tuition rate for the law school, and wondered how the Regents can justify raising the tuition to that percentage. Commissioner Baker said the law school has many other issues, one of which has to do with accreditation standards. He said he's the first to admit that accreditation standards are sometimes wrongly used to lever any action, whether it be library expenditures or salary increases. In this case, he said that increase in tuition provided funding that would stay in the law school.

REP. SIMPKINS said that Dr. Baker has implemented the recommendations in the 1990 study and he commended him for that.

REP. MILLS asked REP. SCHWINDEN about the recommendation for an increase in state support and he wondered why he would expect that money to be available. REP. SCHWINDEN responded that he sponsored this legislation to further a study that would address those issues and also commended Commissioner Baker on his accomplishments.

REP. MILLS then asked REP. SCHWINDEN about researching the method for offsetting increases in tuition and fees for low- and middle-income students through scholarships, grants and loans. He asked where this money would come from. REP. SCHWINDEN said that scholarships, grants and loans come from a variety of sources.

Closing by Sponsor:

REP. SCHWINDEN said regardless of the long-term future of the Regents, they will set the tuition and policy that addresses access and quality. This resolution will provide the legislative direction and intention that rising costs of higher education, whether from reductions in funding or inflation, will not be passed on to students and their families.

{Tape: 4; Side: B; Approx. Counter: 338; Comments: n/a.}

EXECUTIVE ACTION ON HJR 21

Motion/Vote: REP. COCCHIARELLA MOVED THAT HJR 21 DO PASS. Voice vote was taken. The motion carried 16-2 with REPS. KEENAN and REHBEIN voting no.

EXECUTIVE ACTION ON HB 365

Motion: REP. HURDLE MOVED HB 365 DO PASS.

Discussion:

**CHAIRMAN ELLIS** told the committee that this bill would request a report by the Board of Regents.

**REP. COCCHIARELLA** said some of these things are already being done and there are some things they can't do, and she was concerned about the requirement to give a prognosis for success in the future. She thought this bill was asking them to send a false hope. She said if they asked every college kid they know if they graduated when they planned to, she said at least half would probably say they didn't. For the University System to come up with a proposal for that is ridiculous and she thought for that reason they should vote it down.

**REP. SIMPKINS** said there are factors in the university system to consider, for instance, students who take courses they don't need. He said something is wrong and **REP. COBB** was saying the information is on the computer, so just provide it in a format they can understand.

**REP. HERRON** said they addressed this issue on the post-secondary education committee and said that **Commissioner Baker** is researching this and he thought it would be a duplication of effort.

**REP. MILLS** asked how they make a budgeting decision when they have people going to college, not just remedial language but remedial math. He said his daughter taught remedial classes to students who should not have graduated from high school, and he thought they should stop using college to teach students what they should have learned in high school. He supported the bill to get the additional information it would provide.

*{Tape: 4; Side: B; Approx. Counter: 570; Comments: n/a.}*

**REP. REHBEIN** said this bill would give them the "teeth" for the law that says they must give them the information. He supported the bill.

**CHAIRMAN ELLIS** agreed with **REP. HERRON** and stated that on several occasions he asked for information and never got the answers, but **Commissioner Baker** answers questions upfront and tries to address, without being asked, the same questions that were presented to the previous commissioner. He pointed out in testifying against this bill that they were currently providing much of that information, though not all. He believed too much time was being spent on remedial courses in the post-secondary education system, but that's not the university's fault. While it would be helpful to have the study, he believed that they would provide the information in a forthright manner because he trusted **Commissioner Baker** to do so. He said he would oppose the bill, but thought it was hard to tell how effective the answers would be because **Commissioner Baker** hasn't had time and has been

busy with budget work and reorganization since recently assuming this position.

**REP. ROSE** said he would oppose the bill because he believed that 80% of the students are earning a degree or more, and parents and others encourage the pursuit of higher education. He said there is a human factor to consider; not all kids who go to school adjust right away.

**REP. HERRON** asked **REP. MILLS** about the kids coming out of the system with problems and what is the problem of letting them have one semester of college to really know if they can "cut the mustard or not." Just because they have a small remedial problem, perhaps in the long-run, they will become better educated and more productive citizens. He said there is justification for allowing a few remedial classes in college.

**REP. SIMPKINS** asked why they don't put more pressure on the high schools to produce students who can handle college and this study would tell them if they're moving in that direction.

**REP. MILLS** said he was not disrespectful of **Commissioner Baker**, but thought high schools were apparently not doing their job, and there are eleven remedial courses in higher education. It seemed to him that this information was necessary to help them fix the problem.

**CHAIRMAN ELLIS** said that as far as the remedial work is concerned, and he wasn't proposing this, but he thought it was more appropriate that high schools be required to make sure students can meet certain thresholds when they graduate.

**REP. DENNY** said that his wife taught Math 100 at the University of Montana. Many of her students were older students, and he wished to point out that this student population may have needs that are different than high school graduates. He was in favor of the bill.

**REP. ARNOTT** said that **Commissioner Baker** is doing a fine job and his recommendation was that there are some areas in this bill that are good things that "he wants us to hold him accountable to." However, the reporting system was thought to be a "shot-gun approach." She said it's only reasonable to ask for the information in a report form. The report wouldn't say they have to reject the remedial students, just that they want to identify where they're coming from. She thought it would be good to consider fee changes for students with more than 140 hours. Graduate students are in a different position of earning than undergraduates, and can foot the bill. She favored HB 365.

*{Tape: 4; Side: B; Approx. Counter: 998; Comments: This meeting was recorded on four 60-minute tapes. The following executive action session was not recorded.}*

Vote: Roll call vote was taken. The motion carried 10-8 with REPS. COCCHIARELLA, HARRINGTON, HEAVY RUNNER, HERRON, HURDLE, ROSE, SHEA and WYATT voting no.

EXECUTIVE ACTION ON HB 479

Motion: REP. KITZENBERG MOVED THAT HB 479 DO PASS.

Motion: REP. HEAVY RUNNER MOVED THAT HB 479 DO PASS AS AMENDED.

Discussion: There was likely discussion about the amendment, but since this was not tape recorded, it cannot be included in the minutes.

Vote: Roll call vote was taken. The motion carried 16-2 with CHAIRMAN ELLIS and REP. REHBEIN voting no on the amendment and the bill as amended.

EXECUTIVE ACTION ON HB 480

Motion/Vote: REP. ARNOTT MOVED THAT HB 480 DO PASS. The motion carried 11-7 with CHAIRMAN ELLIS and REPS. COCCHIARELLA, HARRINGTON, HURDLE, KITZENBERG, SHEA and WYATT voting no.

ADJOURNMENT

Adjournment: 7:45 p.m.



ALVIN ELLIS, JR., Chairman



PATTI BORNEMAN, Recording Secretary

AE/pb

# HOUSE OF REPRESENTATIVES

## Education

ROLL CALL

DATE 2-13-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Alvin Ellis, Jr., Chairman	X		
Rep. Peggy Arnott, Vice Chairman, Majority	X		
Rep. Vicki Cocchiarella, Vice Chair, Minority	X		
Rep. Matt Denny	X		
Rep. Sonny Hanson			X
Rep. Dan Harrington	X		
Rep. George Heavy Runner	X		
Rep. Jack Herron	X		
Rep. Joan Hurdle	X		
Rep. Bob Keenan	X		
Rep. Sam Kitzenberg	X		
Rep. Gay Ann Masolo	X		
Rep. Norm Mills	X		
Rep. Bill Rehbein	X		
Rep. Sam Rose	X		
Rep. Debbie Shea	X		
Rep. Dick Simpkins	X		
Rep. Diana Wyatt	X		




## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that **House Joint Resolution 21** (first reading copy -- white) **do pass**.

Signed:   
Alvin Ellis, Jr., Chair

  
Committee Vote:  
Yes 16, No 2.

381029SC.Hbk




## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that **House Bill 365** (first reading copy -- white) **do pass**.

Signed   
Alvin Ellis, Jr., Chair

  
Committee Vote:  
Yes 10, No 0.

381032SC.Hbk



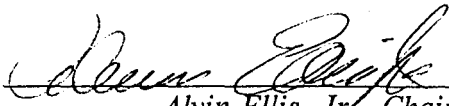


## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

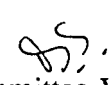
Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 479 (first reading copy -- white) do pass as amended.

Signed:   
Alvin Ellis, Jr., Chair

And, that such amendments read:

1. Page 3, line 4.  
Strike: "December"  
Insert: "March"

-END-

  
Committee Vote:  
Yes 6, No 2

381501SC.Hbk




## HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 480 (first reading copy -- white) do pass.

Signed:   
Alvin Ellis, Jr., Chair

  
Committee Vote:  
Yes 11, No 7.

381035SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Education Committee

DATE 2-13-95 BILL NO. HJ21 NUMBER \_\_\_\_\_

MOTION: Cocchiarella - Do Pass

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman		
Rep. Peggy Arnott, Vice Chairman, Majority		
Rep. Vicki Cocchiarella, Vice Chairman, Minority		
Rep. Matt Denny		
Rep. Sonny Hanson		
Rep. Dan Harrington		
Rep. George Heavy Runner		
Rep. Jack Herron		
Rep. Joan Hurdle		
Rep. Bob Keenan		X
Rep. Sam Kitzenberg		
Rep. Gay Ann Masolo		
Rep. Norm Mills		
Rep. Bill Rehbein		X
Rep. Sam Rose		
Rep. Debbie Shea		
Rep. Dick Simpkins		
Rep. Diana Wyatt		

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Education Committee

DATE 2-13-95 BILL NO. 305 NUMBER \_\_\_\_\_

MOTION: Hurdle - Do Pass

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman	X	
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority		X
Rep. Matt Denny	X	
Rep. Sonny Hanson	X	
Rep. Dan Harrington		X
Rep. George Heavy Runner		X
Rep. Jack Herron		X
Rep. Joan Hurdle		X
Rep. Bob Keenan	X	
Rep. Sam Kitzenberg	X	
Rep. Gay Ann Masolo	X	
Rep. Norm Mills	X	
Rep. Bill Rehbein	X	
Rep. Sam Rose		X
Rep. Debbie Shea		X
Rep. Dick Simpkins	X	
Rep. Diana Wyatt		X

10

8

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Education Committee

DATE 2-13-95 BILL NO. 179 NUMBER \_\_\_\_\_

MOTION: Kitzenberg - Do Pass  
Heavy Runner - Do Pass As Amended \*

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman		XX
Rep. Peggy Arnott, Vice Chairman, Majority		
Rep. Vicki Cocchiarella, Vice Chairman, Minority		
Rep. Matt Denny		
Rep. Sonny Hanson		
Rep. Dan Harrington		
Rep. George Heavy Runner		
Rep. Jack Herron		
Rep. Joan Hurdle		
Rep. Bob Keenan		
Rep. Sam Kitzenberg		
Rep. Gay Ann Masolo		
Rep. Norm Mills		
Rep. Bill Rehbein		XX
Rep. Sam Rose		
Rep. Debbie Shea		
Rep. Dick Simpkins		
Rep. Diana Wyatt		

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Education Committee

DATE 2-13-95 BILL NO. 480 NUMBER \_\_\_\_\_

MOTION: Arnott - Do Pass

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman		X
Rep. Peggy Arnott, Vice Chairman, Majority		
Rep. Vicki Cocchiarella, Vice Chairman, Minority		X
Rep. Matt Denny		
Rep. Sonny Hanson		
Rep. Dan Harrington		X
Rep. George Heavy Runner		
Rep. Jack Herron		
Rep. Joan Hurdle		X
Rep. Bob Keenan		
Rep. Sam Kitzenberg		X
Rep. Gay Ann Masolo		
Rep. Norm Mills		
Rep. Bill Rehbein		
Rep. Sam Rose		
Rep. Debbie Shea		X
Rep. Dick Simpkins		
Rep. Diana Wyatt		X

11 7

HISTORIC PRESERVATION REVIEW PROCESS

PROJECT



CULTURAL  
RESOURCE  
STUDY



IDENTIFY  
HISTORIC  
PROPERTIES  
AND  
DISTRICTS



ELIGIBILITY  
DETERMINATION

-----

ELIGIBLE

-----

NOT  
ELIGIBLE



FORMAL  
NOMINATION TO  
NATIONAL  
REGISTER OF  
HISTORIC PLACES

- A. On state Land
- B. Involves federal permit, license lease, etc.

- A. Performed by regulatory agency personnel or consultants

- A. Properties on private lands are included

- A. Property owner knowledge or consent not required
- B. Regulatory constraints and mitigation requirements imposed

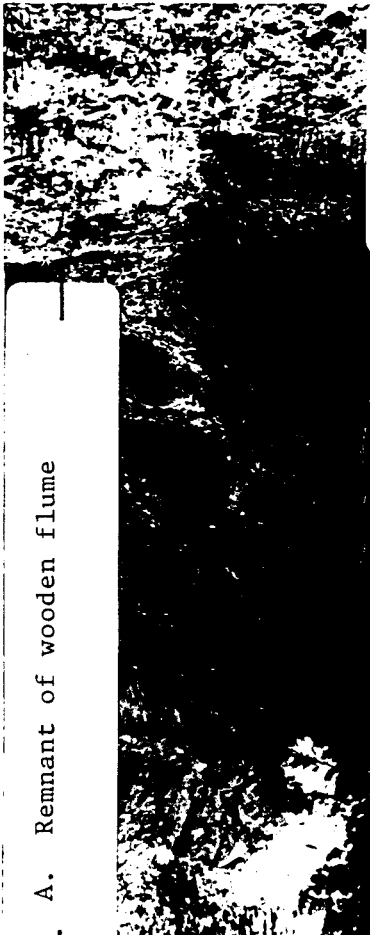
- A. Property owner consent required
- B. Formal nomination very infrequent

EXHIBIT 1

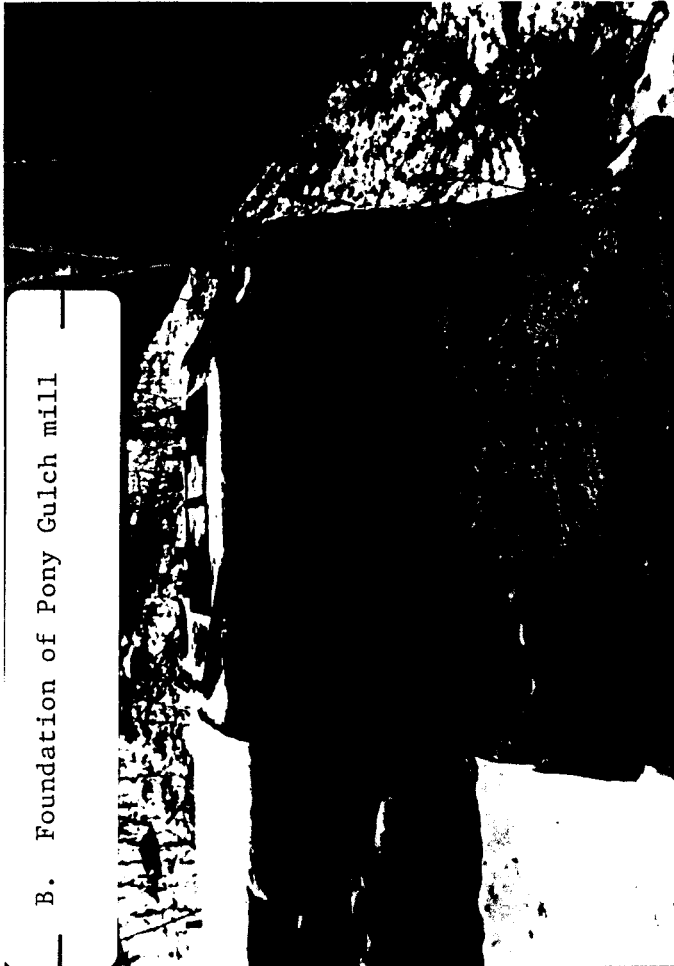
DATE 2/13/95

HB 485

A. Remnant of wooden flume

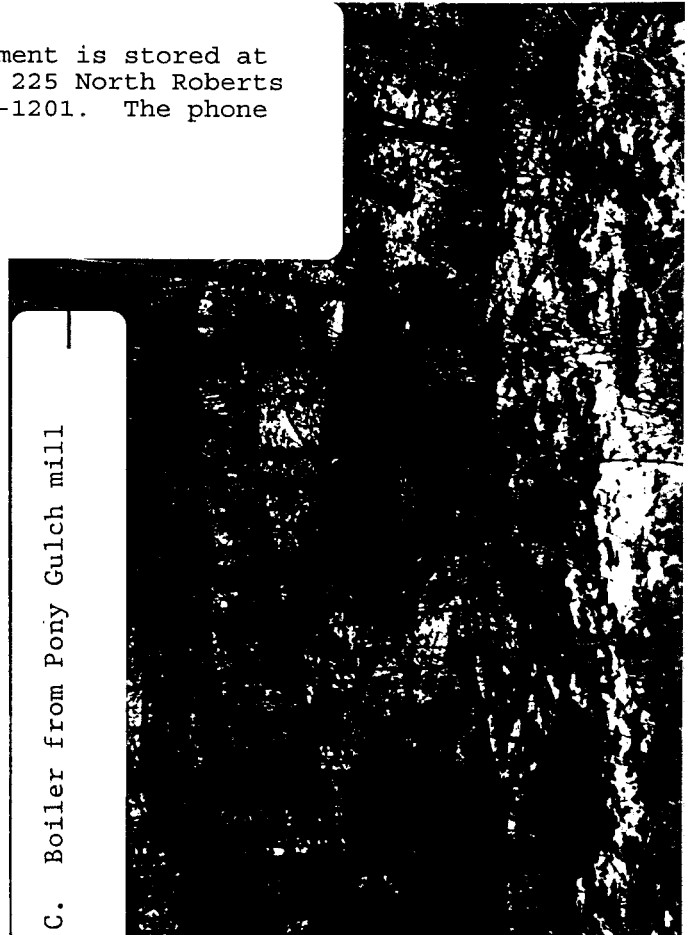


B. Foundation of Pony Gulch mill



The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

C. Boiler from Pony Gulch mill



D. Rock wall remnants from Pony Gulch mill

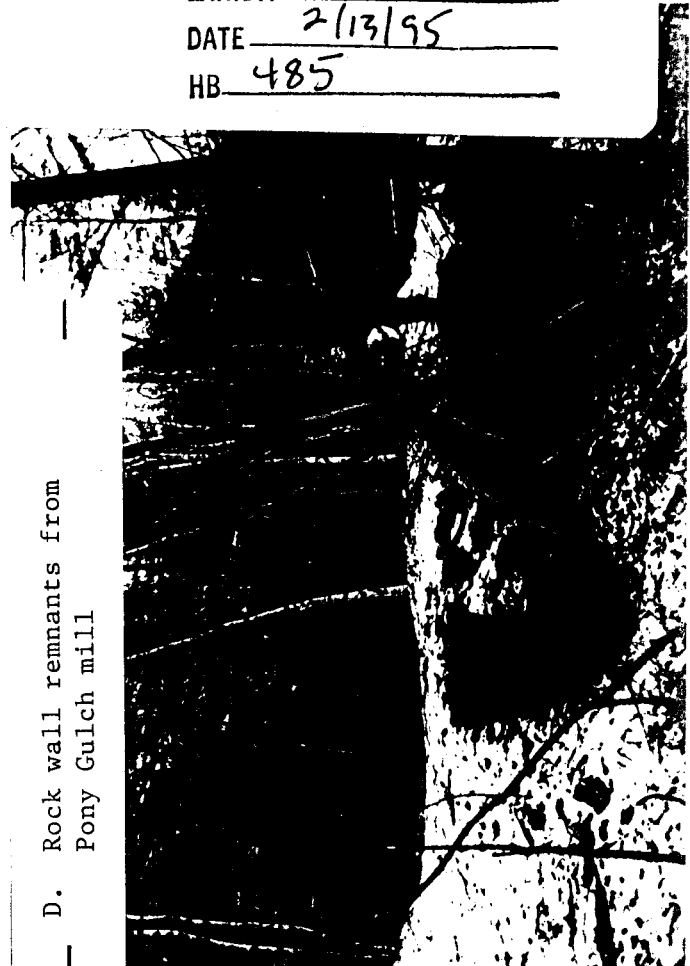


EXHIBIT 2  
DATE 2/13/95  
HB 485



EXHIBIT 3  
DATE 2/13/95  
485

Mr. Chairman + members of the committee

My name is Brenda Rummel, I'm here also to show my support for HB 485. My husband's Great Grandfather homesteaded on land adjoining the Little Rockies. My children are 5th generation Rummel's in the Zortman/Landusky area. Their Grandfather still lives in Zortman, right down the road from us.

We are private land owners and my husband, David, started the Little Rockies Outfitting business over 9 years ago.

As land owners and business owners we have never been notified as to the fact that our property lies within the boundaries to be designated a Historical site.

My husband is a licensed and insured Outfitter and holds BLM and CMR permits for hunting public land in and around the Little Rockies. If access to the area is cut off or limited it would have an adverse affect on our business. Which in turn would have a big impact on two more local businesses. The Buckhorn Store and Cabins and the Zortman Garage and Motel. This is where we lodge our clients, buy our groceries, gas and propane. We also do some business with the local cafe.

I support the fact that HB 485 will amend the existing and put into place the checks and balances needed for the Historical Preservation Officer and review board. No person should be given unlimited authority when the decisions they make affects to many lives and industries.

I would be alot happier if the Preservation Review Board were amended to have 13 members appointed by the Governor. 5 of them being professional in the fields of archaeology, history, architecture, or architectural history, with no more than 2 members from any one of these fields. Also a Palentologist, a state liaison officer for the federal land and water consevation fund and most importantly 6 members of the public with at least 4 of them being representatives of the following industries and entities; agriculture, economic developement, local gov't, state gov't, minning, realestate sales and development, timber or wood products.

I feel that even though the professionals know their businness, they deal more in idealism than in realism. By having the 6 public representatives on the board, I feel, that when we approach the board for permits or what ever it may be, that we will have people with a realistic view of Montana and how we work and what works best for us and our best interest. Realism will work alot better than idealism.

As private citizens and business owners, we are required by law to pay taxes, have certain licenses and permits. We are also required to have them applied and paid for by deadlinnes set by the different gov't agencys. I feel the Historic Preservation Officer should be held to certain deadlines also. Nobodys life, business, or industry should be left in limbo while waiting for response from the Officer in charge. A response should be expected in a time matter. That's not only good business, it's the right thing to do.

Please support HB 485.

*Montana*  
Brenda Rummel

X  
- Mr. Chairman & members of the committee

- Good afternoon, I'm Tom Gossack a representative of Tractor & Equipment Company and am here to testify in favor of HB485.

- Tractor & Equipment Co, is a major supplier of construction, mining, agricultural and industrial equipment, products and services in Montana. Since our beginning in 1929, Tractor and

- Equipment Co. has grown from occupying the rear half of a blacksmiths shop in Sidney to a multi-state international corporation employing nearly 1,000 people world wide with approximately 200 of them being here in Montana. One of the reasons we have been able to achieve that growth is by being accountable, something we view as a virtue. We feel that passage of HB485 would establish guidelines for the State Historic

- Preservation Office (SHIPO) and the membership of the preservation review board. Additionally it will provide accountability for their recommendations and decisions.

- Having read with interest the January 31 Great Falls Tribune article dealing with the Block P/Hughesville mine area cleanup, the impression is given that while the State Historic Preservation Office (SHIPO) and the U.S. Forest Service provide duplicate services in assessing the potential historic value of U.S. Forest Service properties, both parties are working on different planes. the environmental concerns of this project appear muted by the proprietary methodology of SHIPO and with the U.S. Forest Service, the dichotomous approach hints at little cooperative analysis or solution. There needs to be greater interaction on the part of SHIPO when dealing with individual land owners, applicants, lessees, etc. in order

to mitigate problems and facilitate the process. Provisions contained in HB485 would legislate this activity.

A key provision introduced by HB485 would require the historic preservation officer to provide affected property owners or applicants the proposed findings and allow them an opportunity to appeal to the district court if they are not satisfied with those findings. This involvement of property owners and applicants in the process is absolutely necessary if Montana is to enjoy economic growth and stability.

I would like to thank the members of the committee for the opportunity to provide this testimony and on behalf of Tractor & Equipment Co. and our employees, I urge you to pass HB485 in its entirety.

Thank you.

EXHIBIT 5  
DATE 2/13/95  
HB 485

HB 485

CHAIRMAN ELLIS AND MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY  
NAME IS ANNE ALBERTS REPRESENTING THE MONTANA ASSOCIATION OF  
REALTORS.

WE SUPPORT HOUSE BILL 485 AND AS A SPOKESPERSON FOR THE REAL ESTATE  
INDUSTRY WE WOULD VERY MUCH LIKE THE OPPORTUNITY TO BE CONSIDERED  
AS ONE OF THE FOUR REPRESENTATIVES ON THE PRESERVATION REVIEW  
BOARD.

~~WE ALSO CONCUR WITH COMMENTS MADE BY~~

WE URGE A DUE PASS ON HOUSE BILL 485. THANK YOU.

My name is Lesley Robinson. I am here today to show my support for House Bill 485, a bill for an act entitled; An act relating to preservation of heritage property.

We ranch south of Malta, adjoining the Little Rocky Mountains. The Little Rockies, along with Thornhill Butte and Coburn Butte, which is owned in part by our ranch, is being considered to be listed in the National Register as a historic site. We received absolutely no personal notification of this even though an extensive amount of the ranch's private property is within the working boundaries of the proposed historical site.

There seems to be no checks and balances with the historical preservation officer and the review board. House Bill 485 seeks to amend the existing act to resolve this problem.

There is a preservation review board within the Montana Historical Society, which consists of nine members. House Bill 485 amends it to read; the review board will consist of thirteen members. Members must be appointed by the Governor. Members will consist of five professional persons recognized in the fields of archaeology, history, architecture or architectural history, no more than two members from any one of these fields- professional paleontologist or state liaison officer for the federal land and water conservation fund. In addition six members of the public will serve on the board. At least four of the six public members must be representatives of the following entities or industries; agriculture, economic development, local government, state government, mining, real estate sales and development and timber or wood products. At this time only two public members are allowed to serve on the board.

We as part of the agricultural industry feel it is very important that we have a voice in the decisions being made by the board. We are greatly affected by these decisions.

House Bill 485 requires the historic preservation officer to develop standardized procedures and guidelines for evaluation of heritage property. It also requires notice of actions of the historic preservation officer. This is essential to the affected parties. The proposed Little Rockies site has been in limbo since spring 1994, when the working boundary was decided. The first public meeting we were made aware of was held August 10, 1994, six months ago. There is a definite need for set time limitations.

In closing, I would like to say. People's lives can not be put on hold for an indefinite amount of time. The rules have got to be defined and all affected parties need to be represented. Support House Bill 485.

EXHIBIT 7  
DATE 2/13/95  
HB 485

Mr. Chairman and members of committee.

My name is Francis Kolczak. I was born and raised in the Little Rocky mountains and continue to live there on a ranch homesteaded by my ancestors in the late 1800's. My ranch is located within the proposed historic boundary. This was done without my knowledge or consent.

On August 11, 1994 a public meeting was held in Landusky to discuss the Little Rockies as a historic district. This meeting was not attended by SHPO. This meeting was very confusing as the BLM could not answer a lot of the questions that were asked.

At this time I still do not know the status of my land. I urge your support of House Bill 485 to protect private property rights.

From the Organizational Rule of the Montana Historical Society.

(e) Historic Preservation

The Historic Preservation Program is responsible for implementing the National Historic Preservation Act and the State Antiquities Act.

Its activities include nominating sites to the National Registrar, reviewing tax certification projects, administering federal grants-in-aid, reviewing federal projects to determine and comment on any impacts to historic and cultural properties and coordination with local governments, state agencies, federal agencies and the public on matters relating to historic preservation.

Phillips County Commissioners were not included, were not notified in any way except through an article in the local newspaper that the Little Rockies Area was proposed as traditional cultural property.

Carol Keinenberger  
Phillips County Commissioner

**COUNTY COMMISSIONERS**

**PHILLIPS COUNTY**

WAYNE C. STAHL  
Saco, Montana

CAROL KIENENBERGER  
Dodson, Montana

FRANCIS V. JACOBS  
Malta, Montana

Clerk & Recorder  
LAUREL N. HINES

Treasurer/Assessor  
JEAN MAVENCAMP



Malta, Montana 59538

Sheriff/Coroner  
GENE PEIGNEUX

Clerk of Court  
FRANCES WEBB

Superintendent of School  
GARY A. BADEN

County Attorney  
EDWARD A. AMESTOY

Justice of Peace  
GAYLE STAHL

District Judge  
JOHN C. McKEON

EXHIBIT 8  
DATE 2/13/95  
HB 485

February 10, 1995

TO: CHAIRMAN ALVIN ELLIS, JR. and  
MEMBERS OF THE EDUCATION COMMITTEE

FROM: CAROL KIENENBERGER  
PHILLIPS COUNTY COMMISSIONER

RE: SUPPORT FOR HB485

I speak strongly for HB 485, <sup>as amended</sup> I believe this bill initiates balance, responsibility, and accountability within the State Historic Preservation Office.

The changes found in Section 1 bring balance to the board. By expanding the SHPO board to thirteen members from the present nine, you take nothing from the existing board but by adding members from agriculture, economic development, mining, local or state government, real estate sales and development, or the timber industry, members will be included from the entities directly impacted by decisions of State Historic Preservation Office.

Responsibility is implemented in Sections 4 and 5 by setting parameters for the Historic Preservation Officer. Section 4 requires adoption of much needed standardized procedures and guidelines. These are tools to be used not only by the HPO but also by those requesting consultation so they can know what is expected. As for section 5, I am surprised these guidelines have not been addressed before. We all work within timeframes, it is the only way to keep on track and be accountable. What would happen within the Legislature if there was no set "Transmittal Date"? As written, the action outlined in Section 5 is most reasonable. Section 5, paragraph 6 provides for public comments, and appeals by the applicant or affected property owner. This is ~~also~~ <sup>definitely</sup> needed.

*identifying appeals  
time frame*



The third factor is accountability. The law already states (p.2, line 13): "The Historic Preservation Office is to be established within," (not separate from), "the Montana Historical Society." It should naturally follow that the Historic Preservation Officer would be supervised by and should be accountable to the director of the Montana Historical Society. The language stating this accountability is found on Page 2, line 20.

As an elected county official, I ask these same things from the people I work with: A balance, as in weighing the merits of one thing against another, when making decisions. Responsibility in their actions, and accountability to me and the citizens we serve. I expect the citizens of Phillips County to ask the same of me; and I ask no less of the people who serve as state employees.

These are the main areas where I feel HB 485 adds important language to an existing law. I do not believe the added language in any way changes the mission of the State Historical Preservation Office. I ask for your support for HB 485.

Sincerely,

PHILLIPS COUNTY COMMISSIONER

  
Carol Kienenberger

EXHIBIT 9  
DATE 2/13/95  
HB 485

The Honorable Alvin Ellis, Chair  
House Education Committee *Members*  
February 13, 1995

HB 485

My name is Jeanne Barnard and I represent the Malta Area Chamber of Commerce and Agriculture.

In the short term HB 485 <sup>as amended</sup> could have a direct affect on the local economy of Phillips County . In the long term HB 485 <sup>as amended</sup> could provide a bill that guarantees the future of private property rights, and at the same time, respect our heritage that built this State so great.

HB 485 does not do away with the State Historical Preservation Office but enhances it to better address all needs of Montana. When an Office has so much power, their agenda at times can reflect a personal bias .

Private property rights and the opinion of 65 people were completely ignored at Landusky, MT when a hearing was held on the designation of the Little Rockies as a traditional cultural property. Projects can be brought to a complete standstill that provide jobs and economic growth and stability in their communities. One of those projects, the expansion permit of Zortman Mining, Inc. is a prime example. We stand to lose ~~250~~ jobs (71 people were already laid off February 1, 1995); 133 students; 84 homes; 5 million dollars worth of business locally and 20 million dollars statewide. *To the County we stand to lose 20% of our total taxable value.*

We need SHPO in our State, but we need to make it more responsible and sensitive to a person's private property rights.

I urge a do pass on HB 485 *as amended.* ps

Respectfully,

*Jeanne Barnard*  
Jeanne Barnard

# Historic district draws opposition at Landusky

The 65-70 people who showed up at a public meeting in Landusky last Thursday night to discuss the possibility of the Little Rockies Mountains being designated a historical district made their views pretty clear.

"The group opinion was pretty much concern over designation of the Little Rockies as a historical district and its effect on private holdings," said Stanley Jaynes, Bureau of Land Management (BLM) district archeologist of Lewistown, who conducted the meeting.

As he had at two earlier meetings in Hays and Lodgepole, Jaynes explained how the historic act works and the "fact that it doesn't actually preclude any development but does require a series of steps for federal agencies to go through..."

The thought of more federal involvement in their lives didn't sit well with the majority of those who showed up at the meeting.

"Many people were concerned this was going to be more federal government getting in the way of their private property," Jaynes acknowledged.

Similar concerns were "repeated for a few hours in different ways," Jaynes added.

"The gist of the meeting would be 'We don't like that,'" he concluded.

That doesn't mean the working group studying the question is simply

going to drop everything, Jaynes told the PCN in a telephone interview Monday.

Just because people are opposed to the district "that doesn't relieve the federal agencies of complying with Section 106 of the Historic Preservation Act every time there is a federal undertaking," Jaynes said.

The sequential process has been on going since about 1990 when the Native American group Red Thunder complained to the federal government that a historic district was being impacted by mining activities.

Jaynes said no Red Thunder representative spoke at any of the three meetings and he isn't sure whether any attended.

He said Red Thunder has been at odds with the work of the study group because they feel the "working boundaries" being used in the process are far too small.

Red Thunder originally proposed boundaries that would have run from the Milk River to the Missouri.

Jaynes said Red Thunder apparently has "some sort of grant" and is proceeding with a study which he understands has the goal of getting the Little Rockies listed as a historical district.

Jaynes said even the district as envisioned by the current working boundaries would "probably be the largest historic district ever."

The current working boundaries

include the area enclosed between paved highways which circle the Little Rockies plus Thornhill Butte and Coburn Butte.

Jaynes said it was hoped that through the meetings a "memorandum of agreement" could be reached between the various interested parties "so we could protect historic values but allow other non-interfering actions to continue."

"It appears people feel that there are not the historic values, at least on the southern side outside of the reservation," he said.

That leaves the question of whether the working group can agree on smaller boundaries.

"We had hoped these meetings would result in some productive meetings of that sort," Jaynes added, "but, of course, the key element is that Red Thunder didn't attend."

"We would hope they would be willing to meet with us and refine these boundaries."

An earlier study paid for by Zortman Mining Inc. by a private firm identified a few mountain peaks as having the potential for eventually being listed on the National Historic Register, Jaynes said.

He said Red Thunder rejected that study as biased.

The three meetings were conducted by the BLM, Bureau of Indian Affairs and Fort Belknap Tribal Council.

EXHIBIT 10  
DATE 2/13/95  
HB 485

CITY OF MALTA  
HOUSING REHABILITATION DEPARTMENT  
DRAWER L  
MALTA, MT. 59538  
(406)654-1251

---

November 30, 1994

TO: Jeanne Barnard  
FROM: Carolyn Schmoeckel  
RE: SHPO

Dear Jeanne:

This letter is in response to your inquiry this morning concerning SHPO(State Historic Preservation Office). As I stated on the telephone the City of Malta had to submit to SHPO at the Helena office a completed historical inventory for each housing unit that the city wanted to rehabilitate. The rehabilitation funding was secured through a grant. With the City of Malta being a successful recipient, one provision was that each housing unit had to have an approval from SHPO before actual construction/rehabilitation could commence. At times, this was somewhat difficult to obtain. Several incidents come to mind where I, as the Administrative Assistant, for the housing program, had to have several conversations with the personnel at SHPO. One particular structure was in very deteriorated condition. The stucco was actually falling off the structure in places. SHPO had earlier designated areas of the city where structures "could" be potentially eligible for the national register. This structure was in that designated area, so more compliances were needed. The cheapest way to rehabilitate the structure would have been to remove the deteriorated stucco and reside it with either colorlock or vinyl. The SHPO office insisted that we restucco it so its integrity would remain intact. To restucco the structure would cost approximately \$11,000. while siding would run around \$4,000.00. After several telephone calls, we compromised and agreed on a product called "stuccato". It was panels that looked like stucco. The cost was \$7,500.00. In addition, the owner wanted to put white shingles on the structure, SHPO through a telephone conversation wanted dark shingles so the house would retain the look of the original wood shakes.

I feel that SHPO did indeed inflate the cost of the project due to its requirements and also caused delays in the rehabilitation. I can recall at least three other cases where SHPO made demands that the structures retain their historical integrity, when it was unwarranted in my opinion. Conversations at workshops confirm that almost all entities that have had or have housing projects have a difficult time with SHPO. If I can be of further assistance, please contact me at the city office.

Sincerely,

*Carolyn Schmoeckel*

Carolyn Schmoeckel  
Grants Manager  
City of Malta

EXHIBIT 11  
DATE 2/13/95  
HB 485

# PHILLCO ECONOMIC GROWTH COUNCIL

Box 1637 - Malta, Montana 59538 - (406) 654-1776

House Education Committee Hearing

February 13, 1995

RE: HB 485

My name is Anne Boothe and I serve as the Executive Director of PhillCo Economic Growth Council, a non-profit citizen based organization based in Malta. A goal of PhillCo is to promote economic development which is conducive to the residents of Phillips County.

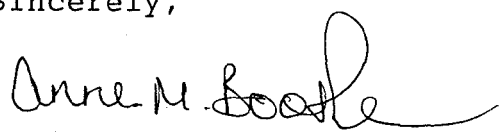
Personally, my husband and I farm and ranch northwest of Malta and I serve on the Board of Trustees for Malta Public Schools. I am a fourth generation Phillips County resident and have a true appreciation for my heritage.

On behalf of myself and PhillCo, I would like to offer our support of HB 485 as amended.

HB 485 will allow for public input, review and appeal if necessary, providing opportunities for objective approval of qualifying projects of the State Historic Preservation Office, its officer and directors.

Long range economic impact needs to be a consideration of state and federal agencies, especially in regards to rural Montana. We stand in support of private property rights and private industry which are the foundation of our communities.

Sincerely,



Anne M. Boothe  
Executive Director



*from the desk of Dick King*  
13 Spruce Drive, Havre MT 59501  
voice: 406.265.8478 (home) 9226 (office)  
fax: 406.265.5602

EXHIBIT 12  
DATE 2/13/95  
HB 485

February 12, 1995

Representative Alvin Ellis Jr., Chairman  
Education & Cultural Resources Committee  
Montana House of Representatives  
State Capitol  
Helena, MT 59620  
via fax: 900.225.1600

re: **HB 485**

Dear Representative Ellis:

I understand that the Education and Cultural Resources Committee will hear testimony today on HB 485, which is sponsored by Representative Bergsagel. I am unable to attend the hearing due to prior obligations. Please accept this letter in lieu of my personal testimony.

I am quite familiar with the Montana Historic Preservation Office. As a part of my obligations with the Bear Paw Development Corporation, I have prepared many environmental reviews for local governments that received federal assistance for infrastructure, housing and economic development projects. Each of these reviews required SHPO clearance, usually a finding of no adverse impact. In addition, I was a member of the Preservation Review Board for a short time. Currently, I hold the position of executive director with Bear Paw Development. Our non-profit organization serves Hill, Blaine and Liberty Counties. We are in the process of expanding our service area to include Chouteau and Phillips Counties. Bear Paw's Board of Directors includes local government officials and private sector representatives. My education background includes B.A. and M.A. degrees from the University of Montana. My major was American history.

With regard to HB 485, I submit the following for consideration by the Committee:

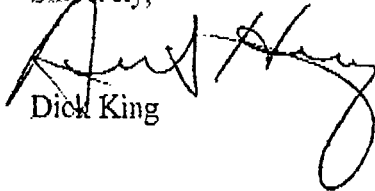
1. The process of obtaining SHPO's comments regarding a proposed action should be a routine part of the overall environmental review procedure. Too often, SHPO's review is a totally separate step in the process of securing environmental clearance. HB 485 would address this problem by requiring that SHPO comment within 30 days of receiving notification. This is reasonable. I also support the bill's requirement that SHPO specify what additional information is needed if the agency concludes that additional study is necessary.

February 13, 1995  
Representative Ellis  
page two

2. Before SHPO submits any actions to the Preservation Review Board for approval, such as proposed listing of properties on the National Register, the agency should be required to hold public hearings and notify all property owners that would be affected. HB 435 would amend current law to require that SHPO "develop procedures and guidelines for the evaluation of heritage property. . ." Public review and comment requirements could be included in the standardized procedures and guidelines proposed in Section 4 of HB 485.
3. As a native Montanan, I value our state's heritage highly. But, SHPO must broaden its constituency if it is to achieve lasting results. I support the requirement in HB 485 that the Preservation Review Board include representation from the agricultural, mining, real estate, and timber industries, as well as economic development agencies, local and state government.
4. I see HB 485 as an effort to make SHPO more accountable to the public and local government officials. In general, I support this effort.. I question, however, if the court system is the proper avenue for appeals of SHPO findings. Instead, I suggest a simpler appeal process that would involve the Preservation Review Board. If an applicant or an affected property owner disagrees with a proposed finding that has cleared the Board, the applicant or property owner should have the right to appeal to the Board itself. If the Board is made more representative of all interests across the state, applicants and property owners would receive a fair hearing on appeal of a proposed finding by SHPO. Guidelines for the appeal process could be included in the standardized procedures that would be developed in HB 485 becomes law.

I thank the Committee for taking time to consider my comments.

Sincerely,



Dick King



EXHIBIT 13  
DATE 2/13/95  
HB 485

May 19, 1993

Gus Brown  
CDBG Program Officer  
Montana Department of Commerce  
1424 Ninth Avenue  
Capital Station  
Helena, MT 59620

Dear Mr. Brown;

I'm writing this letter in regard to the activities of the State Historical Preservation Office (SHPO) to work that I want done to my home under the Community Development Block Grant Program. I understand these funds are dispersed by the Montana Department of Commerce, and are monitored by the SHPO to changes that may have an affect on historical properties. I appreciate and understand the need to preserve the history of this area, and wish to work with SHPO as much as possible to do so. However, I think it would defeat the purpose if the historical value is going to cost more in materials, cause an energy loss, as well as a weatherization problem.

My home is an older home which is in bad need of insulation and weatherization. I feel that the work plan we worked out would not damage any historical value this house may have. SHPO wants to keep most of the windows and doors because they are original to the structure. Due to flooding under the house some years before I bought the place, the house has settled to the point where windows do not work and doors have been cut off so they would open. I don't know where to get an original door. To fix the windows would cost more than to replace them with the window I wanted which I can get for cost. This window wouldn't greatly change the outside appearance of the structure, but be more affective in the heat loss and less maintenance. They are a replica of the double hung window. I have metal storm windows on now and they don't look original. The doors can't be seen from the street either, so where does the historical value come from? I sent SHPO a brochure on windows I planned to use, close to a month ago and I have heard nothing. The windows I planned to remove are not needed for ventilation or light, but rather a source of energy loss. SHPO felt these should also remain. There is also a chimney which was to be removed when the new roofing was installed and also to make room enough for the new furnace downstairs. SHPO felt that it should also remain because it was original to the house. This chimney has been repaired with modern brick and is in need of more repair. It will not be used even if it remains, but will be <sup>the</sup> energy place for energy loss and possible leakage place in the roof. SHPO agree to partial removal of the chimney. I don't know how one would do that. I just wanted a home that I could afford to heat and cool, and maintain, but it seems SHPO wants to turn it into a place for a museum.

As far as I know this house has no known historical value. Two parts of this house were built around 1918 and were moved in here and molded together on this lot. Then there were 3 or 4 more additions after this from 1940 to 1950. This house is in a small town off the highway and will only be seen by neighbors. To think it should be kept

original for historical reasons is not only unfair, it is ridiculous.

<sup>n project</sup>  
This has been going since January 20, 1993. I feel that we have met the requests of SHPO satisfactorily and should be allowed to proceed with this project as planned. I was hoping for your assistance to reach a speedy and fair resolution to this problem.

Sincerely,

*Wayne D Hill*

Wayne D. Hill

Wayne D. Hill  
Box 294  
Nashua, MT 59248  
(406) 746 3363

# State Historic Preservation Office Montana Historical Society

Mailbox Address: 225 North Roberts St. Helena, MT 59620-9990

Office Address: 102 Broadway • Helena, MT • 406/444-7715

102 Broadway • P.O. Box 201202 • Helena, MT 59620-1202 • 406/444-7715  
April 14, 1993

Julie Jenssen  
Program Manager  
Nashua Housing Rehab Office  
P.O. Box 226  
Glasgow, MT 59230

REF: Section 106 Consultation, Proposed Rehabilitation of Residence  
located at 215 Rosemary, Nashua, MT

Dear Julie:

We received your letter and the accompanying photos of the chimney and the windows located on the above-referenced property on March 24, 1993. I do apologize for the delay in responding to your project, we have just been swamped with CDBG projects in the last month or so. In any case, I really appreciate the time and trouble spent in photographing all the windows, this is the type of documentation I am looking for when dealing with extensive window replacement issues. Consequently, I have reviewing our previous correspondence and the new documentation and have the following comments.

1. Doors-Living Room and South Entry Doors

Both these doors appear to be pretty old, especially the front door into the living room, which has a distinctive Craftsman style. I would prefer that these doors be retained, especially the front door into the living room. It has historic hardware on it which should be retained also. I don't have a problem replacing the aluminum storm door on this entrance, since it is obviously newer construction.

The other door dates from somewhere in the 1930's-40's period, I would guess. I think that this door has less historic significance than the front door, so I would agree to replacement with a door that is similar in design. I still do not like the proposal to install a new metal insulated door, since these are so obviously non-historic in appearance.

2. Windows

The first obvious adverse effect is the proposed framing-in of the three windows on what must be the west side of the house. Frankly, we are not interested in any approach that justifies an adverse effect by stating that the placement of these windows "seems unnecessary", as referenced by your initial letter on this project. I would approve window replacements on this property, if they match the existing windows, in

Julie Jenssen  
April 14, 1993  
Page 2

operation, size, dimension, material, etc. per the Secretary of the Interior's Standards for Rehabilitation. The only difference being the use of insulated glass units in the windows. The picture window is not historic, so you can have free rein with it. I think you might be able to use a vinyl or metal clad wood window, if it is of close dimensional profile to the existing windows, but I am doubtful that would be the case. We have had our best luck with sash replacement with the Marvin Magnum Heritage Model. These units seem to be the most compatible.

3. Chimney

I still oppose complete removal of the chimney, even though it has been partially rebuilt with non-historic brick.

In conclusion, I appreciate your time and trouble in getting these photos to me. I still think that window and door replacement should be considered as the last option available, rather than the first option. If you agree to the comments contained in this letter, I would concur with a determination of no adverse effect, if you wish not to concur with this determination, then please let me know, and we can forward the project to the Advisory Council for their comments, per the Programmatic Agreement.

If you have any questions, or I can be of further assistance, please call me at 444-7715.

Sincerely,



Herbert E. Dawson, Deputy  
State Historic Preservation Officer  
Historical Architect

File:CDBG-Valley Co.-1993

MAR 03 1993



# State Historic Preservation Office

## Montana Historical Society

Mailing Address: 225 North Roberts • Helena, MT 59620-1201  
Office Address: 102 Broadway • Helena, MT • (406) 444-7715

March 1, 1993

Julie Jensen  
Program Manager  
Nashua Housing Rehab Office  
P.O. Box 226  
Glasgow, MT 59230

REF: Section 106 Review, CDBG Program, Proposed Rehabilitation of  
211 Mabel and 215 Rosemary, Nashua, MT

Dear Julie:

I received your letter and the accompanying work schedules for the above-referenced properties on February 25, 1993. I have reviewed Pat Bik's letter and her comments on eligibility of both these properties. I think in the future, if you think that a property might be eligible for listing on the National Register, please send the work description along with the project historical information and photographs, this will help expedite the review process.

It is my understanding, from reading Pat's letter, that she has determined that the properties located at **211 Mabel** and **215 Rosemary** are **eligible** for listing on the National Register of Historic Places, under Criterion "C".

I will address my comments on each project separately below:

1. **211 Mabel**

From what I could see on the photo included with the original inventory form, the exterior of the building did not look to be in such poor condition as you describe it in your most recent letter. Pat and I had both looked at this property as being marginally eligible for listing since the photo, included in the original correspondence showed the property as retaining most of its integrity. Since the building has been determined eligible for listing because of its overall architectural character, a Memorandum of Agreement (MOA) would be needed to comply with Section 106 review requirements concerning an **adverse effect**, which demolition of a historic property is considered. The MOA will spell out the necessary mitigation requirements in terms of photographic and historical documentation. It is a shame that you did not include your intentions with your original letter on this property. We have a standard MOA to be used on properties that are in extremely poor condition, and that the local community development grant manager has determined to be unsalvageable.

*Handwritten notes:*  
Mabel  
Rosemary  
Gallatin  
CDBG

Julie Jensen  
March 1, 1993  
Page 2

I think we will also require more photos more clearly demonstrating the actual condition of this property before we agree with your proposal for demolition. One poorly focused Polaroid photo just does not convey the actual deterioration of the property as you describe it.

#### 215 Rosemary

Pat also describes this property as being **eligible for listing** on the National Register of Historic Places. From reading through the work plan for this property, I can see several problems involving the following items in the work schedule:

- 1 Removal of three existing windows and the window framing being sided over.
2. Replacement of all the existing historic windows with an inappropriate metal clad window, ie. Crestline Windows, there is no mention of what style the original windows are, whether all the windows are simple 1/1 configuration, or if they have a more complex sash muntin system, for instance, a 3/1, 2/2, 6/1, or other configuration. I did notice that you specified that the windows have similar sills and trim with the originals. I doubt that this can be reproduced with the Crestline Window line. Please submit shop drawings of the proposed replacements, and close-up photos of the existing windows that will be replaced.
3. I have doubts about the authenticity of the slider windows, and double casement windows proposed for installation. If similar types existing now in these locations, we will approve similar replacements, however, if they do not, this action would constitute an **adverse effect, one which could be avoided.**
4. Another work item that I have serious problems with are the removal of the existing brick chimney, if it is original to the house, it should be repointed and be kept in place.
5. I also have concerns about replacement of what must be historic wooden doors, with insulated metal units, which are definitely not historic in nature and never can be. I would like confirmation that the existing doors are either historic doors and will be replaced in-kind with a similar design sympathetic with the age of the house, or are not historic and can be replaced with a new non-historic door. Photos of the existing doors should be submitted.

EXHIBIT 13

DATE 2-13-95

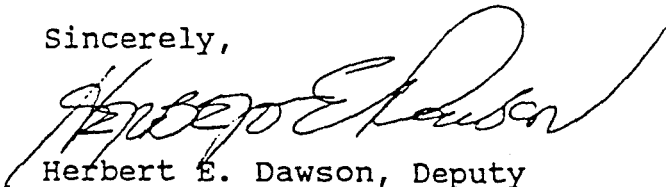
HB 485

Julie Jensen  
March 1, 1993  
Page 3

Since the documentation on this property is so scarce, in terms of photographs for us to review, I would strongly suggest that new 35 mm photos be taken that clearly show the existing items listed above. Remember that the Programmatic Agreement states that all work on historic properties determined eligible for listing on the National Register will be done in accordance with the **Secretary of the Interior's Standards for Rehabilitation**. I will include a copy of the Standards so that you can ascertain for yourself that the above items do not meet the Standards. I will also include a preservation brief which details the documentation required for window restoration, and other briefing papers which specify the requirements for door, storm door and window replacement in a historic structure.

If you have any questions, or we can be of assistance on these two projects, or other potential projects, please call me at 444-7715.

Sincerely,



Herbert E. Dawson, Deputy  
State Historic Preservation Officer  
Historical Architect

Enclosures

File: CDBG-Valley County-1993

*Handwritten note:*  
W.D. Jensen  
G.H.S.

EXHIBIT 14  
DATE 2/13/95  
HB 485



February 13, 1995

**The Montana House of Representatives Education Committee**

Mr. Alvin Ellis, Jr. - Chairman  
Peggy Arnott  
Vicki Cocchiarella  
Matt Denny  
H.S. "Sonny" Hanson  
Dan Harrington  
George Heavy Runner  
Jack Herron  
Joan Hurdle

Bob Keenan  
Sam Kitzenberg  
Gay Ann Masolo  
Norm Mills  
Bill Rehbein, Jr.  
John "Sam" Jones  
Debbie Shea  
Dick Simpkins  
Diana Wyatt

Dear Representative Ellis and Honorable Members of the Education Committee:

I am here today to support HB 485, a bill for an act entitled: "An act relating to preservation of heritage property; expanding the membership of the Preservation Review Board; providing for appointment procedure and supervision of the Historic Preservation Officer; requiring notice for certain actions of the Historic Preservation Officer; providing for term limits for members of the Preservation Review Board and the Historic Preservation Officer; requiring the development of procedures and guidelines for nominating property to the National Register of Historic Places; providing a procedure for nomination of property to the National Register of Historic Places; requiring avoidance and mitigation in the development of certain property; amending section 2-15-1512, 22-3-421, and 22-3-423, MCA; and providing a retroactive applicability date."

I am responsible for permitting the Zortman Extension Project for Zortman Mining, Inc. The company has been mining in the Little Rockie Mountains since 1979 and has always complied with the state and federal requirements for identification, inventory, documentation and protection of historic and heritage properties. This bill will not change the mine's obligations to continue to do so. What it will do is provide standardized guidelines and procedures so all interested parties are clear on what constitutes a historic or heritage site and the level of study and mitigation required for these sites.

It will also provide for supervision of the State Historic Preservation Officer by the Historical Society Director and places representatives of industry and government on the Historic Preservation Board. Economic development is important to the state of Montana, and government needs to support commerce while balancing preservation of important historic features and sites. To have only one person responsible for this task does not provide for adequate checks and balances when decisions need to be made that affect jobs for Montanans and contributes economic growth to our state.



The bill sets forth timeframes for the State Historic Preservation Office to respond to requests for consultation from other agencies and requires SHPO to specify the type and amount of information they will need. General comments and vague responses from industry are not allowed by regulatory agencies and SHPO must be held to the same standards.

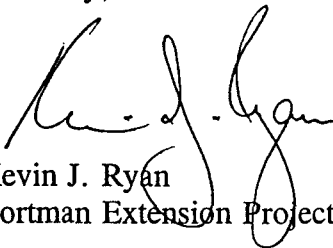
Term limits of 12 years for the Historic Preservation Board and Historic Preservation Officer will help bring fresh ideas and perspectives and prevent entrenchment of those serving in these capacities.

Ultimately, this bill provides balance and an even playing field to those of us who work and play in Montana. Private property rights will be protected by requiring notification of applicants and affected property owners of proposed findings by SHPO and will give the property owners an avenue of appeal if they deem it necessary.

I respectfully request the Education Committee members to approve HB 485. The National Historic Preservation Act was enacted for the purpose of protecting important cultural, historic and heritage sites. It has unfortunately been used to delay or stop important projects that provide jobs and taxes to our state even though the delay does little or nothing to contribute to protection of cultural resources. HB 485 will help reduce abuse of this act and provide accountability of the State Historic Preservation Office to their employer, the people of Montana.

Thank you for consideration of my testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Ryan". The signature is fluid and cursive, with a large loop at the end of the last name.

Kevin J. Ryan  
Zortman Extension Project Manager

EXHIBIT 15  
DATE 2/13/15  
HB 485

Alvin Ellis, Jr.  
Chairman,  
Education & Cultural Resources Comm.

Mr. Ellis and Committee Members:

I am here to support HB 485, as amended, because private property rights are most important to all Montanans.

The State Historical Preservation Board must make decisions in a timely and reasonable manner and make the appeal process workable for all parties. The SHPO Board should also be expanded to take under consideration all interested facets of the public.

Thank you,  
Jim Sandness  
PRESIDENT, MALTA AREA CHAMBER

EXHIBIT 16  
DATE 2/13/95  
HB 485

Feb. 10, 1995

Alvin Ellis  
Chairman, Education, Cultural  
Resources Committee  
Mt. House of Representatives  
Helena Mt.

Dear Mr. Ellis,

This letter is in regard to HB 485, which comes before your committee on Monday, Feb. 13~~th~~, at 3pm. I feel this bill is in the best interest of all private property owners in Montana. This bill will provide protection against government controls. I do feel this is imperative to Montana and our economy.

Thank you for your consideration on this matter.

Sincerely,  
Cynthia A. Scott  
Matta Mt.

Feb 10, 1995

Alvin Ellis

Chairman of Education : Cultural Resource Committee  
House of Representatives Helena, MT.

Dear Mr. Ellis,

I'm writing in regard to House Bill 485, which will come before your committee Feb. 13 at 3:00 p.m. I believe this to be a very good bill for private property owners, as well as the state of Montana. I feel it offers me some protection against Government interference concerning my private property. Government interference: mandates concerning private property is a serious threat to our individual freedoms & to the economy of our state. Please support H.B. 485.

Sincerely

Donna Johnson  
Box 549 Malta, MT.  
59538

EXHIBIT 17  
DATE 2/13/95  
HB 485

Mr. Chairman and members of the committee:

I am Mike Sjostrom of Helena, and a former Phillips County resident. I am here to go on record as supporting HB485.

My family continues to live in Phillips County. Our livelihood depends upon the economic health of the area. It is very important to them and me that we do have a voice in our future. Therefore, I feel that it is very important that the current board be expanded from 9 to 13, with 6 of these members representing various industries in Montana. Without fair representation on such a matter, Montana's economy will definitely falter.


Mike Sjostrom  
  
1335 Ranch View  
Helena MT 59601

EXHIBIT 18  
DATE 2/13/95  
HB 485

I am Jess Robinson, owner of the Lazy JD Cattle Co. Our private land is included in the working boundary of the Proposed Little Rockies Historical Site.

We have known of this proposal since Aug. 11, 1994 but we were never officially notified that it included our deeded land, nor have we been kept posted on it.

I support House Bill 485. Expanding the present board from 9 to 13 with 6 of these members from the public, representing agriculture, mining, timber and other industries, should give all areas representation.

HB 485 would require a Historic Preservation Officer to respond to a request for consultation from other government entities within 30 days of request and address each property with a proposed finding. The Director of the Historical Society must notify requesting agency of effect based on the officers finding. Also within 5 days of proposed finding, officer must give director, applicant and affected property owners notice of proposed finding. 20 days would be allowed for written comment. A final finding must be issued within 30 days of comment period.

The present process has been going on for several months and there seems to be no answers for the people it involves.

Thank you and please support HB485.

Jess Robinson

HC 63 Box 5095  
Dodson, MT 59524

*Jess H Robinson*

Wickes Smelter and Town Site



Remnants of the Wickes Smelter



EXHIBIT 19  
DATE 2/13/95  
HB 485

House Bill 485  
Testimony of William Snoddy, Environmental Manager  
Montana Tunnels Mining, Inc.

Montana Tunnels Mining, Inc., which is located in northern Jefferson County, approximately 25 miles south of Helena, has been working with the Department of State Lands, Abandoned Mine Lands Bureau, for their proposed clean-up of the historic Wickes smelter site at Wickes, Montana. The site of the project is owned by several small, private landowners and formerly served as the site of the Wickes Smelter, which last operated in the middle 1890s. The ground surface is contaminated by smelter flue dust which contains arsenic, lead, zinc, and other metals. The only remaining feature of the Wickes Smelter is a furnace stack.

This project may be jeopardized because demands for historic preservation appear as if they will take a large percentage of the project budget to stabilize and preserve the smelter stack. An engineering cost estimate provided to the DSL estimated the preservation cost at \$162,000. The funds being used in the Wickes Smelter clean-up are public monies. In my judgment, allocating \$162,000 to maintain a historic smokestack is sheer folly.



# McKENNA ASSOCIATES CONSULTING ENGINEERS

916 NORTH PARK AVE.  
HELENA, MONTANA 59601  
PHONE (406) 449-6937

RECEIVED

December 9, 1994

DEC 20 1994

STATE LANDS

EXHIBIT 19  
DATE 2-13-95  
X HB 485

J. Edward Surbrugg, PhD  
Project Manager  
PRC Environmental Management, Inc.  
Power Block Building  
6th and Last Chance Gulch, Suite 612  
Helena, Mt 59601

RE: Project 94-99  
Structural Evaluation  
Wickes Smelter Stack  
(Revision 1)

Dear Ed:

As requested, I have conducted an evaluation to determine the structural stability of the Wickes Smelter Stack located in the old township of Wickes, Montana. The stack was constructed in the late nineteenth century, probably about 1883, to serve the mining operations underway in the area.

## A. STACK STABILITY

The stack and stack base foundation were constructed of stone rubble which was standard in this area at that time. Until the early twentieth century, when continuous reinforced concrete foundations were developed, most foundations and similar structures were constructed of such rubblestone. Skilled masons of the past, using carefully selected fieldstones to avoid the need for cutting, could not always avoid irregular mortar joints that were prone to moisture infiltration.

The stack was computer analyzed by subjecting the structure in its existing condition, to over turning by winds exerting pressures of 20 pounds per square foot, (80 mph) and to seismic lateral restoring forces in excess of 20% of the of the computed wind impact loads. Zone 3 seismic condition analysis was also utilized assuming a seismic-isolated structure subject to ground motion intensity that has a 10 percent probability of being exceeded in a 250 year time duration. When subject to such forces, a structure will act as a vertical cantilever. The resulting total horizontal force and the overturning moment will be transmitted at the level of the foundation. The analysis of such forces transmitted at various heights was done to determine the most critical impact on the structure. Results of this analysis, using a seventy (70) foot stack height, showed that seismic vibrations were most critical to, not only the stack, but also to the base foundation. Construction vibrations near the stack foundation would cause structural instability to the stack and brick flue. This assured us that a larger more stable

foundation is required to enable large overturning moments to be transmitted in a stable manner.

Vibrations caused by construction equipment operations cause the propagation of a surface wave along the earth's surface. Such surface seismic waves radiate away from the source similar to ripples produced on the surface of a pool of calm water. The earth consists of many minute particles of rock that are, in effect, cemented together. There is a small amount of elasticity in the cement. Vibrations actually the displacement or movement of these particles that is caused by the pressure wave as it passes through the earth. The particles are displaced a small fraction of an inch by the pressure wave. Then the elastic nature of the cement takes over and the particles begin oscillating. It is these excursions or oscillations of the individual particles that can be measured to determine the magnitude of the vibration.

Each structure, however, has a natural vibration or frequency of structure. This is a natural base-line vibration which must be determined prior to any specific design for vibration stability retrofitting. However, from our initial analysis it was determined that the existing foundation should be reinforced from the existing dimensions of 12 feet by 11 feet to 24 feet to provide the essential base mass to dampen such vibration effects to the structure. In addition, the stack will require reinforced steel rings spaced at intervals and repointing of major exterior joints as well as critical interior joints.

#### B. BRICK FLUE

The brick flue stack lining is still intact, however, the mortar has become extremely dry and has lost its bonding ability. The bricks and mortar can be picked out easily by hand. The brick flue, therefore, presents a safety hazard to personnel working and/or investigating the stack interior.

#### C. CONSTRUCTION IMPACT

Construction operations would have an adverse affect on the existing stack as indicated under Section A. In order to provide stability for the stack during such construction operations and to extend the life of the stack the following remediation work will be necessary:

1. The foundation shall be strengthened by increasing the concrete mass with reinforcing steel mats to an area of 24' X 24' to stabilize the overturning force on the stack and to act as a more stable damping mass to absorb resonant frequencies created by construction activity. The additional foundation shall be connected to the existing base with steel dowels. (rebars)

2. Major exterior joints in the stack shall be repointed as well as critical interior joints. The total replacement of mortar in all joints of this structure would be a long and expensive task. The periodic repair of portions of deteriorated mortar joints is therefore preferable. Before repointing starts, the old

joints should be raked out if the mortar is loose. The cut at the back of the joint should be as square as possible and all debris cleaned out with an air hose. Before repointing, the old joint should be wetted with water. Chemical bonding agents are not recommended. The joint should be filled with mortar in layers of 1/4 inch depth. When the final layer is sufficiently hard, it should be re-tooled to re-create the appearance of the original masonry joint.

3. The stack shall be additionally supported by both interior and exterior steel rings or bands installed at approximately eight foot intervals. Each ring or band would be a different diameter in order to fit the stack at that particular vertical interval. Inner and outer rings would be bolted together at two points at each vertical interval.

4. The brick flue shall be removed as completely as possible. Those areas of the flue which cannot be removed by hand shall remain intact. It is assumed that the contractor will opt to remove the flue liner by means of a crane working from the top layers towards the bottom of the stack.

5. The top of the stack shall be sealed to prevent moisture intrusion to the stack interior.

6. Base-line structure frequency readings shall be taken on the structure prior to actual design and construction. Recordings of vibrations shall be taken during the course of construction operation. It is recommended that Karl Burgher, PhD of Burgher Associates in Butte be contracted to perform these tests.

7. An evaluation of the stack be conducted after construction operations for mine reclamation are completed to determine if further structural stability is required.

8. Temporary fencing during construction and permanent fencing after project completion be installed around the stack.

9. The oven entrance be sealed off with a special designed steel grate system.

#### D. ESTIMATED COSTS

1. Foundation enlargement	\$ 20,000
2. Stack repointing	30,000
3. Ring reinforcement	30,000
4. Flue removal	15,000
5. Cap placement w/ rim repairs	5,000
6. Monitoring	10,000
7. Additional retrofit/stabilization	8,000
8. Temporary & permanent fencing	12,000
9. Oven entrance grate	5,000
	<u>\$ 135,000</u>

20% Engineering design & contingencies 27,000


Total Estimate \$162,000

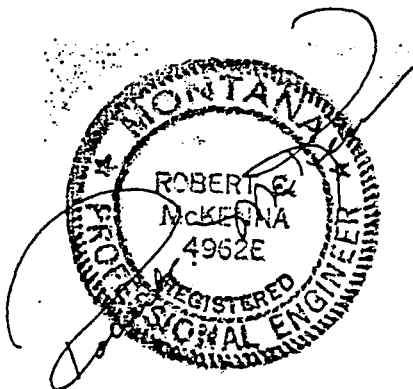
The design phase is extremely critical in this case and must concentrate on the control and limitation of displacements that could occur during anticipated construction activity. The design must also ensure adequate strengths in all components of the structure to resist vibration-induced forces while remaining essentially elastic. This is the reason the natural frequency vibrations of the structure are an essential part of the design analysis. In addition, specific requirements of safety and contractor pre-qualification for this type of work must be incorporated into the contract documents. All personnel taking part in site activities at the Wickes Smelter must fulfill the general levels of protection and respiratory protection provisions outlined in OSHA 29 CFR 1910. Respirator use is anticipated for workers on site because of the high concentrations of lead, arsenic, cadmium, copper, silver and zinc in the surface soils and the high potential for contamination associated with the remaining smelter building materials.

If a decision is made to remove the structure many of the same considerations will also apply and must be incorporated as specific technical specifications for such removal. It is estimated that destruction and removal costs would amount to \$45,000.

If you have any question or need additional information please let me know

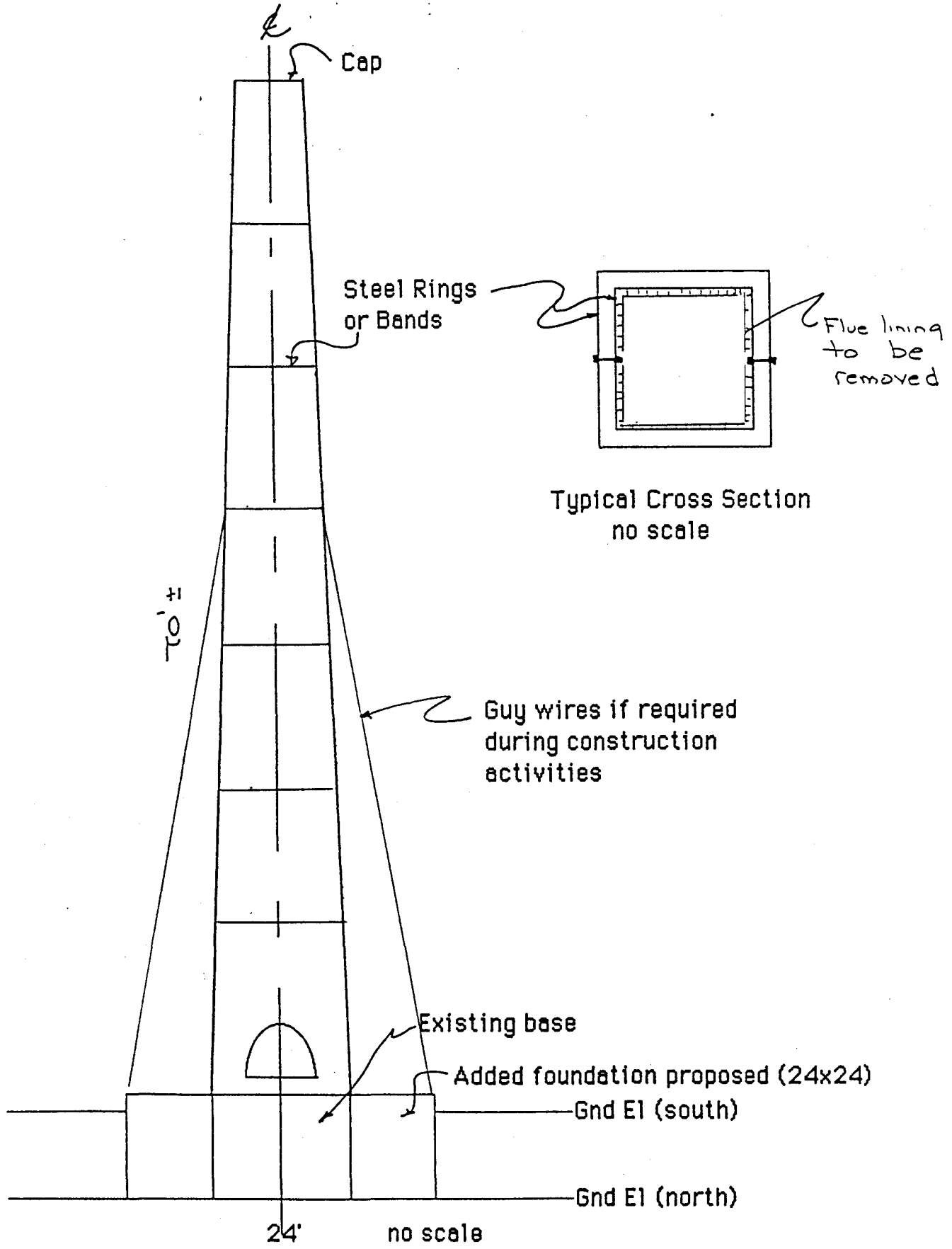
Respectfully submitted,

  
Robert C. McKenna, P.E.  
Structural Engineer



Attachment: Sketch-stack

94-99 PRC Environmental Management, Inc.  
Wickes Smelter Stack, RCM 12/8/94



Jack: Copy for you.

Stack Analysis Summary  
Wickes, Montana  
PRC Environmental Management, Inc.  
RCM 11/21/94/McKenna Associates

A. NORMAL LOAD ANALYSIS

Wind load:

70' x 9' x 20 psf = 12,600 lbs. lateral wind force  
assumed @ half stack height

Overtuning Moment

12,600 x 35 = 441,000 ft-lbs

Vertical Load

90 lbs x 70 x 3 x 36 = 680,400 lbs

Seismic Load

0.20 x 12,600 = 2,520 ft-lbs

Overtuning Moment

2,520 x 35 = 88,200 ft-lbs

Base Slab

M = 441,000 + 88,200 = 529,200, F = 5000 psf

Required base width =  $2.6^{1/3} (529,200/5000)^{1/2}$

1.2 x 10.3 = 12.3 ft. (Additional)

Add 12' to existing (11' x 12')

∴ Base = 24' x 24'

Check Base Pressure

Wt of stack = 680,400 lbs

Wt of pedestal = 142,560

Wt of added footing = 103,680

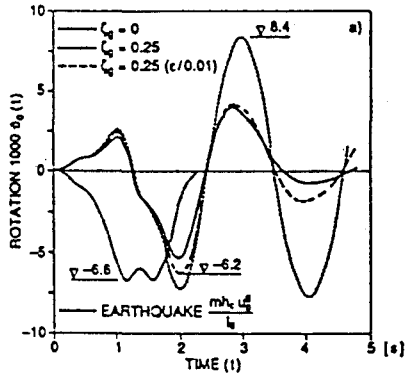
V = 926,640 lbs ±

Overtuning moment (seismic) = 88,200 ft-lbs

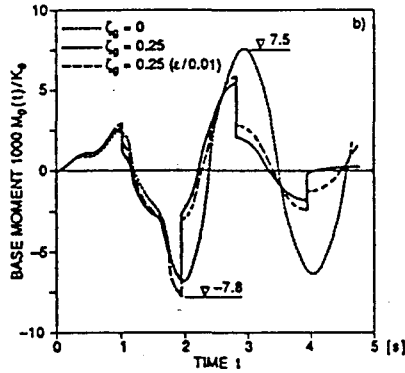
F = LV/A = 3.13 x 926,640/576 = 5035 > 5000 OK \*

\* NOTE: CALCULATIONS ARE PERLIMINARY ONLY  
FINAL ANALYSIS DONE UNDER PROSE  
DESIGN PHASE.

B. SEISMIC ANALYSIS COMPARISON



a. Rotation.



b. Base moment.

Effect of frictional material damping on earthquake response

Check seismic history data for comparison

Maximum ground acceleration = 0.51g

Maximum ground displacement = 0.29m

Amplification factor =  $8.4/6.6 = 1.27$

W/ damping (added solid concrete base as above)

Amplification factor =  $6.2/6.6 = 0.94 < 1.0$

EXHIBIT 20  
DATE 2/13/95  
HB 485

Montana House Education Committee

Attn: Alvin Ellis, Chairman

I am here to urge you to pass H.B. 485

This is a good bill and it is good for Montana.

Now is the time to increase the review board from 9 to 13 members so that we can have 6 members representing industry and government. We need industry representation to protect jobs.

At the present time there are no guide lines for the historic preservation officer. Because of this, property may be put up for study and studied for years.

Now is the time to set these guide lines so that our historic places may be preserved and other property opened for developement to create jobs for Montanans.

I urge you to pass this legislation now.

Thank you

*J. L. Robinson*  
MALTAN, MT



EXHIBIT 21  
DATE 2/13/95  
HB 485

Gary Howell  
Box 1236  
Malta, MT 59538

February 9, 1995

Montana House of Representatives  
Education Committee

RE: Support for House Bill #485

Dear Committee Members,

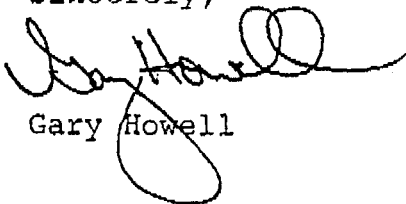
This letter is to state my support for House Bill #485. It is very important that the State Historical Preservation Review Board be expanded to include a broader base of interests and to give the Board supervisory authority over the State Historical Preservation Officer.

The rights of private property owners and sound economic development need to be considered in balance with historical preservation issues. While all Montanans need to have concern for historical preservation, it cannot come at the sacrifice of private property rights and economic well-being.

In addition, matters placed before the review of the State Historical Preservation Officer need to be considered and responded to in a timely manner for the benefit of all parties concerned.

Your support of this bill would be greatly appreciated.

Sincerely,



Gary Howell

EXHIBIT 22  
DATE 2/13/95  
HB 485

FEBRUARY 13, 1995

TO: ALVIN ELLIS, JR.  
EDUCATION COMMITTEE CHAIRMAN

AND OTHER COMMITTEE MEMBERS

FROM: LAWRENCE R. POULTON  
BOX 159  
MALTA, MONTANA 59538

Dear committee members:

I urge your support of House Bill 485 coming before your committee today. We all realize the importance of preserving our historic past and in no way do I want to eliminate this office in State government, however I do feel that some changes have to be made to the present system.

The people and industries that are affected have to have a part in the process. This will be accomplished by expanding the Preservation Review Board in the manner requested in HB 485.

There have to be set time frames for this process to not unduly restrict economic development or plans for improvements whether it be major companies or the Mom and Pop farmers and ranchers. This is a major part of HB 485.

Accountability of persons hired or appointed to the Historic Preservation staff and review board have to be clearly defined. Any person or board that can have a major impact on economic development and improvements to private property have to be held accountable for the decisions that they make. Appeal procedures are spelled out in New Section Five and are very important to this legislation. The above points will be clearly defined with the passage of HB 485.

Thank you for your time and I have given my permission for this to be read at the Hearing before your committee today.

Sincerely,



Lawrence R. Poulton

EXHIBIT 23  
DATE 2/13/95  
HB 485

Dear H.S. Hanson,

February 12, 1995

On behalf of the 73 Phillips County Cattlewomen members, I would like to urge you to vote for House Bill 485.

There are many reasons this is a worthwhile bill, I will name only a few. An expanded board would be of great benefit to all parties involved. This would keep opinions objective and the decisions more accurate. We believe this bill would strengthen private property rights which are already in jeopardy.

For these and many other reasons too numerous to mention we would like to once again urge you to vote for House Bill 485.

Sincerely,

Phillips County Cattlewomen

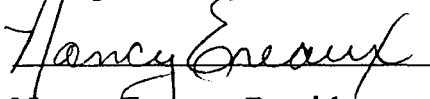
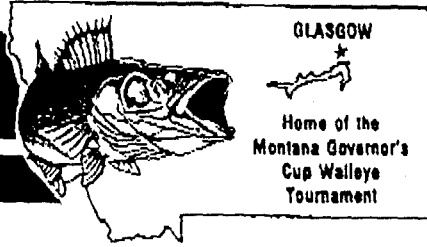
  
Nancy Ereaux, President

EXHIBIT 24  
DATE 2/13/95  
HB 485**Glasgow Chamber of Commerce & Agriculture**

Highway 2 East - Box 832 • Glasgow, Montana 59230

PHONE: (406) 228-2222

FEBRUARY 10, 1995

Sam Kittzenberg  
Education Committee  
Helena, MT 59601

Dear Sam:

The Glasgow Chamber of Commerce would like to urge you to vote in favor of HB 485. We feel expanding the membership of the review board and adding members that represent industry or government will be beneficial to the Preservation Review Board.

The supervision of any officer in authority is important and the standardization of procedures and guidelines will help the public understand better the actions taken by this Board.

Please vote for passage of HB 485.

Thank you,

A handwritten signature in cursive script that reads "Roberta Barstad".

Roberta Barstad, Secretary

EXHIBIT 25a  
DATE 2/13/95  
HB 485

To Whom It may concern:

RE: House Bill # 485

I'm forced to write this letter to express my thoughts and feelings on House Bill # 485, because once again the government is forcing legislation upon the people of Montana, without going through the proper procedures and guidelines.

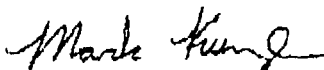
Bill # 485 is a proposal the people of Montana must have on our side to stop these governor appointed officers and boards from turning our great state into one big Yellowstone Park for the federal government.

This bill not only provides a better and fairer representation for Montanans with it's added representatives, but places a checks and balances system on the people in charge of the board, this will ensure the officer and board members are held in check for their actions. Since registered voters and tax payers like myself have no control over who is appointed I feel the term limits proposed in the bill are not only right, but long time over due.

As a native montanan, professional miner, and future property owner in this state, I hope before you cast your vote on this bill considerable thought is given to the implications of this bill socially, economically, and most of all how it will affect future generations, not only in our state, but others as well.

In closing I'd like to thank my house representative for helping the people of Montana, especially those of us which work for Zortman Mining.

Sincerely,



Mark Kunze  
Hc 84 Box 8280  
Malta, Mt.  
59538

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT 26  
DATE 2/13/95  
HB 485

2/13

Amendments to HB 485  
First Reading Copy  
Introduced by Bergsagel

Historical Society Proposal by Ward A. Shanahan President Montana  
Historical Society, in addition to those Amendments proposed by  
Representative Bergsagel.

- A. Page 1  
Lines 7,8 and 9  
Strike: "PROVIDING FOR TERM LIMITS FOR MEMBERS OF THE  
PRESERVATION REVIEW BOARD AND THE HISTORIC PRESERVATION  
OFFICER;"
- B. Page 1  
Line 13  
Strike: ";AND PROVIDING A RETROACTIVE APPLICABILITY DATE"
- C. Page 2  
Lines 1 and 2  
Strike: "following entities or industries:"  
Insert: "agriculture, economic development, mining, real estate  
and wood products industries."
- D. Page 2  
Lines 3 through 9  
Strike: All of lines 3 through 9
- E. Page 2  
Line 15  
Strike "five"  
Insert "Three"
- F. Page 2  
Line 16  
Strike: "preservation review board. The term of the historic  
preservation officer"  
Insert: "Director of the Montana Historical Society with the  
approval of the Montana Historical Society Board of  
Trustees."
- G. Page 2  
Line 17  
Strike: "coincides with the term of the governor."
- ~~H. Page 6  
Line 4  
Strike: "not"  
Line 4  
Strike: "more than 0.5%"  
Insert: "a percentage"~~

I. Page 6

Line 5

Strike: ". "design and"

Insert: ", which is directly proportional to the total cost of  
~~the activity to design and implement the plan, as the~~  
~~acreage containing the historic site or remains is~~  
~~directly proportional to the entire tract in which~~  
~~it is located.~~

Chairman Ellis and members of the Committee: My name is Marcella Sherfy. I'm Montana's State Historic Preservation Office, working within the Montana Historical Society. I am very pleased to have the opportunity to discuss HB485 and the issues surrounding its introduction. ~~I stand in opposition to this bill.~~

*Q value of appreciation*

*What's our offer down*

Were the perceptions of the proponents of this legislation true--about current laws and regulations, the implication of Register listing, or how I behave, I would not be in this business. For starters, I do not have a taste for this kind of political fray. Nor would I philosophically or procedurally support preservation regulations and laws if they worked by fiat. I am passionate about the value of ~~all kinds of~~ historic properties. But I am equally passionate about the principle that we each care for what we choose to care for--because we want to, not because we have to. Fortunately, the authors of both federal and state preservation laws and regulations worked on that very principle, ~~and on a pragmatic understanding of American protection of rights--long before the 1990s.~~

So, I more than share the frustration of the room's proponents if they believe that the process or I work on a different basis. We do not. A series of points:

- National Register of Historic Places listing or eligibility imposes absolutely no restrictions on private property owners--unless their county or city has a local preservation ordinance or unless they choose to take federal dollars, assistance, or permits for something they want to do. The underlying principle was simply that government had no business intervening unless local measures were adopted or unless the nation's taxpayers' dollars were being invested in a Register property.

- The same principle applies absolutely to state, ~~county, and~~ <sup>and local</sup> governments. Only locally adopted ordinances or the use of federal dollars or approvals triggers even consideration.



~~impositions~~. I am very concerned at any encouragement of those misperceptions. Far more important than implications for our office, those unwarranted fears do Montana's remarkable history a great disservice.

So, we are awash in deep misinformation--that rightly should not continue. This bill, however, does not address those misperceptions. ~~Far~~ more critical, it would appear to be defeating its own purpose. It adds time, process, and confusion to existing procedures in a series of ways:

-- First, the bill alters the composition of a Board in a way that would keep us from <sup>(here not review procedure)</sup> advancing National Register nominations from Montanans who seek designation. In order to participate in the Register, the Board must be comprised of people interested in preservation and a majority of the Board must be preservation professionals. (This is an arena, however, in which compromise is easily reached to meet the good objective of greater, broader, public participation and still meet requirement for preservation interest and skill.)

-- Second, the bill places our office in a more pivotal role than that now given us by federal and state law during the review of an agency's actions. We are currently the responder not <sup>or the final arbitrator</sup> the initiator of findings of what's significant or whether mitigation is appropriate. In the case of disagreement with our office, federal and state agencies have easy recourse. They know how and when to use it <sup>if they choose to do so.</sup>

-- Further, the bill adds 2 layers of review in our own agency, the cost and time of public and owner notice that is currently done by the agencies themselves, and an appeal <sup>ex</sup> mechanism to the district court. Those will stand in addition to existing time periods <sup>(many of which are shorter)</sup> and processes currently in existence <sup>federal</sup> ~~or be overridden by federal~~

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- ~~In federal law, however,~~ federal agencies are obligated to insure that their actions, decision, grants, or permits consider alternatives to harm for any property on or eligible for the National Register. <sup>But</sup> The final decision for an action is left to the agency. They can be sued only for failing to go through the process; they cannot be sued for their actions. Federal agencies are the primary actors-including doing all owner and public notice. We are commentors. Two <sup>separate</sup> ~~different~~ federal agencies serve as the final reviewers of a federal agency's position on significance and on attempts to avoid harm. <sub>(i.e. BLMs)</sub>

- Montana's state antiquities act mimics federal reasoning, but <sup>state</sup> agencies may reach a final decision even more rapidly and simply. In fact, in state law, each agency has written their own cultural resource regulations that spell <sup>out</sup> that final authority clearly.

So, the case of the Little Rockies, we have indeed been commenting to BLM in their completion of federal preservation procedures. (We are on record recommending the Little Rockies as eligible for the National Register as a district--concurring in that with BIA and BLM. BIA and BLM are welcome at any point to seek the final judgments on that issue from the National Register staff.) BLM has already begun the final stage of federal preservation consultation procedures--even before the EIS draft is out. Obviously, the mine expansion in the Little Rockies--critical to many people for many issues--requires BLM and DSL's examination of many complicated values. Historic resources are not now and <sup>are not</sup> ~~have~~

<sup>going to be</sup> ~~not been~~ the pivotal issue. <sup>on which that permit rests</sup>  
Public Meeting — BLM — <sup>mtg</sup>  
I am very familiar with and sympathetic to the fears that bubble up with we deal with a title as bureaucratic as "The National Register." Those words alone lead easily to misperceptions about nonexistent or entirely different federal or state strings ~~and~~

~~regulations themselves.~~

~~I will leave for the committee a variety of letters most critically:~~

The source of the problem that brings us all here today is not bad regs or my power. <sup>however heavily felt</sup>  
It is misinformation and a fervent wish to find an easy target for a complicated issues of great importance to our lives. We recommend strongly that you do not use changes in law to address a surely serious issue of perception about how to seek speedy and appropriate resolution of federal or state actions that ~~Montana citizens want~~ <sup>that affect Montana's heritage,</sup> I would end where I began--if ~~the~~ legal framework I worked in had the power to do what so many here fear, <sup>because of our</sup> I wouldn't be here. I look forward to finding ways <sup>with</sup> to address these perceptions to improve Montana's heritage truly--rather than this measure which takes us backward. Thank you!

Letters

- Assistance
  - Questions
  - letters
- already on dock

# CRM

VOLUME 17 • NO. 2

1 9 9 4

## Thematic Issue

Cultural Resources Management  
Information for  
Parks, Federal Agencies,  
Indian Tribes, States, Local  
Governments and the  
Private Sector



U.S. Department of the Interior  
National Park Service  
Cultural Resources

EXHIBIT 28  
DATE 2/13/95  
HB 485

# Using the National Register of Historic Places

## Getting the Most for Our Money

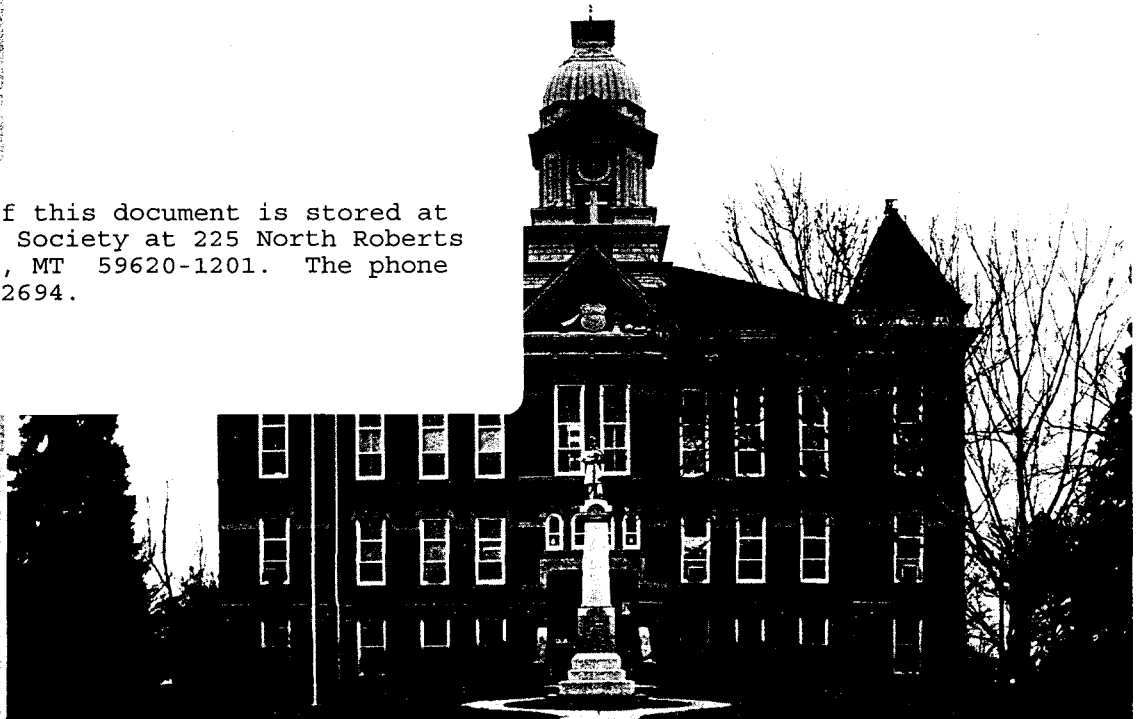
Carol D. Shull

**A**re you getting your money's worth out of the National Register of Historic Places? In 1966, the framers of the National Historic Preservation Act may have envisioned the National Register as a list of places worthy of preservation, but the uses of the National Register go far beyond that today. In this special issue of *CRM*, a variety of authors tell us how the National Register is being used. In these days of reinventing government and getting more for less, we hope that readers will learn from these articles ways that we all can get the most from our investment in a national inventory of historic places.

The National Register should help us understand and appreciate our heritage and what specific places mean in American history. In his article on the role of the National Register in the "new" architectural history, Professor Bernard Herman tells us how the National Register is emerging as a vital, innovative, and integrated research approach that places cultural resources at the center of historical inquiry. Linda McClelland's article shares examples of multiple property listings that do just what Herman suggests.

*(Shull—continued on page 3)*

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.



Communities across the country include districts, sites, buildings, structures, and objects listed in the National Register of Historic Places. Historic courthouses, like the Washington County Courthouse in Blair, NE, represent the heritage of older communities. Photo by B.J.B. Long, Four Mile Research.

EXHIBIT 29  
DATE 2/13/95  
HB 485

United States  
Department of  
Agriculture

Forest  
Service

Region 1

Federal Building  
P.O. Box 7669  
Missoula, MT 59807

File Code: 2360

Date: February 13, 1995

Ms. Marcella Sherfy  
State Historic Preservation Officer  
Montana Historical Society  
225 North Roberts Street  
Helena, Montana 59620

Dear Ms. Sherfy:

Thank you for furnishing me the copy of House Bill 485 I requested last week. I had heard of this Bill and have been getting confusing comments on it from several of our Montana Forest Archeologists. It would be fair to say that many of our heritage resource specialists at the National Forest level are concerned and confused by aspects of House 485.

I would like to offer some constructive comments from the perspective of a land management agency staff officer. The opinions expressed here are my purely my own; since there has not been time to share the Bill with responsible Line Officers to formulate an official agency position. It is my hope that this input will help you and others in deliberations on this important legislation.

To begin, let me summarize my views by stating that if it was the intention of this Bill to streamline SHPO operations; I believe it has missed the mark. I am also afraid that the Bill misinterprets some aspects of the National Historic Preservation Act (NHPA) and its implementing regulations at 36 CFR 800. Some of the roles and responsibilities clearly established by NHPA appear to be confused by this Bill. My specific observations and concerns are briefly discussed below:

1) line 1, p.2, the composition of the State Preservation Review board seems to depart from the cross section of reviewers specified in National Park Service standards by adding many new positions. This will likely jeopardize the State program in National Park Service program audits and make Montana less competitive for Federal program funds. This directly contradicts the mandate to "qualify" the State for Federal funds expressed in Section 3, 22-3-423 and is quite confusing. It also worries me in a purely practical sense because our ability to pursue highly productive partnerships and cooperative historic preservation projects with your office has been one of the real high points of the past two fiscal years for us.

2) line 30, p.2 the definition of "Heritage property" does not reflect the 1922 amendments to NHPA broadening the consideration and standing of Traditional Cultural Properties. Federal agencies will of course be bound by Federal law and regulation on this point and will continue broad Tribal consultation efforts.

3) line 17, p.4. New Section: calls for the SHPO to develop standardized procedures and guidelines for inventory, data collection, documentation, and evaluation. I must point out that such standards and guidelines for historic preservation already have been promulgated by the Secretary of Interior through the National Park Service. Existing Federal standards are broad enough to accommodate the terrific ecological and cultural variability evident in Federal agencies like the Forest Service and Bureau of Land Management. A State "cook book" might be useful but would be redundant. Our agency is bound by the Federal standards and guidelines and of necessity would view State standards as optional wherever they depart from the Federal requirements.

4) line 23-24, pps.4 & 5 cause me the greatest concern. In this section the Bill seems to depart markedly from NHPA requirements and to ignore the statutory roles of both the Keeper of the National Register of Historic Places and the Advisory Council on Historic Preservation. Succinctly put; it is not the SHPO (or the Director of the Historical Society) who determines if cultural properties are eligible for listing upon the National Register of Historic Places; or who determines "effect" and "mitigation." This is the role of the Federal agency initiating the undertaking. This role is redeemed in coordination with the Keeper of the Register and with the Advisory Council as clearly specified in the Federal regulations (36 CFR 800.) Federal agencies by necessity must be bound by the Federal statutes.

line 2, p.5, states that mitigation plans must be developed by applicants. The Forest Service often develops "in house" mitigation plans or scopes-of-work at the request of, and to assist applicants for Federal permits or projects. We will continue to do so. At other times, applicants or their consultants choose to develop such plans themselves to the Federal standards to expedite crucial projects. We believe this flexibility benefits our publics and that the process articulated in House Bill 485 would be less effective and more restrictive.

line 1-5., p.6, purports to specify how mitigation must be structured and what it may cost. This is a fatal departure from NHPA and its implementing regulations. For the National Forest System lands in Montana we must, by statute decide matters of effect and mitigation. This decision is made in coordination with the applicant, with the Keeper of the National Register, with the Advisory Council on Historic Preservation, with Tribes, with the public, and with the SHPO; but it remains the decision of the designated Forest Service Line Officer. Costs of mitigation planning and implementation vary widely by project and resource. It is not established

Ms. Marcella Sherfy

EXHIBIT 29

DATE 2-13-95

HB 485


Page 3

in Federal law and I doubt it can be so established in State law. As now written this section would be difficult or impossible for us to integrate with the Federal regulations we are bound to follow.

It would be inappropriate for me to comment on those aspects of the Bill which lie purely in the State's purview (terms of appointment for state employees, or their supervision) and I will refrain from doing so. I do feel strongly that it is important to communicate honestly when the articulation between Federal and State laws and regulations is at stake. For me, the bottom line is that key aspects of the current Bill would make my job harder, would make my work less efficient, and would make productive integration of State and Federal procedures less likely.

Thank you for the chance to express my personal concerns and viewpoints. I wish you and all the members of the Educational and Cultural Resources Committee all success with this critically important effort to improve historic preservation for all Montanans. Please do not hesitate to call on me if I may be of any assistance or if I may clarify any of the opinions I have expressed here.

Sincerely,



MICHAEL R. BECKES Ph.D.  
Regional Archeologist and  
Heritage Program Officer



IN REPLY REFER TO:

Environmental Services

## United States Department of the Interior

### BUREAU OF INDIAN AFFAIRS

Billings Area Office  
316 North 26th St.  
Billings, Montana 59101

EXHIBIT 30  
DATE 2/13/95  
HB 485

FEB. 13 1995

Marcella Sherfy  
Montana State Historic Preservation Office  
102 Broadway  
Helena, Montana 59620-1202

Dear Ms. Sherfy:

The Bureau of Indian Affairs (BIA) has reviewed House Bill 485, which attempts to restructure the Montana State Historic Preservation Office (SHPO). We have several concerns about this bill:

Section 1. This section expands the review board to 13 members and requires representation from several industries. In an era of government downsizing to save costs, we find it unusual to be expanding a board. More importantly, is the fact that this bill proposes to change the composition of the review board by eliminating language requiring board members to have "demonstrated an interest in historic preservation matters", while at the same time expanding the board to include representatives of mining, timber, real estate, as well as other private enterprises. This appears to be a poorly veiled attempt at "loading" the review board, and diluting the effectiveness of historic preservation. We also note that while the bill would include private industry representatives, the review board has no Native American representatives.

Section 5. This new section expands the consultation process and appears to ignore the existing process federal agencies must follow in order to comply with federal law and regulations. The use of the term "findings" throughout this section suggests the SHPO issues decisions regarding historic preservation issues on all lands, when in fact it is federal agencies who make the decisions on federal actions. Federal agencies are only required to consult with the SHPO; the ultimate decision always lies with federal agencies. The language in this section may conflict with existing federal law.

Section 5(2). This new section adds an unnecessary level of bureaucracy by having the director of the historical society review and sign every determination made by the SHPO. Because of the sheer volume of undertakings that pass through the SHPO, we believe this will delay many federal decisions.



Section 5(6). This new section allows for an appeal process through the state district courts. Because of the federal requirement for the BIA to consult with the SHPO and the unique sovereign status of Indian lands, this proposed jurisdiction of district courts may lead to confusing situations on decisions affecting Indian lands.

In summary, we believe House Bill 485 is poorly conceived. It is biased against historic preservation; it creates a more cumbersome bureaucratic process; and it ignores the federal compliance responsibilities of federal agencies.

Thank you for the opportunity to offer our comments.

Questions may be directed to Marvin Keller at 406/657-6145.

Sincerely,

Acting

*Keith Beantusk*

Area Director

EXHIBIT 31  
DATE 2/13/95  
HB 485

February 13, 1995

Representative Alvin Ellis, Jr. Chairman  
Education and Cultural Resources Committee  
Room 312-1, State Capital Building  
Helena, Montana 59620

ref: House Bill 485

Dear Representative Ellis and Members of the Committee:

Chairman Ellis and members of the Committee, my name is Janet Cornish. I am the former director of the Urban Revitalization Agency in Butte and currently am the owner of a small consulting firm which addresses issues of Community Development and serves clients in both the public and private sector.

Thank you for the opportunity to speak before you today concerning HB 485, introduced by Representative Bergsagel. I speak to you as an opponent of this legislation, but I remain respectful of the growing concern in Montana that existing regulation often stifles the entrepreneurial spirit and the long term health of our state's economy.

The Montana State Historic Preservation Office operates primarily within the procedures established in the Federal Historic Preservation Act, passed in 1966. The Act provides for a series of incentives and programs which facilitate the preservation of those places which are significant in local, state and national history. It also establishes a procedure by which the actions of Federal agencies are evaluated as to their potential impacts on properties of historical significance. However, this procedure is just that-- a process of identification and assessment; but it has no teeth. Once the potential affect of an action has been identified, the agency or its licensee can, in fact proceed with its activity: mining, road building, housing construction etc.. The Montana State Historic Preservation Office facilitates this process, but ultimately, it is the responsibility of the particular federal agency to evaluate affected historic and prehistoric resources. Actions undertaken by local governments are not subject to this process and only limited state activities are addressed under the Montana Antiquities Act.

Keeping this in mind, House Bill 485 is, in fact, increasing the regulatory activity associated with historic preservation in the state of Montana. It adds state and local government preservation responsibilities to already over-taxed local communities; it introduces the judicial system as a remedy with regard to determinations of significance. Once again, the evaluation of historic resources is largely a procedural process, the findings of which can be dismissed. Why add lengthy court proceedings to address essentially non-mandatory findings of significance? The bill also calls for a restriction on the amount of money which can be spent on "mitigating" an adverse impact to an historic or pre-historic property. This is more than most mitigating activities usually cost; but critically less than would be required to mitigate the loss of a resource of extreme importance to our state's history.

We can not ignore however, the issues to which HB485 speaks. The bill reflects a level of frustration with procedures and processes that are often poorly understood or are seemingly irrelevant. It is clear, however, that legislation, especially that which only serves to complicate the process further, is not necessarily the answer.

It seems that it would be far more useful to work at becoming more informed as to the role which the State Preservation Office has in the development of our economy and our communities. How can industry, local, state and federal agencies work together to more easily address the requirements in the National Historic Preservation Act? Rather than adding another layer of regulatory requirements (as HB485 would certainly accomplish), why not sit down and become more informed; develop means for agency officials and members of the public to become early and active participants in the process; and ultimately develop a workable method for addressing issues related to our cultural resources. I strongly suggest that the Governor convene a special task force to address these issues and make recommendations as required.

I should add, also, that the role which cultural resources play in our community and in our future is critical. The conservation and development of our cultural resources is critical to our growing tourism economy which is now the second largest industry in our state after agriculture. Recent surveys conducted by the U.S. Forest Service have revealed that 35% of the traveling public is interested in visiting historic sites and museums and the availability of these sites and attractions is a determining

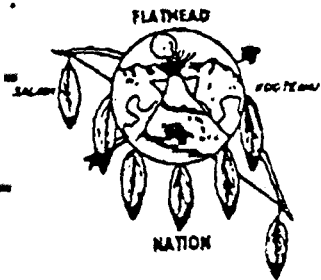
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factor in selecting their destination. While communities are becoming increasingly aware of the importance of cultural resources to their local economies, there have been few efforts to integrate cultural resources in overall community and economic development planning. Instead, historic preservation has been viewed as a restrictive and anti-progressive discipline. I encourage you to work towards imparting a better understanding of the positive role which our historic and prehistoric sites can play in our future.

In closing, I urge you to address this problem through education and collaboration to assure a more reasonable approach -- not through new legislation which will only frustrate an already poorly understood process. Instead, I heartily ask that we talk, become better informed and work together.

Thank you,

  
Janet A. Cornish



THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD NATION

P.O. Box 278  
Pablo, Montana 59855  
(406) 675-2700  
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Joseph E. Dupuis - Executive Secretary  
Vern L. Clairmont - Executive Treasurer  
Bernice Hawankom - Sergeant-at-Arms

February 13, 1995

TRIBAL COUNCIL MEMBERS:  
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Donald "Donny" Dupuis  
Mary Lefthand

Via Fax and Original Mailed

Representative Alvin Ellis, Jr., Chairman  
House Education and Cultural Resources Committee  
Montana State Legislature  
Helena, Montana 59620

Re: House Bill No. 485

Dear Chairman Ellis and Members of the Committee:

The Confederated Salish and Kootenai Tribes submit the following comments on House Bill No. 485 regarding the Montana State Historic Preservation Office (SHPO) and request that you oppose this legislation. As a Tribal government we have a strong interest in preserving historic and cultural sites of significance to our members, and our Tribal agencies are often required to comply with federal cultural resource protection laws when we are engaged in a federally assisted undertaking.

We are concerned that HB 485 perpetuates a fundamental misconception of the role the SHPO plays in the implementation of the National Historic Preservation Act of 1966 (NHPA). The purpose of the NHPA is to encourage the preservation and protection of America's historic and cultural resources. The NHPA is primarily a procedural statute, designed to ensure that Federal agencies take into account the effect of Federal or Federally-assisted programs on historic places as part of the planning process for those properties. The NHPA is not an action-forcing statute, but rather imposes only procedural requirements on federal agencies to promote the preservation of historical and cultural resources.

To achieve the basic goal of historic and cultural preservation, Congress identified three principal purposes of the NHPA: (1) establish a process of inventorying historic and cultural sites, and establish a National Register of sites significant in state, local, regional, and national historic, culture, architecture or archaeology; (2) enhance and encourage state, local, national and tribal interest in historic

preservation; and (3) establish the Advisory Council on Historic Preservation to oversee matters relating to preservation of historic properties and to promulgate regulations to outline federal, state, and tribal obligations regarding consideration of sites that may be affected by federal, or federally-controlled undertakings.

The process by which properties are determined eligible for listing in the National Register of Historic Places is governed by federal law. 36 C.F.R. 63 and 36 C.F.R. 800.4. This process is initiated by the federal agency proposing an undertaking which may effect an historic property. Additionally, the process by which the federal agency considers the effects of their undertakings on historic properties is governed by Section 106 of the NHPA and is implemented by regulations promulgated by the Advisory Council on Historic Preservation, an independent federal agency.

We have serious concerns regarding HB 485 and the proposed changes in the composition of the Historic Preservation Review Board and the changes to the Section 106 review process. We believe that if HB 485 were enacted, Montana would be in serious jeopardy of losing its federal funding for historic preservation and would substantially curtail the ability of Montana residents to take advantage of the federal benefits available under the NHPA. Our specific comments on HB 485 are as follows:

1. The proposed changes to the Section 106 process contained in HB 485 could jeopardize the federal funding of the SHPO which is approximately \$490,000.00. The changes proposed in Section 4, Registration of Heritage properties, add substantial new language to how the Montana SHPO would handle owner response to National Register of Historic Places nominations. Until 1985, the language in Montana's Antiquities Act differed from federal regulatory requirements for owner notice and response. Montana preservationists worked for three legislative sessions to change that language because the National Park Service had proposed to withdraw Montana's funding unless the law was changed to comply with federal law.

2. Proposed sections 5, 6, and 7 alter the way in which the SHPO responds to requests for comment from federal, state, or local agencies whose undertakings may effect a property on or eligible for the National Register. How SHPO responds to state or local agencies can be changed in state law, however, how SHPO responds to federal agencies (80% of its workload) or state or local agencies engaged in a federal undertaking is governed by the NHPA and its regulations. In this area, the SHPO's role is limited to a commenting role, and the federal agency has the primary role for determining effect of its actions on historic properties and for developing measures to avoid or mitigate these effects.

read  
at  
hearing

EXHIBIT 32DATE 2-13-95HB 485

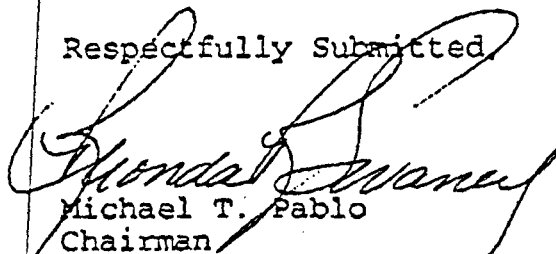
Thus, proposed Sections 5, 6, and 7 takes responsibility that is legally assigned to federal agencies and attempts to give them to the SHPO. In doing so, it wrongfully assumes that the SHPO has the ability to approve or deny federal projects. The SHPO is simply a commenter on the federal agencies compliance with the procedural requirements of the NHPA.

3. The proposed changes to the Preservation Review Board is in direct contradiction to federal law. Under the NHPA, the Review Board is defined as a "professional body that can objectively evaluate the historic significance of properties," 36 C.F.R. § 61.4(e)(5), and the composition of the board "shall consist of members who have demonstrated a competence, interest, or knowledge in historic preservation and a majority of Review Board members shall be recognized professionals in [history, prehistoric and historic archeology, architectural history, and architecture]." 36 C.F.R. § 61.4.(e)(1).

Proposed Section 1, deletes the existing requirement that all Review Board members "have actively demonstrated an interest in historic preservation matters." This would place Montana out of compliance with federal law which requires the Board to have professional qualifications relating to the field of historic preservation. Establishment of a unqualified Board would leave the Boards actions open to claims of arbitrary and capricious decision-making.

For the above mentioned reasons, we strongly encourage you to oppose HB 485. For further information regarding our concerns, do not hesitate to contact Karen J. Atkinson, Tribal Attorney and Advisor to the National Trust for Historic Preservation, at (406)475-2700, ext.: 475.

Respectfully Submitted,



Michael T. Pablo  
Chairman  
Confederated Salish and  
Kootenai Tribes

### The Consequences to Montana preservation of LC685-Bersagel's bill

1. Montana loses all its federal preservation funding (\$490,000 per year). (The provisions of the bill contradict two or three primary requirements of the Department of Interior for dollars for Montana.)
2. When Montana loses all its federal funding, the Preservation Office ceases to exist. (The state contributes less than 10% of the Office's funding.)
3. All local preservation officers cease to exist too--because they are funded substantially by regrants from the same federal preservation grant to Montana. Those local offices exist in: Helena/Lewis and Clark; Missoula; Anaconda/Deer Lodge; Butte/Silver Bow; Bozeman; Lewistown; Virginia City; Great Falls/Cascade; Livingston; Hardin/Big Horn; Carbon County; Miles City.
4. Montana loses all our current internships (state and local history, archaeology, and tribal interns), all regrants (such as the current major effort in Anaconda), and all ability to leverage other grants (such as our \$200,000 from the Turner Foundation).
5. Montanans lose their ability to apply independently for National Register of Historic Places designation.
6. Montanans would find it extremely difficult to attempt to use federal income tax credits for building rehabilitation. (Since October 1, 1994, 7 million dollars of construction has begun using those credits alone here in Montana.)
7. Federal agencies must still comply with federal preservation requirements and procedures. But, they would have to conduct all their consultation with Washington D. C. or Denver federal agency staff. That doubles the time involved at least for them and leaves them without local or state contacts.
8. The SHPO office would need more staff (despite having precluded the use of federal funds) just to undertake the public meeting requirements outlined for state and local actions.
9. Other state agencies or local governments would lose authority that they currently have over how projects are handle--the bill gives it inappropriately to the SHPO office.
10. The bill limits the Governor's appointing authority.
11. The bill turns the Preservation Review advisory board into a line authority supervisory board.
12. The bill turns the Preservation Review board into a board of special interests, rather than a board comprised of all people interested in preservation.



Testimony Against Passage of House Bill 485.  
Gloria Weisgerber  
Missoula, MT

EXHIBIT 33  
DATE 2/13/95  
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My name is Gloria Weisgerber. I am a member of the Historic Preservation Review Board, representing the interested general public. I was appointed by Governor Racicot in 1994. I am a former national Historic Preservation Officer for the Veterans Administration, where I coordinated all the needed compliance with federal preservation regulations for all VA projects over 3 million dollars in funding. I coordinated the National Register of Historic Places Program for the State of Kentucky from 8 eight years, and I coordinated the National Register program for the State of Colorado for 4 years.

So I am well acquainted with the federal preservation regulations required of federal agencies--from both sides of the fence.

I have sat in hundreds of formal meetings where we have talked about federal projects or federally assisted projects and how those projects affect pieces of our past that cannot be replaced. When I worked for the VA, our mission was to give the best possible health care to veterans of our armed forces. If being true to that mission meant there was no way to avoid destroying an historic building, than it was destroyed. And it was destroyed legally. We did our homework. Believe me I speak from experience that the most difficult and painful situations were caused when staff of the VA tried to avoid following regulations and were discovered. The problem then was sitting down at the negotiation table when it was known that we did not show respect for the spirit of the law or the law itself or our obligation to negotitate in good faith.

There is a reason for those regulations--WHICH APPLY ONLY TO AGENCIES THAT USE THE PUBLIC'S MONEY. The people have said the need for those laws is to make sure the government itself is not a party to indiscriminant destruction of important reminders of who were are as Americans.

Americans have a lot to be proud of. The miners' cabins and pioneer wagon roads, and old courthouses, and one-room schoolhouses, and beautiful churches--they are our mirror, reflecting our past, where we came from and who we are as a people. The government ought not take that away from Americans. I say the government, BECAUSE THE LAWS HAVE NEVER PERTAINED TO A PRIVATE CITIZEN DOING WHATEVER THEY WANTED TO WITH THEIR HISTORIC BUILDINGS AS LONG AS IT DOESN'T USE THE PUBLIC DOLLAR.

But if you are acquainted with the preservation laws, you might find they're really impressive in how they try to dissuade wanton destruction of our past. Some people would be surprised to learn that THE LAW NOWHERE SAYS THAT A GOVERNMENT AGENCY HAS TO PRESERVE ANYTHING. It says you have to think about what you're doing. You have to know what your project will do to the land, and the buildings or archaeological sites that are built in the way of the project. And, if you do something that will affect them, then you have to talk with the agencies that represent the land and the buildings--you have to negotiate.

Most of the time, the process results in compromises. Sometimes those compromises mean that buildings are torn down. Sometimes it means buildings are moved. Sometimes it means projects are carried out somewhere else. What I want to emphasize is, I can assure you there would be no talk, no

negotiations, no stewardship by federal agencies or agencies using public money if you did not have these laws. You know it and I know it.

Part of preservation laws have to do with setting up SHPO offices and Review Boards. Maybe I'm saying something that's obvious to most of you, but the changes recommended in this bill do not recognize that historic preservation deserves an independent voice. The State Historic Preservation Officer and the Review Board is suppose to represent the voice for Montana's heritage. There are other agencies and programs that speak for ranching and farming and the mining industry, and the timber industry and other segments of our society and economy. But the SHPO and the Review Board is suppose to speak on behalf of what is left behind from people who built this state into what it is. IF THEY DON'T REPRESENT THAT INTEREST, WHO DOES IN STATE GOVERNMENT?

I am completely befuddled over the changes that are recommended to the Review Board--and I should repeat the full name--the MONTANA HISTORIC PRESERVATION REVIEW BOARD. I have worked with historic preservation review boards for 12 years. It has been such a joy to work with board members because they came from all walks of life, all professions, but united in their interest in preserving the best from our past. I never knew what political party they belonged to--it was never an issue. They were businessmen, teachers, administrators, for example. And, of course, they were architects, architectural historians, historians, archaeologists----people who could comment on the more technical aspects of the resources that were being nominated. It is a WORKING BOARD--who deal with the highly technical criteria in the area of history, architecture, and archaeology.

One of the most important aspects of decisions on National Register listing is that every property owner is equal when that nomination gets before the board. You can look at no issue other than whether or not a property meets the criteria. It simply cannot be otherwise. It is too dangerous to try to play for any stakes other than what have been laid out for you. And the regulations say you can consider only the criteria when reviewing sites for nomination. There are too many consequences of having other agendas if you begin to erode the integrity of the board.

For example, you can get tax benefits, if you do certain work on a building that is on the National Register. By that one statement you can see why the independence and sanctity of the board is so important. In all my experience in three states, I've never seen any governor or state historic preservation officer, or any legislature attempt to interfere with the process of the work of the Historic Preservation Review Board.

If--as would be allowed by House Bill 485--we had people on the board who had no interest in historic preservation, who had no knowledge or interest in acquiring knowledge in the history and architecture of this state, how in the world could they make good judgments on what is eligible for the National Register of Historic Places and what is not. If you think those judgments are easy, and require no background or interest in reading the material given the board--then I beg you to attend a few of the meetings.

What the bill proposes is extremely serious and compromises the very essence of this program. The board was meant to have an important part in National Register consideration, which is why federal regulations say that you have to have representatives from the four disciplines of history, architectural history, architecture and archaeology. And why you have to have a majority on

the board who are professionals in these areas. Citizen members are wanted on the board but there is a danger in having a majority of members who are not trained in disciplines that are associated with the criteria for Register listing. The proposed bill would, therefore, contradict federal regulation.

As to the changes the bill recommends for appointing the Historic Preservation Officer, I would not think you would want to change from a system that gives the Governor absolute freedom to choose who he or she feels is the most qualified to speak for historic preservation. This bill proposes a system that gives an expanded board--that has a majority of members who do not represent historic preservation--the role of selecting the candidates for the SHPO who they feel best represent their interests. It goes without saying that their interests may not necessarily coincide with the best interests of historic preservation. Again, may I say the proposal strikes at the heart of this program.

It is obvious what the recommendations in this bill intend to do and would do. I can't believe you want to do that. In thinking of the implications of what would happen if this bill were enacted, I hope some of you had the opportunity to be in the rotunda of the Capitol Building two weeks ago when the Governor of this State handed out certificates to property owners who had their property listed on the National Register over the last two years. You would have seen three generations of a family get up and get the certificate for their homestead, mayors get certificates for listing their historic downtown districts, businessmen get certificates for their commercial buildings. This is what is what preservation is all about. It really is about people being proud of their past, their heritage, of who they are.

Historic preservation began as a grass roots movement--it did not start in Washington DC. The Historic Preservation Office in the most fundamental way--person to person--supports that movement. It is a small office, probably one of the smallest in state government, and it is very vulnerable to attack. But you'll never find the tax dollar better spent or stretched than invested in an independent historic preservation office. You won't find a more dedicated staff anywhere--and that's especially true of Marcella Sherfy. There are few people who are as knowledgeable and eloquent about this program than she is. In any case, I think the Governor of this state should continue to have the latitude to decide who runs state agencies under his or her administration.

To conclude, if you carry forward House Bill 485, it will compromise Montanans access to such successful and popular programs as the National Register. I hope in your deliberation you will see the value in keeping that voice alive and strong that speaks for the heritage and culture of the people of this state.

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DATE 2/13/95  
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02/13/95

Representative Alvin Ellis, Jr. Chairman  
Education & Cultural Resources Committee

Mr. Chairman, Members of the Committee

It has come to our attention that your Committee will address HB-485 this date.

After review of the bill, it appears to us that this simply installs another level of bureaucracy in the management chain.

Please be advised that we have many preservation applications presently pending with many foundations and federal grant providers. By federal law, the Montana State Historical Preservation Office (SHPO) is a major link in the application process. Rightfully so. SHPO is able to provide expertise that is most certainly needed in all of the preservation areas.

It further appears that insufficient planning has gone into HB-485 drafting. An evaluation of just how much federal money will be lost if this bill passes is certainly not contained within the bill. Is the State of Montana willing to assume the responsibility for the approximate \$500,000 to \$1,000,000 if these federal funds are lost due to HB-485? We believe that Montana would not, or could not afford another federal mandate without funding.

At this time we would urge the Committee to defeat HB-485 simply due to the legal implications associated with federal acts requiring the support of the SHPO in documenting and following through with actual preservation guidelines state-wide.

Increased bureaucracy is what we do not need at this time.

Thank you for considering this testimony.

Sincerely,



Carl Fourstar, Cultural Liaison  
Fort Peck Tribes

cc: Cultural Preservation Committee  
Fort Peck Tribes  
Museum Board of Directors  
Fort Peck Tribes  
Files

EXHIBIT 35  
DATE 2/13/95  
HB 485

House Bill 485  
before, House Committee for Education and Cultural Resources  
Feb. 13, 1995 Room 312-1 3:00 pm

Dear Chairman Ellis, I would like to take this opportunity to thank you for allowing me to speak in opposition to this bill on behalf of the Medicine Wheel Alliance, a Native American Indian, non-Indian group working on behalf of the preservation of Traditional Cultural Properties or as most people would recognize "Sacred Sites" and other environs of concern to American Indians. On behalf of these Montana Tribal Board Members Bill Tallbull, Northern Cheyenne; John Hill, Sr. Crow; Curley Bear Wagner, Blackfeet; Floyd Youngman, Sioux, Fort Peck Tribe; and Pat Chief Stick, Chippewa Cree, Rocky Boy. I would as Coordinator like to present these comments.

As are other state SHPO's; Montana's is governed by the 1966 National Historic Preservation Act as amended in 1992 and its implementing regulations: 36CFR60, 36CFR61, 36CFR63 & 36CFR800.

Under HB 485 Sec. 1 Sec 2-15-1512 MCA as amended.

I would like to ask why anyone would want a board within Montana, especially an Historic Preservation Board, who know nothing about Historic Preservation. A state liaison officer for federal and & water conservation and 6 new members of the public who don't have to have any background in preservation. Why would you want to take a committee of five and add all these extra people and then request they also have to be paid with state funds. Doesn't make any sense to me.

Since our organization deals with Tribal issues for traditional cultural properties and the State of Montana has (7) reservations and 13 tribes why were not at least (7) tribal members also added to this Board. Or did you forget they have an interest in the State of Montana, also. I'm sure they would care about historic preservation of their old aboriginal territories and the mitigation of those properties. Under 36CFR61.4 it plainly states the majority must be professional from the preservation fields.

The Board of the Montana Historical Society doesn't need to be padded with people who have no interest in preservation beyond self interest.

The section on term limits (3) (a) (i) (ii) c. Why again change something that works. To us this sounds more like a vendetta of a very transparent and mean spirited person or group who are not getting their way. Sounds more like strong arm tactics of big business instead of working within the system.

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### 22.3.421 definitions

(3) Heritage Properties. We would like to see the term "Traditional Cultural Properties" added to this list. They are recognized within federal law and there are many within the State of Montana of critical concern to American Indians as parts of their aboriginal territories.

Under (8) need to add, Tribal with National, State & local significance.

Under 22.3.423 Duties of Historic Preservation Officer. These all ready happen under federal laws.

# (9) of this same section, looks like it is taking procedures one step further and implementing codes and regulations for the state towards cultural preservation. We like this idea of the State of Montana drawing up comprehensive Historic Preservation codes and regulations as it would be great to see the State take as active a role in Historic Preservation on the state level as we see from federal agencies with federal lands. We just might see the preservation of properties important to Montana Tribes & Montanan's that are now state owned and not protected.

# (10) consultation under Section 106. There are federal regulations in place for consultation and it doesn't have to be requested. It is something all federal agencies are to do up front anytime they have an undertaking that would have an adverse effect.

#(11) the State of Montana has laws all ready in place for paleontological remains.

New Section (4) Is this for State or Federal Lands? If its federal the procedures and guidelines are all ready in place under several laws such as NEPA, ARPA, HPA.

The State does need these an very glad once again to see the draftees of this Bill recognize the importance of having procedures and guidelines for State Agencies in the preservation of cultural resources on state land and we take it they must be willing to fund the extra people it would take to do this extra work.

New Section (5) I would like someone to explain what this section really means. Is it - if - I request consultation status and impute into a project and someone (director of MHS or MT SHPO) won't let me have impute I can take the issue into district court? Is this on State or Federal non-compliance? If its federal land were talking about the procedures are all ready in place for non-compliance. It would go to the Advisory Council at the regional level and if it can't be worked out there it goes into the National Advisory Council and from there to the Justice Department. At the State or private property level we have no recourse.

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So I'm confused just to "whom" requests consultation, from "whom" and is this tried to state law or federal.

Under 36 CFR 800 Section 106-Consultation is what its all about but this is again a federal undertaking whether its and adverse effect or not to a property. It allows board groups of people to be part of the process and gives Native American Indians certain rights within the process, also.

Why would you want to send a no adverse effect determination on to the Director for review when this all ready happens under federal laws and your SHPO probably all ready concurs? I could see this being different if it was and adverse effect.

Paleontological properties don't go to the Keeper of the Register. Is this something Montana is going to keep separate records and register of? Who will do this work? Are you adding some more staff here?

(4) How are you going to handle confidential information on traditional cultural properties when this information can't just go out to the public. Alot of extra work.

Where is the common sense in this Bill? It appears to us that someone wants to break up a good working process to fix it up to be a junk car.

(6) There are all ready procedures with federal law and regulations if not satisfied with decisions of federal agencies. Once again is this directed towards procedures on state land. Very confusing especially if you've worked with federal law and know how it works.

New Section (6)

I must commend you on putting something into this Bill I have not seen on either the federal level (their not that brave) nor any other state level that I'm aware of and that is under "new section (6) # (2) second sentence. Its impacts for traditional cultural properties is just great, wonderful; makes me want to get up and shout.

Please let me read and refresh your memory. If it is not feasible to avoid development of or impacts to a heritage property a mitigation plan must be developed by the applicant to minimize adverse effects to the property or remains. Mitigation "MUST" be directed at the "CHARACTERISTICS" of the property that make it eligible for listing in the register. Now there are criteria for listing traditional cultural properties on the national register. For someone who's work on mitigation plans for Traditional Cultural Properties, (Medicine Wheel Mountain & Devils Tower) I know how difficult that can be and to my knowledge characteristics of TCP's can only be determined by Traditional Elders

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within the Tribal structure; this is a precedent setting move and I salute you for your courage to put something like this into law. On this part of the Bill I give our total support for it will help protect areas like Badger Two Medicine, Sweet Grass Hills, Chalk Buttes to name a few.

New Section (7) Retroactive applicability.

I must chide the drafters on this one. Just how far back on the work load do you want this to be retro-active? Probably to Zortman Mine & Sweet Grass Hills. This whole section should be done away with. Its petty and beneath the people of Montana and its legislature.

This Bill is not addressing any "real" problems and it threatens the federal funding to the tune of half a million for its state SHPO and other preservation projects. It adds time and confusion to the preservation review process for both agency and applicant; makes it more difficult for Montanas, and we do believe there are some who are interested in historic preservation, who want to preserve property and to seek national Register designations; cost the State of Montana general fund dollars and reduce the Governors existing authority and discretion.

The Federal Preservation Laws exist; this state can't rewrite them into state law. Those regulations don't give SHPO final authority in any action or decision that is still left up to the federal agency so unless these are being written for more compliance for state agencies it won't make any difference at this point in time.

We for one would like to commend the Historic Preservation Office Montana has. We work with on average 6 others and Montanas to date is the least politically driven and produces by far the best work. They are capable people who try to do the best job for all sides and are willing to work for the preservation of whats important for Montanans instead of just some industries or political action groups. We feel thats important and they should be supported for their efforts instead of run out of town on a rail such as this bill would likely do.

We believe that "you" "this Committee" have the best interests for Historic Preservation of all Montanans in clear view and will take this piece of legislation for what its worth, Nothing, and vote to oppose it.

Thank You

Nicol Price  
Coordinator  
Medicine Wheel Alliance  
PO box 37  
Huntley, MT 59037



# Planning

EXHIBIT 36  
DATE 2/13/95  
HB 485

HB 485

2/11/95

Gail Kenson

I am the historic preservation officer for Yellowstone County. I am appointed by the City of Billings, Laurel Yellowstone County & the Crow Tribe.

I am concerned with the recommended changes and additions to the state law would make SHPO not in compliance with Federal Regulations. This would mean going out of state to Denver or Washington DC for assistance. Previous experience has been it is difficult to get a response in a timely manner from Denver. SHPO has been very responsive to the needs of Billings in terms of assistance. Our problem in Billings dealt with the ordinance, not the National Register process. It does not make sense to make it more difficult for local agencies to get assistance.

The addition of new members to the board is acceptable provided that new members have a demonstrated interest historic preservation board.

The impact of the bill will be felt state wide. Its passage would have negative affects on preservation in Montana. Our cultural and historical resources are non-renewable resources.

If the procedures are inadequate then

YELLOWSTONE COUNTY  
BOARD OF PLANNING

4TH FLOOR, LIBRARY BUILDING • 510 N. 28TH  
BILLINGS, MONTANA 59101

all parties should sit down and work out an acceptable process

There appear to be no balances  
~~allowed~~ for the Board, only on  
the preservation officer. It is, to  
me, an apparent attack on the  
Preservation office. Especially the  
limitation of terms and making  
this retroactive

EXHIBIT 37  
DATE 2/13/95  
HB 485



# MONTANA PRESERVATION ALLIANCE

P. O. Box 1872, Bozeman, Montana 59771-1872 (406) 585-9551

February 13, 1995

**President**  
Jon Axline, Helena

**Vice President**  
Kathy Macefield, Helena

**Secretary**  
Kathy McKay, Columbia Falls

**Treasurer**  
Jim McDonald, Missoula

**Directors**  
Kathy Doeden, Miles City

Judy McNally, Billings

Jeff Shelden, Lewistown

Marcella Sherfy, Helena

Ellen Sievert, Great Falls

Keith Swenson, Bozeman

Bill Brolin, Anaconda

John Brumley, Havre

Mary McCormick, Butte

House Education and Cultural Resources Committee

Representative Alvin Ellis, Jr., Chairman

Subject: HB485, Relating to Preservation of Heritage Property

HB485 will have a significant and detrimental effect on Montanans' ability to protect and preserve those properties which have historic and pre-historic significance.

As drafted, the bill waters down of the Historic Preservation Review Board from one whose predominate weight is in the professional fields of history and pre-history. The changes proposed by HB485 seriously conflict with federal law. According to the National Historic Preservation Act the Board is defined as "a professional body that can objectively evaluate the historic significance of properties and provide professional advice on historic preservation matters."

With the changes in the Board affected by HB485, Montana would be left with a Board unqualified by federal standards and common sense. An unqualified Board would frustrate Montana property owners who volunteer to have their historic structures listed on the National Register of Historic Places. Such listing is a prerequisite for those seeking federal tax credits for the rehabilitation of historic structures.

With the passage of HB485 Montana will be in violation of Section 106 of the National Historic Preservation Act and with that, we would lose our direct connection with the federal program that provides \$490,000 annually to Montana. These federal funds generate at least \$500,000 in in-kind services or cash for basic preservation services each year. In addition, at least \$225,000 in actual cash donations are made each year by corporate donors for specific preservation projects.

With the loss of the federal funds, Montana's State Historic Preservation Office (SHPO)

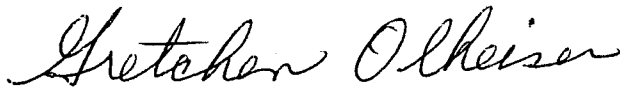
House Education and Cultural Resources Committee  
February 13, 1995  
Page 2

would be unfunded and unable to continue to operate. Without SHPO, Montana's citizens and businesses would lose their direct link to the federal program. Listing properties on the National Register or applying for federal tax credits would be delayed as Montanans would now have to go through Denver or Washington DC for the work now done at the state level. Private property owners seeking tax credits would experience delays in their ability to proceed with the rehabilitation projects which now provide construction projects for Montana companies. So far this federal fiscal year which began on October 1, tax credit construction projects have generated seven million dollars worth of work in Montana.

Please give careful consideration to the pros and cons of this bill. I urge you to recommend a "do not pass" for HB485.

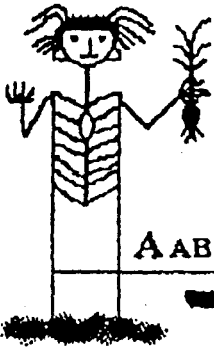
Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Gretchen Olheiser".

Gretchen Olheiser  
1995-96 Vice President  
Montana Preservation Alliance

EXHIBIT 38  
DATE 2/13/95  
No 485



**AABERG CULTURAL RESOURCE CONSULTING SERVICE**

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February 13, 1995

Representative Alvin Ellis, Jr.  
Chairman Education and Cultural Resources Committee  
Montana House of Representatives  
Capital Building  
Helena, MT 59620

RE: House Bill No. 485

Dear Representative Ellis:

I am a consulting archeologist and president of the Montana Archeological Association (non-profit association of professional archaeologists). I was born and raised on the High Line and have a long-standing interest in the history and prehistory of Montana.

Few people need to be convinced of the heritage, educational, and scientific values of Montana's cultural resources. Sometimes overlooked is the economic potential attendant to these other values. I have been involved with numerous community historic preservation issues and projects throughout Montana. The role of the State Historic Preservation Office in these projects was crucial. I mention these projects to illustrate the fact that the realization of cultural values begins with protection of the resource. Through its access to federal programs the Montana State Historic Preservation Office has been able to play a key role in both protection and promotion of community preservation projects. House Bill 485 would threaten SHPO participation in federal programs and would reduce its role from a broad spectrum community service agency to a narrowly focused review and compliance agency.

Those charged with preserving and managing our cultural resources must be free of conflicts of interest and antithetical agendas. The State Historic Preservation Office (SHPO) is currently free of such encumbrances. I find the SHPO staff to be ethically driven and to be motivated by concerns for cultural resources. I believe passage of HB485 would result in the erosion of SHPO integrity and would destroy its ability to function as an effective advocate of Montana's cultural resources.

HB485 also calls for expanding the Preservation Review Board

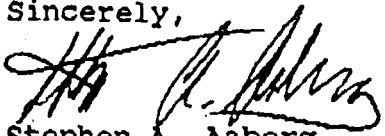
to include members of the public and industry who have no background in cultural resources. It is crucial that those in a position affecting the future and very existence of this states cultural resources be qualified and ultimately concerned for those resources and as mentioned be free of conflicts of interest.

This bill also requires term limits for the Preservation Review Board and for the State Historic Preservation Officer. In my estimation this section would work against filling those positions, particularly the state officer, with the best qualified and most ethically motivated people. Knowing that there is a limit to a position of moderate pay, knowing that there is no job security, cannot be considered professional incentive. It seems likely that the position of State Historic Preservation Officer could only be viewed as a stepping stone under the provisions of HB485. The long term considerations for the future of cultural resources would not be best served by a temporary position as important as the State Historic Preservation Officer. The present position of the State Historic Preservation Officer seems to me to be quite demanding and requires expertise that can only come with experience. Passage of HB485 would work against acquisition of experience and job efficiency.

Finally it seems that many sections of HB485 duplicate existing processes which allow approving or permitting state and federal agencies to make their own decisions with respect to cultural resource compliance. Passage of this bill would create unnecessary red tape and would slow the compliance process even more.

I must repeat my concerns about the consequences of this bill for the State Historic Preservation Office. The SHPO performs many tasks which go beyond compliance. The SHPO acts as a liaison between Montana's Native Americans, the archaeological community, and various state and federal agencies. They assist the public in evaluating historic properties and in nominating historic properties to the National Register of Historic Places. As president of the Montana Archeological Association and as a member of the Montana Archeological Society (amateur and professional group), I have personal experience with the effort SHPO puts forth in education and public awareness particularly with regard to Montana Archeology Week (which is recognized by the Governor). Passage of HB485 would result in potential loss of federal programs which allow the State Historic Preservation Office to provide a variety of services to all people of the State of Montana. Therefore I would like to go on record as being opposed to HB485.

Sincerely,



Stephen A. Aaberg  
712 West Broadway  
Lewistown, MT 59457



EXHIBIT 39  
DATE 2/13/95  
HB 485

## City of Helena

February 13, 1995

Representative Alvin Ellis, Jr.  
House Education and Cultural Resources Committee

Dear Committee Members:

The City of Helena, along with Lewis and Clark County, has participated in the Certified Local Government (CLG) program for historic preservation since 1989. As a CLG, we have received an extensive array of technical and funding assistance from the State Historic Preservation Office (SHPO) in order to better serve the City and County citizens.

The City of Helena is opposed to HB 485 for the following reasons:

- 1) Changing the make up of the State Review Board so that a majority of the members do not have the technical expertise jeopardizes SHPO's federal funding, which in turn jeopardizes the funding for Helena and Lewis and Clark County.
- 2) Revising the process for technical assistance through the proposed "requests for consultation" is extremely cumbersome. At the present time, we can use the phone to call for and receive information. The proposed "requests for consultation" is bureaucratic and eliminates an opportunity for quick responses to local governments.
- 3) The SHPO is a significant resource for technical information. If the SHPO loses its funding because it cannot meet its federal requirements, then individuals wanting information on how to list a property on the National Register of Historic Places or how to receive the federal tax credit for historic preservation will have to contact Denver or Washington DC for answers to questions. Removing the local contact point from Montana does a great disservice to Helena's citizens.

As a personal note, the City has had many opportunities to work with the State Historic Preservation Officer, Marcella Sherfy, over the past 5 years, and have found her to be very knowledgeable and professional. The attempt to remove her from the SHPO by making the 12 year time frame retroactive as stated in HB 485 is very mean-spirited and vindictive.

The City of Helena asks you to not support HB 485.

Sincerely,

Kathy Macefield  
Helena/Lewis and Clark County Historic Preservation Officer

TESTIMONY OF TIM ENGELHARDT, HRA, INC.

IN OPPOSITION TO HOUSE BILL 485

February 11, 1995

EXHIBIT 40  
DATE 2/13/95  
HB 485

Mr. Chairman, members of the committee, my name is Tim Englehardt and I am Operations Manager for Historical Research Associates, Inc. (HRA, Inc). HRA, Inc. is a Missoula-based company that has been engaged in cultural resource consulting for more than 20 years. Over that period of time, we have represented a variety of corporate, federal and state clients, as they address cultural resource issues before the Montana State Historic Preservation Office. We employ approximately 35 professional and support personnel in our three offices--two-thirds of those employees are in our Missoula office.

I am here today to testify on behalf of my firm in opposition to House Bill 485. The reason for our opposition is really quite simple. This bill, raised so soon before the transmittal deadline, is unnecessary. Rather than address any real problems, it would create a larger bureaucracy, and could delay timely consideration of state, federal and private projects.

HB 485 expands the preservation board from nine (9) to thirteen (13) members. The operations of the board will consequently be more elaborate and more costly. More importantly, the new board will include a majority of non-professional persons. Not only would the composition of this new board place it in conflict with federal requirements, but it would make it more difficult for Montanans to take advantage of preservation programs.

It may be that the sponsors of this bill seek to expedite the review process for projects in the Montana. However, by operating outside federal requirements and, possibly, jeopardizing funds that support State Historic Preservation Office personnel, this bill could actually slow down and confuse the review process for economic development projects in the state.

As I'm sure other opponents will note, this bill misinterprets the role of the Montana State Historic Preservation Office and seeks to cure problems that don't exist. As those who work with the various federal and state preservation laws on a daily basis know, the Montana SHPO has a very proscribed role on most state and federal projects. The role is really one of comment and advice. Any applicant who is unhappy with the SHPO's comments can seek additional review very easily from the Keeper of the National Register. In the experience of our firm over a period of 20 years, such recourse has rarely been necessary. HB 485 would make this process more difficult by directing disagreement over resource eligibility into the district courts, rather than to the keeper of the National Register.

Our firm has worked with SHPOs in most western states. We have rarely worked with an agency as competent and professional as the Montana State Historic Preservation Office. This is not to say that we have always agreed with the staff's initial opinion. It is to say that we have always been able to work with the Montana SHPO staff in representing the interests of our clients and the resource.

I urge you to reject this flawed and unnecessary bill.



EXHIBIT 41  
DATE 2/13/95  
HB 485

February 13, 1994



To the Chair and members of the House Education Committee:

My name is Cindy Kittredge. I am speaking today against HB 485 on behalf of two local entities -- the Cascade County Historical Society, which administers a museum and archives, and the City/County Historic Preservation Advisory Commission. I would also like to add that I speak as an individual citizen involved in the agricultural community, since I manage the family ranch holdings.

There are several points to which I would like to speak.

1) We have all heard the old axiom, "Less is more," and I believe that it should be applied to HB 485. This proposed legislation seems to unnecessarily complicate and confuse a process of historical review that has proven itself by producing positive results in our local community.

Over the past four years that our community has had a certified local government as part of the state's preservation effort, we have seen marked progress in the growth of awareness of the importance of local heritage.

Three historical districts have been identified, surveyed, and placed on the National Register. (I have brought along for you one district's walking tour brochure that has both provided a popular tourist activity and an educational extension of the classroom for Great Falls area fourth graders.) Another district, the Historic Downtown District, is currently being surveyed and is part of a renewed interest in the downtown commercial area.

The information from all these surveys is held in the office of the City/County Historic Preservation Officer and is accessed daily by homeowners, businessmen of all types, researchers, realtors, and developers. All these people are searching for information -- such as advice about restoration work, information about the history of particular buildings, and procedures for accessing federal tax credits.

2) The current configuration of the State Historic Preservation office, staff, and board fulfills the requirements of certain federal review processes. By so seriously altering the character of our current state compliance, we run the risk of losing the federal funding that we do receive.

Although the funding at risk (between \$5,000 and \$10,000 a year in our local case) may not seem like a great deal to others, for those people and organizations dedicated to fulfilling their responsibilities to save our built heritage, this amount is more than welcome -- it is necessary. Without the help of this funding, projects such as the walking tour brochure would not be funded, resource people and information could not be provided to local schools, and all the hundreds of information requests received in my office would go unanswered. Increasingly, we on the local level are dealing with rising public demands, in spite of decreasing corporate support. The small

SOCIETY  
MUSEUM • ARCHIVES  
1400 First Avenue North  
Great Falls, Montana 59401-3299  
Telephone 406/452-3462

amount that we do receive from SHPO, is of immeasurable help.

Ironically, even if the federal funding is lost, the federal requirements will continue to be imposed. The difference will be that on the local level we will have lost the expertise and help of the State Preservation Office in dealing with the complexities of the regulations and the subject matter. In fact, this legislation would only serve to make our lives on the local level more confusing and complicated, as we try to deal with an even enlarged bureaucracy. Such confusion surely would mire preservation work to the point of exhaustion.

3) Finally, I see HB 485 as a first step in the dismantling of the preservation effort in Montana, for it undermines Montanans' ability to identify, care for and protect their own historic resources.

Currently faced with dwindling resources of all kinds, we can ill-afford to throw away any of our resources. In some ways, our historic buildings are no different than materials such as bottles, newspapers, and plastic, that we only now are beginning to realize the importance of recycling. The SHPO office, in providing the expertise of its experienced and professional staff, has shown many Montanans ways to conserve both the materials and the provenance of a built heritage.

We Montanans live so very close to our heritage, both in time and place, that often we fail to recognize how special and unique it is. With a "grass is always greener" kind of mentality, we eagerly travel to other states and countries to see their historic sites and share in their heritage. I see our own backyard as being very green - green with the wealth of a wonderfully diverse heritage.

The State Historic Preservation Office in its current configuration has been an important element in the rising interest and awareness of that heritage. I believe that along with our museums, our folk life programs, our humanities and arts programs, the focus on our historic and archaeological sites is an extremely important component in the creation of healthy and whole individuals and communities.

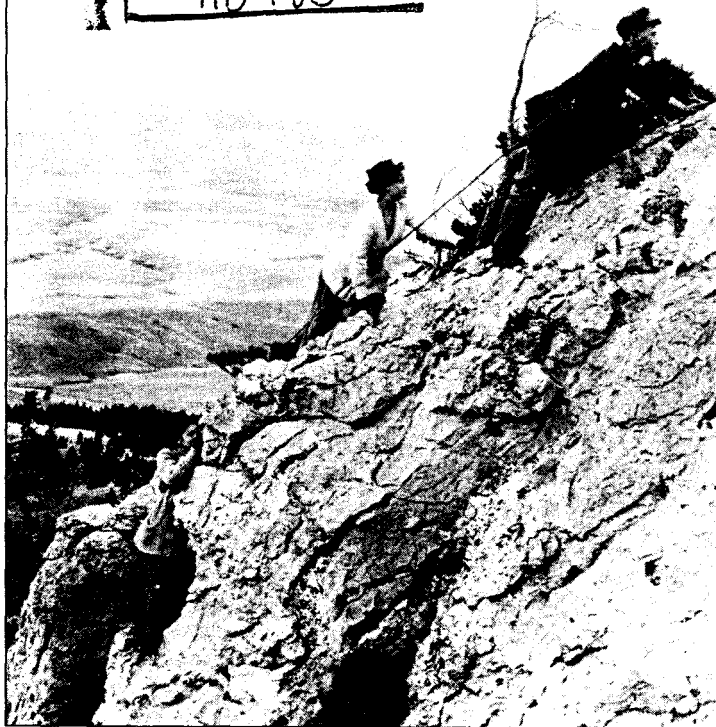
Such a creative effort is a process -- not a goal. The process is not an impediment to progress; it is a part of progress. It is not a nuisance with which we have to deal; it is part of our community building. It brings all elements together, ensuring that diverse views are heard and recognized. Without that type of input, how can we identify locally what we consider to be important and unique? Aren't we then surrendering to some faceless entity that determines for us what is important for us?

Quite frankly, I fail to understand how we can expect our young people to value our state, to stay here and commit themselves and their future to this place, if we don't ourselves value it enough to care for it and nurture it through such efforts as historic preservation.

Thank you.

# TAKE A HIKE ...

EXHIBIT 41  
DATE 2-13-95  
# HB 485



Montana Historical Society

... TIE ON A FRIEND,  
AND ENJOY HISTORIC  
GREAT FALLS.

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT 42  
DATE 2/13/95  
HB 485

BLUE ROCK HISTORIES  
818 Rosehill Lane  
P.O. Box 145  
Alberton, Montana 59820  
(406) 722-3346

February 13, 1995

House Education & Cultural Resources Committee  
Rep. Alvin Ellis Jr., Chairman  
House of Representatives  
Helena, Montana  
RE: HB 485

Dear Chairman Ellis & Committee Members:

As an independent Montana businessman, specializing in the area of historical research and writing during the past 14 years, I have often had complaints about how the government has things set up. In many instances it seems as if common sense is neglected in favor of layers of inefficiency. However, in the case of this state's historic preservation program, I find the opposite to be true. This program is working fine, both on the state and local level.

Therefore, it comes as surprise to me to see a bill introduced that would add unnecessary layers to something that has been serving us well. There are a number of provisions in this proposed bill that would seem to undermine the preservation program to the point where we would lose federal recognition and funding, and become some sort of an aberration when compared to the programs taking place in the other states. When I read parts of this bill it sounds like it wants us to change from a professional level program to one of amateur status. To do this would not only endanger funding, but seriously hurt our standing in the historical community nationwide.

The National Register of Historic Places process is not something to be toyed with. It is our nation's honor role of those places that are recognized as important to our heritage. The listing carries considerable weight, as it should, and brings benefits both culturally and economically. Review of these nominations to that register should continue to be done by professionals at the state level.

As it is now, local input is certainly sufficient. Historic Preservation Commissions are comprised of citizens from all walks of life. People engaged in the businesses listed in this bill for additions to the state review board can and often do become involved at the local level through membership on these commissions. Their voices are being heard.

The politicizing of the state board that would result from the changes recommended in this bill would be a disaster for our preservation program. Why would we want the state preservation

officer appointed by a board? That position has been one of stability due to a professionalism that has been recognized by both political parties throughout the years. Please do not change that situation now.

Every property owner who has a house or a site nominated for the National Register of Historic Places has the opportunity to refuse to have that property listed, even though such listing does not impair the ability to do just about anything the property owner wants with the property. The listing is a recognition of a value to all citizens and triggers funding opportunities to preserve that property. We who live in small towns are recognizing the value of preserving the character of our historic architecture, not only for the tourist dollars that result, but also from the atmosphere that preservation maintains, which is an important part of why we live where we do.

Local preservation commissions are doing a fine job in bringing nominations forward. The state review board is doing a fine job in analyzing these nominations in a professional manner. The state historic preservation office is doing a fine job in providing assistance all through this process. The system is working. Please do not compromise it with legislation such as this bill. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Allan Mathews".

Allan Mathews

EXHIBIT 43  
DATE 2/13/95  
HB 485

my Chairman, Ellis, + Members of the Committee  
name is Claire Campbell  
I am a parent + part-time school district  
employee in Bozeman. I treasure the old  
buildings + other ex of Mt. past for the  
sense of continuity they give me as well  
as the opportunity to teach my children  
about the past. It may you to look beyond  
the dissatisfaction of one small segment  
of our states population, to the respon-  
sibility we all owe our children + future  
generations to preserve these tangible  
bits of our hx. I hope that our gener-  
ation doesn't see ourselves as so  
impoverished that we ~~can't afford~~  
must turn our backs on these irreplaceable  
resources.

HB 485 would dismantle the current  
SHPO program <sup>would</sup> make it much more dif-  
ficult to <sup>for the SHPO to</sup> protect our heritage.

EXHIBIT 44  
DATE 2/13/95  
HB 485

*Rep. Peggy Arnett,*

HOUSE EDUCATION AND CULTURAL RESOURCES COMMITTEE

DEAR REPRESENTATIVE,

I AM WRITING IN RESPONSE TO HB 485 WHICH YOU ARE CONDUCTING A HEARING ON THIS AFTERNOON. I AM IN OPPOSITION TO THIS BILL FOR SEVERAL REASONS. I AM A MEMBER OF THE LEWIS AND CLARK COUNTY HISTORIC PRESERVATION BOARD AND AM INTERESTED IN PRESERVATION ISSUES STATEWIDE. I FEEL THAT THIS BILL WOULD SEVERELY INHIBIT THE PROTECTION AND PRESERVATION OF HISTORIC AND PREHISTORIC SITES IN THE STATE OF MONTANA. I CONCUR WITH THE NATIONAL TRUST FOR HISTORIC PRESERVATION'S ASSESSMENT THAT IT WOULD IMPAIR THE ABILITY OF THE MONTANA SHPO AND ALSO REDUCE THE EFFICIENCY OF THE AGENCY. IN ADDITION, AMENDING THE MAKE-UP OF THE BOARD TO THIRTEEN MEMBERS, WITH SIX BEING PUBLIC NON-PROFESSIONAL PEOPLE, COULD ALLOW THE BOARD TO BE SUBJECT TO LOBBYING OF INDUSTRY REPRESENTATIVES INSTEAD OF ASSESSING ISSUES ON THEIR HISTORICAL CULTURAL MERIT.

PLEASE REJECT THIS BILL AND ALLOW THE MECHANISMS IN PLACE TO ENABLE MONTANAS' TO CARE WELL FOR THEIR HERITAGE.

THANK YOU FOR YOUR TIME AND CONSIDERATION.

K. NORANE FREISTADT  
LEWIS AND CLARK COUNTY PRESERVATION BOARD  
629 THIRD AVE.  
HELENA, MT 59601

EXHIBIT 45  
DATE 2/13/95  
HB 485

PHONE 406 739-4224

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**Gar C. Wood and Associates**

Archaeological Consultants

LOMA, MONTANA 59460

Representative Alvin Ellis, Jr., Chairman  
Education and Cultural Resource Committee  
Montana State House of Representatives  
Helena, Montana 59620

13 February 1995

Dear Representative Ellis,

I received notice from the oil and gas industry last week a bill was up before your committee concerning the State Historic Preservation Officer; Bill 485. After reading the bill I can only say it appears to be vindictive, mean spirited, and misdirected.

The bill is a direct attack upon our current State Historic Preservation Officer, Marcella Sherfy. It immediately removes her from her job. It ties the hands of the Governor. God knows the State Historic Preservation Office and I have disagreed with each other at times. But, Marcella and the people she supervises serve at the discretion of the Governor. If he had a problem, she would be gone. Montana Governors have removed their employees before; including State Historic Preservation Officers. Would you want to tie the Governor's hands in dealing with prison system employees? Governor Racicot has ably demonstrated a willingness to remove employees who cause problems.

Marcella and her office is not the problem. The problem is individuals and companies who put off consulting with the State Historic Preservation Office until the last minute and expect instant compliance with their wishes. Some oil men are like this, as are some people in mining and other industries.

If this bill passes in its current form, I believe it will hurt my oil and gas clients. It will make the review process longer; which is the last thing an oil man wants to hear.

The only part of the bill I see which has value is putting more people on the Preservation Review Board. To comply with federal laws the majority need to be professionals working in the field. I believe more of the public need to be involved. Particularly the oil and gas industry. Kansas-Nebraska Pipeline Company and Samedan Oil and their predecessors have paid for hundreds of thousands of dollars of archaeological inspection, survey, and excavation in Phillips and Valley Counties. They are very interested in historic preservation. I see no problem with putting more people on the Board representing both the professionals who deal with historic preservation every day, and the companies who pay for it.

Thank you for the opportunity to comment upon this bill.

Sincerely,

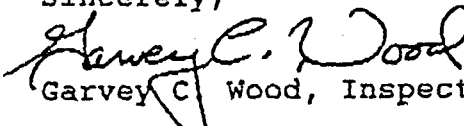
  
Garvey C. Wood, Inspector



EXHIBIT 46  
DATE 2/13/95  
HB 485

Members of the House Education  
and Cultural Resources Committee  
Montana Capitol Complex  
Helena, Montana 59620

Re: House Bill No. 485 Relating to Preservation of Heritage Property

Dear Members of the Committee:

I am writing as a third generation Montanan to influence your deliberations as you consider the above-named proposed Act. I urge you not to support the Act as written. I have been appointed by the last three governors to serve the people of Montana in a number of capacities. This includes my current membership on the Montana Historical Society Board of Trustees, a past membership on the Montana Burial Board, and most important, I am a past member and chairman of Montana's Preservation Review Board. My concerns are summarized in three areas listed below. Please give them serious consideration.

1. I believe the bill does not address our needs at this time when we, the people of Montana, are asking for less bureaucracy. The proposed procedures outlined in this document double the complexity for selecting the State Historic Preservation Officer. I believe the voters asked for less government, not more in the last election. Furthermore, by requiring notice procedures, review of all specific agency actions by the Historical Society Director, and proposed measures for mitigating the effects of projects, this proposed Act threatens to add substantially to the time it will take to create jobs through private sector economic development. I don't think anyone could fairly characterize these proposals as less government.
2. The bill limits my Governor's freedom to administer Montana public policy. The "SHPO" designation is conferred to someone at the Governor's pleasure. Presently, the Governor carefully considers all potential candidates and makes an informed decision. It does not make sense to have the Preservation Review Board limit the possible candidates for consideration. I was always taught that it was best to have such matters left closest to the elected official most responsible for successful performance. A committee inevitably muddies the waters where lines of responsibility are presently clear.
3. The proposed Act threatens Montana's participation in a very successful Federal Program. I believe it does this in two ways. First, it would change the consultation process between the State Historic Preservation Office and Federal Agencies in such a way as to violate section 106 of the National Historic Preservation Act. Second, it conflicts with Federal Law in the composition of the Preservation Review Board as presented in the Code of Federal Regulations (36 CFR 61.4 and 61.4(e)(1 and 5)).

My experience is that the State Historic Preservation Office has functioned at the highest professional level to help people comply with federal law and regulation. To my knowledge, no one has ever demonstrated that the consequences of the office's actions has been to inhibit the work of Montanans. Finally, my experience has always been that this office has provided a necessary Montana perspective on our history. All too often, those who don't share our heritage have taken steps to eliminate any tangible remains of where we came from. One observation commonly made is that heritage may be something that we all share, but it seldom has had a constituency—those of us who are interested find the Historic Preservation Program to be an invaluable source of information on our heritage. I believe it is our Montana heritage that ties us together, whether we are from Great Falls, Browning, Missoula, Billings or Wolf Point.

Many of us have asked, "Is there a future for the past?" My answer to this is yes, but it is only too brief a one unless you act to ensure this proposed Act is not passed. Thank you for your kind consideration of these points.

Yours very truly,

*Thomas A. Foor* 9/2/95

Thomas A. Foor, Chairman  
Department of Anthropology,  
University of Montana  
Missoula, Montana 59812



IN REPLY REFER TO:

H32(413)

# United States Department of the Interior

NATIONAL PARK SERVICE

P.O. Box 37127

Washington, D.C. 20013-7127

FFR 13 1995

TAKE  
PRIDE IN  
AMERICA

EXHIBIT

47

DATE

2/13/95

HB

485

The Honorable Alvin Ellis  
Chairman, House Education and  
Cultural Resources Committee  
Montana State Legislature  
Helena, Montana 59620

Dear Mr. Ellis:

House Bill No. 485 now before the legislature contains several provisions which are inconsistent with the National Historic Preservation Act of 1966 and which could jeopardize the participation of the State of Montana in the programs under this law.

One of the primary responsibilities of the State Historic Preservation Review Board under the National Historic Preservation Act is to provide professional review of nominations to the National Register of Historic Places initiated in the State. The Act and the regulations guiding its application require that a majority of the members of the State Historic Preservation Review Board be professionals qualified in history, prehistoric and historic archeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, so the Board will have the expertise to carry out this responsibility. Section 1 of House Bill No. 485 prescribes the membership of the Board such that a majority of the Board would not be professionals in the requisite disciplines, thus limiting the Board's professional expertise to evaluate the eligibility of nominations.

Section 5 of the bill would provide that applicants or property owners may appeal to the district court the findings of the director of the historical society concerning the eligibility of a property for listing in the register. The Act provides that the State Historic Preservation Officer identify and nominate eligible properties to the National Register on behalf of the State and advise and assist Federal and State agencies and local governments in carrying out historic preservation responsibilities. In so far as Federal Historic Preservation Fund-sponsored activities are concerned, the State Historic Preservation Officer is only responsible for providing recommendations. The final decisions on eligibility or listing in the National Register under the National Historic Preservation Act are made by the Department of Interior, which by law is responsible for expanding and maintaining the National Register.

The Federal government's ability to determine for its own planning needs whether a property meets National Register criteria cannot be abridged by a State decision. Federal agencies request determinations of eligibility to assist them in considering historic places in the planning for their projects as required under section 106 of the Act. The National Historic Preservation Act contains assurances against artificial restrictions on nominating properties to the National Register or determining their eligibility. When a State refuses for whatever reason to submit a nomination

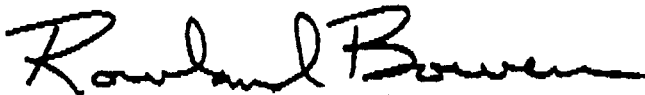
presented to it by anyone, that person or anyone else may appeal to the National Register for appropriate review. When any nomination is accompanied by an objection from the private property owner or a majority of owners for properties with more than one owner, the property will not be added to the Register, but we are obliged to formally determine whether it is eligible for listing.

Historic Preservation Fund grants are awarded for the purpose of operating a fully professional program consistent with the Act. Should the Montana program be prevented from operating consistent with the Act the program, may no longer be eligible to receive nearly \$500,000 a year, which would be distributed to other States. I am sure that you are well aware of the role the Montana State Historic Preservation Program and the National Register play in the State's economy through the tourism industry, and that the grant and the program actually have a much broader positive effect. I am enclosing a copy of a recent article written by the Montana State Historic Preservation Officer that describes the impressive achievements of the Montana program and the wide range of benefits to the State and its citizens.

All citizens are entitled to access to the programs authorized by the National Historic Preservation Act. If the Montana program were not able to participate, the professional decisions and recommendations now made by the State Historic Preservation Officer would be made exclusively by Federal employees. The National Park Service does not wish to assume duties handled by the States, but if the State cannot do so, we would have no choice. Decisions on National Register listings and determinations of eligibility would be made without State recommendations and initiative. Historic building rehabilitations for Federal tax incentives would be certified or denied by Federal employees without input from the State. Federal agencies seeking assistance in complying with section 106 of the Act would deal directly with the Advisory Council on Historic Preservation rather than with the State. The program would be slower, less efficient, more expensive, and less reflective of the unique qualities and perspectives the State of Montana now contributes.

If I can answer any questions or be of other assistance, please let me know.

Sincerely,



Rowland T. Bowers  
Acting Associate Director,  
Cultural Resources

Enclosure

cc: MT SHPO  
Eric Hertfelder, NCSHPO

EXHIBIT 47DATE 2-13-95HB 485

# Praise and Recognition

## The National Register in Montana

Marcella Sherfy

**T**he National Register of Historic Places fits Montana resources and Montana predilections. By imposing no regulatory requirements and promising no magic money or cures, it strikes exactly the balance it needs to serve and survive here in "don't fence me in" territory. And, in offering recognition, acknowledgement, honor, and visibility, National Register listing remains a much desired accomplishment. It provides, as well, the foundation for a host of modest but effective and persistent local preservation programs. The young historians and advocates who crafted the National Register program in that post-1966 era likely did not think about abandoned rail lines and mine adits and the plainest of western small-town bungalows. But the framework they created couldn't have been better for our resources and our passions.

The National Register succeeds here in Montana in large measure because it does not impose requirements

on National Register property owners, *per se*. Long before the property rights debates of this decade, Westerners held government regulation at bay. If, for the 10 times a day we are asked "what must I do if my property is listed in the Register," we answered "you must get our permission before you hammer," we would have few Register listings. Instead, when we answer, "nothing, this program recognizes the historic value of your building or site and recognizes your efforts in preserving it," we gain astonished and delighted converts.

If, on the other hand, we answered that question by assuring our callers that National Register listing would automatically bring cash or visitors or enormous visibility, we'd again be in trouble. Notwithstanding jeopardized properties needing grant assistance, Montanans are leery of the strings that come with government money. And we want to be in charge of when and how we make our buildings and land available for public appreciation.

The National Register's understated but clear recognition for a broad range of locally significant resources delights Montanans who love their history. The process

of listing itself deepens and broadens public support for preservation. Individuals and communities honestly warm to the challenge of gathering the information needed for a National Register nomination or a community survey project. They do indeed find patterns and tidbits that challenge or expand standard community lore.

When owners and governments and local historical societies stay involved in gathering National Register information, they remain in contact with us. They emerge from the process of research, public meetings, and State Review Board meetings with confidence in their own accomplishments—usually, in fact, lavished with praise by our State Review Board for the good care they've given historic properties.

And, when a property is listed, the subsequent menu of "benefits" again offers encouragement, reward, praise, and recognition: the availability of press releases about the listed property, state-designed interpretive signs (funded substantially by our state bed-tax monies), tax credits, technical assistance, walking tours brochures, overlay zones and ordinances, public and school programs, local recognition ceremonies or TV shows, some foundation for speaking with McDonalds and Hardees, the right words to use in a tourism promotion, the basis to approach City Council to be a Certified Local Government (CLG), etc. These options and possibilities give communities and property owners the latitude to be on their best behavior, rather than an obligation to be a rebellious partner.

So, to the question of whether National Register listing in Montana has spurred economic development, tourism,

or better planning, I believe the answer is an unqualified "yes." In a state of 800,000 citizens, we claim 13 CLGs, almost 700 National Register listed properties, 400 National Register interpretive markers in place, \$4,000,000 of federal rehabilitation tax act generated work this year alone, and a host of vocal, confident preservation activists. But I believe that the National Register's role in Montana's impressive preservation community is subtle. The National Register works because it rewards and honors and

involves real people, rather than because it promises or threatens any particular outcome. It works because it includes the real stuff of our history—the properties close to our practical, resource-based past.

Every two years, in conjunction with our biennial legislature, the Montana Historical Society Preservation Office hosts a Preservation Awards Ceremony. The Governor usually speaks. We honor two or three individuals or organizations whose preservation efforts have been especially outstanding. We recognize State Review Board

(Sherfy—continued on page 20)



The Outlook Depot, Sheridan County, MT, illustrates the state's transportation heritage. Photo courtesy Montana Historical Society.

*(Bloomberg—continued from page 19)*

locate properties associated with black Minnesotans in the Twin Cities and Duluth.

An initiative to identify and protect historic shipwrecks in the Minnesota waters of Lake Superior, funded by the Minnesota Legislature in response to the federal Abandoned Shipwrecks Act, concluded in 1993 with production of a draft management plan. Once again, the National Register program brought direction to the project—the first step involved completing a multiple property documentation form as the framework for establishing the historic context in which to evaluate the properties. Underwater surveys, several nominations, and a complement of educational materials were also produced.

Since 1989, the office has conducted over 15 studies to examine potential uses for threatened National Register properties in cooperation with a range of communities and organizations. The reuse study format, sometimes characterized as a "swat team" approach for at-risk buildings, brings together a team of architects, historians, and other specialists for an intensive on-site consultation. The most recent success following one such study helped to identify a new owner who is restoring the Thorstein Veblen Farmstead in rural Rice County, a National Historic Landmark endangered for over a decade.

Local preservation programs have replaced the county survey as the department's primary vehicle for creating a network of preservation partnerships. While the number of National Register listings increases at a slower rate today, the number of local programs is growing rapidly, more than doubling since 1991. A greater emphasis on education and training has accompanied the growth in local programs.

What is ahead for Minnesota's National Register program? The work to identify, evaluate, register, and protect the state's historic resources is never done. Major gaps still exist—archeological sites, for example, are seriously under-represented, an imbalance being addressed in planning future survey initiatives. Another priority is to form and strengthen partnerships with the state's culturally diverse populations. Revisions to state law enacted by the 1993 Minnesota Legislature provide better protection for National Register properties at the state level. Partnerships and education are key. The plate is full, but the responsibility is shared with a growing number of players who also are catching the vision to preserve history where it happened in Minnesota.

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Britta L. Bloomberg is Deputy State Historic Preservation Officer and heads the Historic Preservation, Field Services, and Grants Department of the Minnesota Historical Society.

*(Sherfy—continued from page 15)*



The Jesse R. Green Homestead in Gallatin County, MT, illustrates the state's rural heritage. Photo courtesy Montana Historical Society.

members whose terms have ended. But mainly, we present certificates to owners whose property has been listed in the National Register during the previous two years. Mind you, these are literally just certificates, signed by the Governor with the calligraphic property name at the top. And every time, the turnout of owners is breathtaking. Four hundred miles of icy roads do not daunt ministers, school board members, local businessmen, Forest Service rangers, elderly homeowners, and city officials. Every time, we are amazed, delighted, and humbled by the enthusiastic, joyful attendance.

For me, that National Register certificate ceremony confirms that the National Register offers Montanans just what its authors intended: not regulation, not money, not public intrusion, but the extraordinary gift of praise and recognition. It tells me, as well, that recognition remains an especially powerful incentive.

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Marcella Sherfy, Montana's State Historic Preservation Officer, moved to Montana in 1980. Previously she was a historian at the National Register of Historic Places in Washington, DC.

# Advisory Council On Historic Preservation

EXHIBIT 48  
DATE 2/13/95  
HB 485

The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #809  
Washington, DC 20004

February 13, 1995

Hon. Alvin Ellis  
Chairman, House Education and Cultural Resources Committee  
Montana State Legislature  
Helena, MT 59620

Dear Chairman Ellis:

The Council has just learned from the National Trust for Historic Preservation, whose chairman is a member of the Council, that House Bill No. 485, now pending before your committee, would seriously impact the ability of the Montana State Historic Preservation Officer (SHPO) to participate in the Federal historic preservation review process. The Council is an independent Federal agency charged with advising the President and the Congress on historic preservation matters and also with administering the project review process established by Section 106 of the National Historic Preservation Act (16 U.S.C. §470f) (NHPA). It is the Council's regulations, "Protection of Historic Properties," 36 C.F.R. Part 800, that govern the implementation of the Section 106 process by Federal agencies and SHPOs nationwide.

We are concerned with specific provisions of the bill that contradict the procedure set forth in 36 C.F.R. Part 800 as it relates to the role of the SHPO in the Section 106 process. It appears that the bill will have exactly the opposite effect its sponsors presumably intend. By placing inconsistent procedural requirements on the SHPO and confusing the process and apparent outcome of certain key steps under Section 106, individual project reviews will be delayed, results will be uncertain and ultimately the applicant, whose interests are sought to be protected by the bill, will suffer.

It also seems that the provisions of the bill, both those noted and others that deal with the State's role in the National Historic Preservation Program, may jeopardize the continued participation of Montana in the Federal program. If this were to happen, the Section 106 process in the State would be conducted exclusively by the Council and Federal agencies with jurisdiction over the various Federal programs that manage land, provide financial assistance and administer permit processes. It would be to everyone's detriment to lose the primary official voice of the State in the system designed to protect historic resources important to the State from unnecessary harm caused by Federal actions.

In brief, the problem areas are the elaborate procedures, reviews and appeals that are overlaid on the SHPO's duties under Section 106, the intrusion of a State judicial process in the Federal administrative procedure and the introduction of a limitation on applicant-funded mitigation.

The requirements of Section 5 that introduce an extended administrative review process for SHPO findings under Section 106, a public notice and appeal opportunity and a judicial review procedure, culminating in the district court being authorized to substitute its judgment for that of the SHPO, are directly counter to the express provisions of 36 C.F.R. Part 800. The time period for review, notice and appeal violates the requirement that the SHPO respond to a Federal agency request for views within 30 days and will lead to the Federal agency moving forward, as is its right under Section 106, after the expiration of the 30-day period, without any findings, opinions or advice from the SHPO. The State proceeding may well result in a different conclusion than the Federal agency has already reached on its own, but it would be irrelevant because the Federal agency is legally authorized to conclude the Section 106 process without SHPO participation if that participation is not timely.

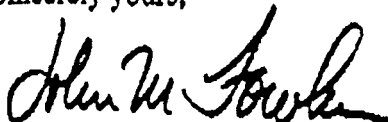
The authorization of the district court to substitute its judgment for that of the SHPO (even when affirmed by the director of the historical society) is contrary to the fundamental premise of the NHPA and Section 106 that decisions regarding the historic significance of properties be determined by the professional application of objective criteria specified by the National Park Service. The Section 106 process provides a means for resolving disputes over significance and the ultimate arbiter is the Keeper of the National Register of Historic Places, an official of the National Park Service. The district court's opinion would not be binding on the Keeper, the Council or the involved Federal agency and would have no effect on the Section 106 proceeding other than to confuse it.

The limitation of an applicant's liability for funding a mitigation plan to .5% of the activity's cost likewise would have no binding effect on the Federal parties to the Section 106 process. If a Federal agency providing assistance or permission to an applicant determined that the applicant should contribute more than the limit, the State law would be no bar to the Federal agency imposing such a requirement as a condition of the assistance or permission.

We share the concern underlying of this legislation that the Section 106 process be timely, efficient and fair. The effective participation of the SHPO is a critical component in achieving these objectives and assisting both applicants and Federal agencies in expeditiously meeting Federal legal requirements. We would urge you to carefully consider the real impact that House Bill No. 485 will have on all the participants in the Section 106 process.

Thank you for considering our views.

Sincerely yours,



John M. Fowler  
Deputy Executive Director and General Counsel

28-Jan-95

Office of Public Instruction  
 Montana Public Schools  
 Average Administrative Salaries  
 School Year 1993-1994

This data is presented by school system (combined if districts have unified boards). The FTE represents full-time equivalents. Many Montana administrators may serve in more than one role - superintendent, principal, teacher, counselor. Salaries are reported at full-time rates and include all duties.

CO	SYSTEM LE	DISTRICT94	Enrollment 1993-94	- Principal and Asst -		- Superintendent and Asst -	
				Total FTE	Salary Full-time rate	Total FTE	Salary Full-time rate
43	ROOSEVELT	0857	972	3.0	45,833	1.0	61,200
43	ROOSEVELT	0860	1,078	4.0	47,709	1.0	40,000
43	ROOSEVELT	0861	152	0.4	58,600	0.6	58,600
43	ROOSEVELT	0863	119	1.0	32,916	0.5	39,780
43	ROOSEVELT	0856	145	0.5	34,000	0.5	34,000
43	ROOSEVELT	0862	113	0.5	50,767	0.5	50,767
44	ROSEBUD	0870	1,319	5.0	43,620	2.0	35,625
44	ROSEBUD	0869	116	0.6	41,000	0.4	41,000
44	ROSEBUD	0866	691	3.1	36,374	1.0	53,550
44	ROSEBUD	0864	4	0.0	0	0.0	0
44	ROSEBUD	0865	19	0.0	0	0.0	0
44	ROSEBUD	0867	436	1.0	36,000	1.0	52,000
44	ROSEBUD	0872	113	1.0	33,600	0.0	0
45	SANDERS	0880	324	1.2	42,671	0.5	45,500
45	SANDERS	0875	668	1.5	41,056	1.0	50,000
45	SANDERS	0874	523	1.5	34,287	1.0	42,000
45	SANDERS	0882	238	1.2	39,749	0.9	43,500
45	SANDERS	0877	106	0.5	34,531	0.0	0
45	SANDERS	0878	66	0.0	0	0.0	0
45	SANDERS	0879	60	0.0	0	0.0	0
45	SANDERS	0881	14	0.0	0	0.0	0
46	SHERIDAN	0887	217	0.6	40,300	0.9	54,386
46	SHERIDAN	0891	534	2.0	40,700	1.0	65,491
46	SHERIDAN	0895	92	1.3	46,411	0.5	50,868
46	SHERIDAN	0893	68	0.7	43,500	0.3	43,500
46	SHERIDAN	0899	14	0.0	0	0.0	0
47	SILVER BOW	0904	167	1.0	35,250	0.0	0
47	SILVER BOW	0905	17	0.0	0	0.0	0
47	SILVER BOW	0906	17	0.0	0	0.0	0
47	SILVER BOW	0902	5,635	13.0	47,370	2.0	61,600
48	STILLWATER	0917	87	0.4	44,490	0.5	44,490
48	STILLWATER	0910	78	0.5	51,240	0.5	51,240
48	STILLWATER	0908	330	1.0	40,004	1.0	51,028
48	STILLWATER	0919	431	1.6	44,025	0.4	51,900
48	STILLWATER	0909	577	1.8	41,500	1.0	49,500
48	STILLWATER	0911	5	0.0	0	0.0	0
48	STILLWATER	0912	18	0.0	0	0.0	0
48	STILLWATER	0916	11	0.0	0	0.0	0
49	SWEET GRASS	0922	345	0.5	47,444	0.5	47,444
49	SWEET GRASS	0925	20	0.0	0	0.0	0
49	SWEET GRASS	0929	34	0.0	0	0.0	0
49	SWEET GRASS	0932	11	0.0	0	0.0	0
49	SWEET GRASS	0938	4	0.0	0	0.0	0
49	SWEET GRASS	0939	188	1.0	37,389	1.0	47,017
50	TETON	0948	162	0.3	50,000	0.3	50,000
50	TETON	0946	356	2.0	42,023	2.0	51,723

EXHIBIT 49  
 DATE 2/13/95  
 HB 480



Office of Public Instruction  
 Montana Public Schools  
 Average Administrative Salaries  
 School Year 1993-1994

This data is presented by school system (combined if districts have unified boards). The FTE represents full-time equivalents. Many Montana administrators may serve in more than one role - superintendent, principal, teacher, counselor. Salaries are reported at full-time rates and include all duties.

CO	SYSTEM LE	DISTRICT94	Enrollment 1993-94	- Principal and Asst -		- Superintendent and Asst -	
				Total FTE	Salary Full-time rate	Total FTE	Salary Full-time rate
50	TETON	Dutton Public Schools	171	1.0	40,000	0.5	50,000
50	TETON	Choteau Public Schools	513	2.0	38,250	1.0	40,000
50	TETON	Bynum Elem	68	0.0	0	0.0	0
50	TETON	0889 Golden Ridge Elem	51	0.0	0	0.0	0
50	TETON	0896 Pendroy Elem	18	0.0	0	0.0	0
50	TETON	0900 Greenfield Elem	67	0.5	35,757	0.0	0
51	TOOLE	Sunburst Public Schools	355	1.8	37,575	0.9	55,785
51	TOOLE	Shelby Public Schools	776	3.0	44,713	1.0	50,000
51	TOOLE	0915 Galata Elem	20	0.0	0	0.0	0
52	TREASURE	Hysham Public Schools	187	1.0	39,178	0.5	41,870
53	VALLEY	Hinsdale Public Schools	101	0.5	43,000	0.5	43,000
53	VALLEY	Nashua Public Schools	199	0.5	40,000	0.5	40,000
53	VALLEY	Frazer Public Schools	163	1.0	40,800	1.0	50,000
53	VALLEY	Glasgow Public Schools	990	4.2	44,067	1.0	61,812
53	VALLEY	0935 Opheim Schools	109	0.5	43,500	0.5	43,500
53	VALLEY	0940 Fort Peck Elem	16	0.0	0	0.0	0
53	VALLEY	0941 Lustre Elem	53	0.0	0	0.0	0
54	WHEATLAND	Judith Gap Public Schools	132	0.5	39,672	0.5	39,672
54	WHEATLAND	Harlowton Public Schools	307	1.0	35,000	1.0	52,500
54	WHEATLAND	0944 Two Dot Elem	7	0.0	0	0.0	0
54	WHEATLAND	0947 Shawmut Elem	13	0.0	0	0.0	0
55	WIBAUX	Wibaux Schools	226	1.3	39,129	1.0	48,960
56	YELLOWSTONE	Shepherd Public Schools	812	2.5	41,600	1.0	58,136
56	YELLOWSTONE	Huntley Project Public Scho	746	3.0	41,033	1.0	49,067
56	YELLOWSTONE	Laurel Public Schools	1,899	6.5	47,904	1.0	59,989
56	YELLOWSTONE	Broadview Public Schools	108	0.5	45,500	0.5	45,500
56	YELLOWSTONE	Billings Public Schools	16,281	44.0	50,655	2.0	71,967
56	YELLOWSTONE	Lockwood Elem	1,252	3.0	51,474	1.0	64,981
56	YELLOWSTONE	Blue Creek Elem	101	0.0	0	0.0	0
56	YELLOWSTONE	0968 Canyon Creek Elem	248	0.8	41,000	0.3	41,000
56	YELLOWSTONE	0972 Elder Grove Elem	230	0.8	40,000	0.3	40,000
56	YELLOWSTONE	0975 Custer Schools	84	0.3	47,296	0.8	47,296
56	YELLOWSTONE	0976 Morin Elem	33	0.0	0	0.0	0
56	YELLOWSTONE	0981 Elysian Elem	141	0.5	36,003	0.0	0
56	YELLOWSTONE	0987 Pioneer Elem	74	0.0	0	0.0	0
56	YELLOWSTONE	0989 Independent Elem	184	0.5	40,774	0.5	40,774
56	YELLOWSTONE	1196 Yellowstone Education Ctr	41	0.6	42,436	1.0	44,373
STATE	AVE	MONTANA	162,825	476.4	45,113	157.1	51,306

1/07/95

**MONTANA OFFICE OF PUBLIC INSTRUCTION  
 FY94 ADMINISTRATIVE EXPENDITURES  
 FY94 GENERAL FUND ADMINISTRATIVE EXPENDITURES**

CO	LE	LE NAME	GENERAL FUND ADMINISTRATIVE EXPENDITURES	TOTAL GENERAL FUND EXPENDITURES	ADMIN EXP AS PERCENT OF TOTAL	ANB
48	0850	Reedpoint Elem	42,425	236,131	17	43
48	0851	Reedpoint H S	54,540	254,704	21	28
48	0852	Molt Elem	3,935	32,333	12	10
48	0853	Fishtail Elem	9,874	90,751	10	36
48	0857	Nye Elem	10,328	44,973	22	3
48	0858	Rapelje Elem	43,585	277,095	15	49
48	0859	Rapelje H S	43,422	271,978	15	24
48	0861	Absarokee Elem	200,741	937,032	21	274
48	0862	Absarokee H S	83,077	654,205	12	128
49	0865	Big Timber Elem	107,864	1,116,944	9	309
49	0868	Melville Elem	3,941	80,252	4	18
49	0872	Greycliff Elem	4,145	100,550	4	33
49	0875	McLeod Elem	3,280	47,887	6	12
49	0881	Bridge Elem	4,714	27,465	17	6
49	0882	Sweet Grass County H	158,492	1,037,446	15	205
50	0883	Choteau Elem	110,193	1,033,837	10	338
50	0884	Choteau H S	130,056	875,513	14	150
50	0889	Bynum Elem	3,836	145,050	2	61
50	0890	Fairfield Elem	115,184	713,264	16	201
50	0891	Fairfield H S	111,816	712,860	15	138
50	0892	Dutton Elem	56,752	462,650	12	114
50	0893	Dutton Schools	78,444	415,585	18	46
50	0894	Power Elem	53,722	435,938	12	113
50	0895	Power H S	72,787	369,415	19	62
50	0896	Golden Ridge Elem	5,243	124,748	4	49
50	0898	Pendroy Elem	3,601	41,823	8	9
50	0900	Greenfield Elem	24,436	240,739	10	66
51	0902	Sunburst Elem	96,553	778,508	12	240
51	0903	Sunburst Schools	117,437	676,757	17	98
51	0910	Shelby Elem	215,327	1,761,070	12	515
51	0911	Shelby H S	163,724	1,160,139	14	224
51	0915	Galata Elem	13,788	79,593	17	17
52	0922	Hysham Elem	65,583	495,552	13	137
52	0923	Hysham H S	60,888	492,751	12	58
53	0925	Glasgow Elem	348,680	2,844,427	12	732
53	0926	Glasgow Schools	211,511	1,632,247	12	283
53	0927	Frazer Elem	108,697	462,423	23	107
53	0928	Frazer H S	34,573	301,306	11	36
53	0932	Hinsdale Elem	50,742	340,481	14	67
53	0933	Hinsdale H S	50,221	357,575	14	26
53	0935	Opheim Schools	131,091	884,912	14	112
53	0936	Nashua Elem	78,946	539,194	14	135
53	0937	Nashua Schools	87,276	545,676	15	74
53	0940	Fort Peck Elem	24,608	176,274	13	22
53	0941	Lustre Elem	25,988	266,226	9	52
54	0944	Two Dot Elem	9,692	47,039	20	9

ADMINISTRATIVE EXPENDITURES INCLUDE FUNCTIONS 23XX, 24XX AND 25XX  
 GENERAL AND SCHOOL ADMINISTRATION AND BUSINESS SERVICES  
 SEE PAGES 3-0600-16 THROUGH 3-0600-19 OF MT SCHOOL ACCOUNTING MANUAL

TOTAL EXPENDITURES ARE ALL EXPENDITURES EXCEPT TRANSFERS TO COMPENSATED  
 ABSENCES LIABILITY FUND

1/07/95

<p>MONTANA OFFICE OF PUBLIC INSTRUCTION          FY94 ADMINISTRATIVE EXPENDITURES          FY94 GENERAL FUND ADMINISTRATIVE EXPENDITURES</p>
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CO	LE	LE NAME	GENERAL FUND ADMINISTRATIVE EXPENDITURES	TOTAL GENERAL FUND EXPENDITURES	ADMIN EXP AS PERCENT OF TOTAL	ANB
54	0945	Harlowton Elem	100,668	747,542	13	210
54	0946	Harlowton H S	109,683	723,641	15	117
54	0947	Shawmut Elem	6,046	37,178	16	8
54	0948	Judith Gap Elem	59,531	336,385	17	91
54	0949	Judith Gap H S	44,816	307,660	14	37
55	0964	Wibaux Schools	195,712	1,115,981	17	238
56	0965	Billings Elem	3,263,893	35,273,338	9	10,659
56	0966	Billings H S	1,673,279	18,607,921	8	4,873
56	0967	Lockwood Elem	468,973	3,711,973	12	1,174
56	0968	Blue Creek Elem	18,690	314,598	5	111
56	0969	Canyon Creek Elem	97,521	741,556	13	207
56	0970	Laurel Elem	607,407	4,315,075	14	1,210
56	0971	Laurel H S	283,968	2,234,743	12	612
56	0972	Elder Grove Elem	87,252	650,268	13	209
56	0975	Custer Schools	114,155	626,514	18	87
56	0976	Morin Elem	8,086	174,974	4	35
56	0978	Broadview Elem	48,034	390,600	12	64
56	0979	Broadview H S	47,980	401,324	11	38
56	0981	Elysian Elem	21,820	383,106	5	132
56	0982	Huntley Project Elem	205,874	1,617,600	12	486
56	0983	Huntley Project H S	130,360	958,501	13	212
56	0985	Shepherd Elem	146,656	1,472,349	9	541
56	0986	Shepherd H S	143,811	1,192,970	12	253
56	0987	Pioneer Elem	13,017	215,600	6	66
56	0989	Independent Elem	90,948	435,112	20	165
56	1196	Yellowstone	0	161,513	0	22

ADMINISTRATIVE EXPENDITURES INCLUDE FUNCTIONS 23XX, 24XX AND 25XX  
 GENERAL AND SCHOOL ADMINISTRATION AND BUSINESS SERVICES  
 SEE PAGES 3-0600-16 THROUGH 3-0600-19 OF MT SCHOOL ACCOUNTING MANUAL

TOTAL EXPENDITURES ARE ALL EXPENDITURES EXCEPT TRANSFERS TO COMPENSATED  
 BENEFITS LIABILITY FUND

**RULE 10.55.704 ADMINISTRATIVE PERSONNEL: ASSIGNMENT OF DISTRICT SUPERINTENDENTS (1)**

Effective 7/1/92 district superintendents shall be assigned as follows:

**(a) A combined elementary-high school district:**

- (i) A full or part-time district superintendent shall be employed for a district with fewer than 9 FTE certified staff.
- (ii) A full or part-time district superintendent shall be employed for a district with 9-29 FTE certified staff. One

full-time individual may fulfill the positions of district superintendent and half-time building administrator as defined in Rule 10.55.705.1. A superintendent that also serves as principal(s) shall devote full-time to administration and supervision.

(iii) A full-time (1 FTE) district superintendent shall be employed for a district with 30 or more FTE certified staff, or 551 or more students.

**(b) A county high school district:**

(i) A full or part-time district superintendent shall be employed for a district with fewer than 9 FTE certified staff.

(ii) A full or part-time district superintendent shall be employed for a district with 9-29 FTE certified staff. One full-time individual may fulfill the positions of district superintendent and half-time building administrator as defined in Rule 10.55.705.1. A superintendent that also serves as principal shall devote full-time to administration and supervision.

(iii) A full-time (1 FTE) district superintendent shall be employed for a district with 30 or more FTE certified staff, or 551 or more students.

**(c) An independent elementary school district:**

(i) A full or part-time district superintendent shall be employed for a district with fewer than 9 FTE certified staff or the district shall utilize the services of the county superintendent to fulfill the duties of district superintendent as outlined in Rule 10.55.702.

(ii) A full or part-time district superintendent and a full or half-time building administrator as defined in Rule 10.55.705.1 shall be employed for a district with 9-17 FTE certified staff or the district shall utilize the services of the county superintendent to fulfill the duties of district superintendent as outlined in Rule 10.55.702. One full-time individual may fulfill the positions of district superintendent and half-time building administrator as defined in Rule 10.55.705.1. A superintendent that also serves as principal(s) shall devote full-time to administration and supervision.

(iii) A full or part-time district superintendent shall be employed for a district with 18-29 FTE certified staff. One full-time individual may fulfill the positions of district superintendent and half-time building administrator as defined in Rule 10.55.705.1. A superintendent that also serves as half-time principal shall devote full-time to administration and supervision.

(iv) A full-time (1 FTE) district superintendent shall be employed for a district with 30 or more FTE certified staff, or 551 or more students.

(2) A combined elementary-high school district or a county high school district or an independent elementary school district with 100 or more FTE certified staff shall employ a full-time curriculum coordinator to supervise the educational program. The curriculum coordinator must hold a Class 3 administrative certificate.

(3) Any district may seek alternatives to the above requirements including sharing a district superintendent (see "Alternative Standard," ARM 10.55.604). Where a district superintendent is shared, one superintendent may serve all the cooperating districts. If a district superintendent is shared within the requirements of Rule 10.55.704, an alternative standard need not be applied for by the district.

**RULE 10.55.705 ADMINISTRATIVE PERSONNEL: ASSIGNMENT OF BUILDING ADMINISTRATORS (1)**

Beginning 7/1/92 school districts shall employ appropriately endorsed building administrators as follows:

(a) A district superintendent or supervising teacher and county superintendent for schools with less than 9 FTE certified staff.

(b) .5 FTE for schools with 9-17 FTE certified staff.

(c) 1 FTE for schools with 18-29 FTE certified staff or 250-550 students.

(d) 2 FTE for schools with 551-1,050 students.

**[Subject to Notice of Deferral]  
(Previously required 1.5 FTE)**

(e) 3 FTE for schools with 1,051-1,550 students.

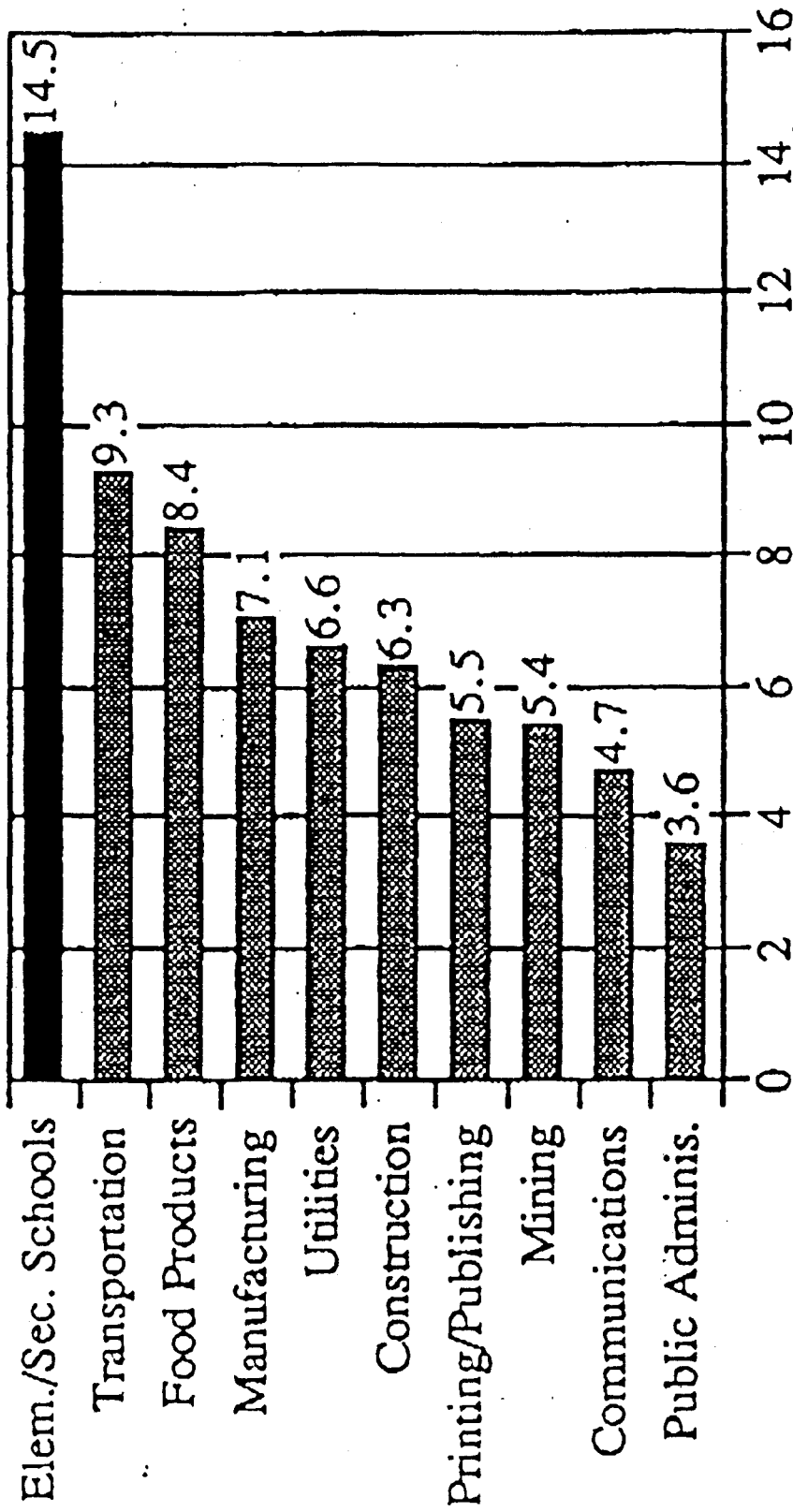
(f) 4 FTE for schools with 1,551-2,050 students.

(g) 5 FTE for schools with 2,051 or more students.

(2) Beginning 7/1/92 in schools with more than one building administrator, the first administrator shall be appropriately endorsed as principal. The additional administrators shall have administrative endorsement(s) at the appropriate level(s) and in the area(s) that accurately reflect their supervisory responsibilities. For example, a school may assign properly certified and endorsed curriculum coordinators to supervise the appropriate instructional programs.

(3) Beginning 7/1/92 in schools with at least three FTE building administrators who are administratively endorsed, release time of department coordinators or chairpersons may be counted toward additional building administration. Department coordinators or chairpersons counted toward building administration may observe and supervise but shall not formally evaluate classroom instruction.

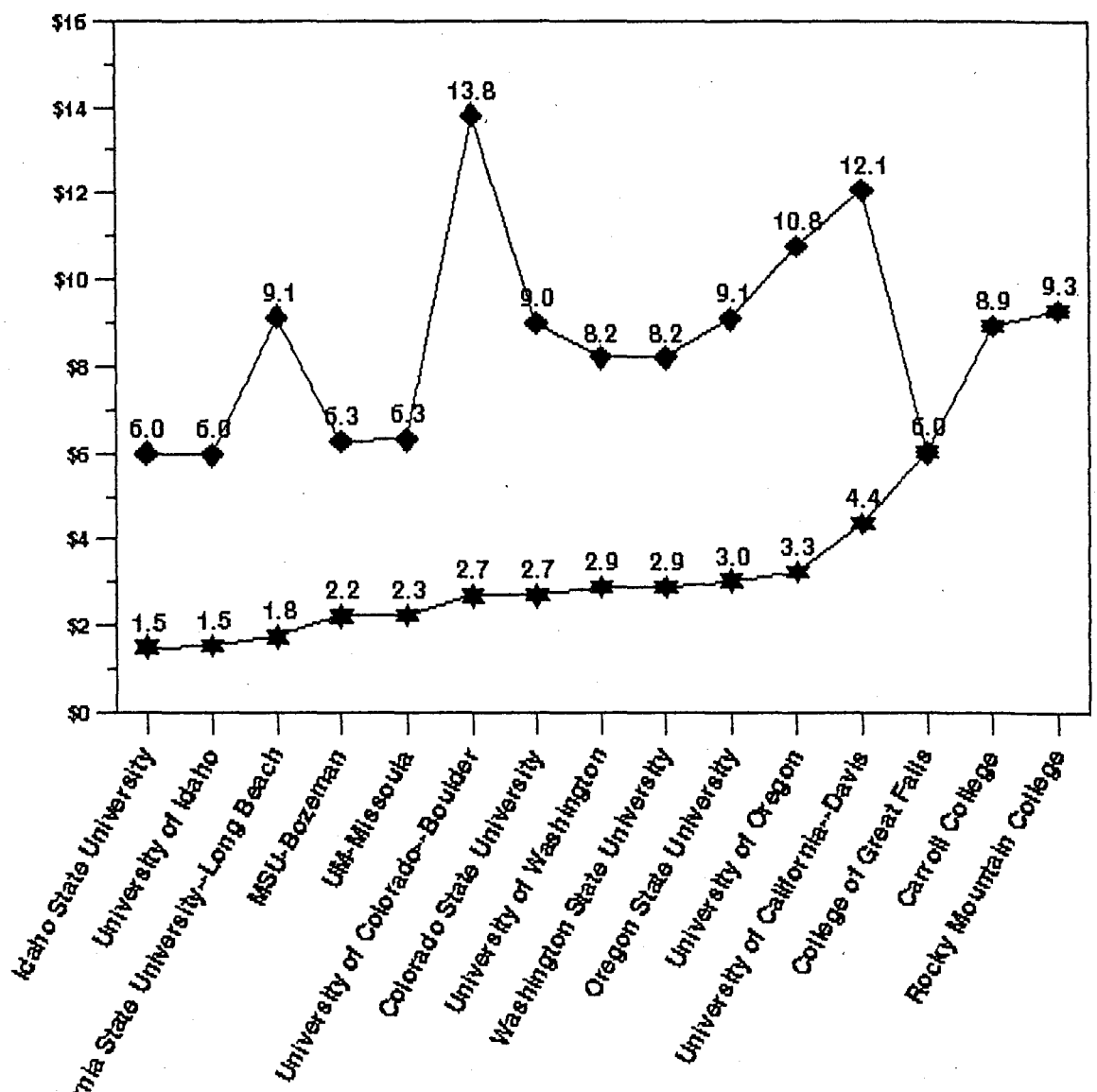
NUMBER OF PERSONS EMPLOYED PER EXECUTIVE, ADMINISTRATOR, AND/OR  
MANAGER IN INDUSTRIES AND OCCUPATIONS



SOURCE: U. S. Bureau of Labor Statistics

### Tuition & Fees--1994/95 Selected Public & Private Four-Year Schools CA, CO, ID, MT, OR, WA

Tuition & Fees (in Thousands)



Ten-year gain in appropriations of state tax funds for operating expenses of higher education.  
 1984-85 through 1994-95: CA 16%; CO 42%; ID 102%; MT 5%; OR 54%; WA 60%.

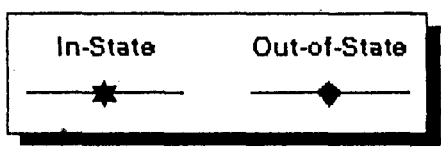


EXHIBIT 53

DATE 2/13/95

Dear Mr. Chairman and members of the committee. HB HJR 21

For the record, my name is Jim Brown. I am a graduate student at The University of Montana. I came here today to speak to you in essence as a supporter of the content of this bill.

Inherently, I think the intent of house joint resolution 21 is honorable. Representative Schwinden elegantly summerizes the state of higher education in Montana today. I think many of the whereas's in this bill reflect the disturbing trends in higher education over the past few years.

Representative Schwinden points out for example that higher education in Montana is becoming less accessible, especially for native Montanans; programs are being eliminated, class size is escalating while individual instruction is faltering and all the while and maybe most disturbing tuition has increased by 155% in real dollars over the last 10 years, while state support for higher education has decreased by 7% in real dollars.

I know that many of you are well aware of the problems in higher education. I know students certainly are. And I know Commissioner Baker is. And I know he is trying to deal with these concerns in a pro-active manner. I am also aware that the Commissioner and the Board of Regents have already taken many of the steps asked of them in this resolution.

However, I am afraid to say that the Commissioners efforts, as well as those of students, who have agreed to some raises in tuition rates to maintain quality and access, are undercut when the legislature cuts 18 million dollars off the more than reasonable Governor's budget.

In essance, I would like to say that the intent of this bill is good. However, I would like to point out that many of these goals are already being worked towards, and I would especially like to point out that this resolution would be moot if higher education were appropriately funded.

Thank you for your time and consideration! I would be more than willing to answer questions.....

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Education

COMMITTEE

DATE 2-13-95

BILL NO. 485

SPONSOR(S) Rep. Bergsager

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Tom Gossack, Great Falls	Tractor & Equip.	✓	
Carol Kienenberger, Malta	Phillips Co.	✓	
KEVIN RYAN, MALTA	Zoltman Mining Inc	✓	
Clark Kelly Malta	ZMI	✓	
GARY HOWELL MALTA	First Security Bank	✓	
FRANCIS KOLCZAK Landowner, Mt.	Landowner	✓	
F Lee Robinson MALTA, Mont	Malta Chamber	✓	
Brenda Rummel	Little Rockies outfitting Land owner	✓	
Lesley Robinson	Lazy JD Cattle Co.	✓	
Jeanne Barnard	Malta Area Commerce	✓	
Mike Sjostrom		✓	
Nicol PRICE	Medicine Wheel Alliance		✓
Gail Knison	Yellowstone County		✓

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CS-14

Janet Cornish

Community Dev Serv.  
of MDT

Anne Alberts

MT. Assoc. of REALTORS® ✓

Virginia Arensberg

Historic Preservation Commission  
Mont. Mslu

✓



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Education

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DATE 2-13-95

BILL NO. 485

SPONSOR(S) Rep. Bergsager

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jim SANDNESS	MALTA CHAMBER OF COMM	✓	
Anne M. Boothe	Phillco Eco. Growth Council	✓	
<del>manell Bluff</del>	MT Hist Society		✓
<del>Tim Engelhardt</del>	Historical Research Association		✓
Gloria Weisgerber	Hist. Pres. Review Board		✓
<del>Judy Fittredge</del>	Cascade Co. Hist Society City/County Hist Pres Com.		✓
Stephen Forrest	Great Falls High School		✓
ALLAN MATHEWS	BLUE ROCK HISTORIES ALBERTON, MT		✓
Clair Cantrell	Myself		✓
Suzanne Julin	Missoula H.P. Advisory Commission		✓
Tomme Lu Worden	" " " "		✓
John Vollefsen, Helena	Self Cultural Lit Soc EX. PECK TRIP		✓
Pat Bennett	Self		✓

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Ed

COMMITTEE

DATE 13 Feb 95

BILL NO. 485

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
STEPHEN S.K. PLATT Stephen S.K. Platt	Helena, MT Archaeologist		X
Larry Brown	Ag Pres. Assoc	X	
TOM MCNAB	MONTANA TECH COUNCIL		✓
Terry Minow	MT State Employees Federation		X
John Fitzpatrick	Pegasus Gold Corp	X	

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COMMITTEE

DATE 13 Feb 95

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
WARD STANSHAW	TRUSTEE MT HIST SOC.	Amend	
Brian Cookhill	Dir MT Hist Soc.		✓
Marlene Frestedt	So C Co. Preservation Bd		✓
Kathy Macetfield	City of Helena		X
Gretchen Olhsein	Mt. Preservation Alliance		X
Stephen Aberg <sup>712 N. Broadway Helena</sup>	Consulting Archaeologist		✓
Jessie Kelley	MT HIST PRES COMM		✓
CANDACE TORGESSON	MT Cattlewoman's Assn	X	
Gloria Vermanow	MT Cultural Advisory		✓
Bob Williams	MT Min. Assoc	X	
Jon Axline	Historic Preservation <del>State</del> Commission		✓
Susan Bjerke	Montana Chapter Am. Inst. of Architects		✓
Brad Griffin		X	

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Education

COMMITTEE

DATE 2-13-95

BILL NO. 480

SPONSOR(S) Rep. Innot

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
WILLIAM M. SNODDI	MONTANA TUNNELS MINING	✓	
Jane Korach	Community Dev. Services		✓
Gail Gray	OPF		✓
Bob Anderson	MSBA		✓
Lucy Frazier	JAN		✓
DON WA PROX	DI REA		✓
William R. Wisem	HO 41	✓	

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VISITORS REGISTER

Education

COMMITTEE

DATE 2-13-95

BILL NO. 479

SPONSOR(S) Rep Arnett

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>Lora Frigo</i>	<i>Don</i>	<input checked="" type="checkbox"/>	
<i>Bob Anderson</i>	<i>MSTA</i>	<input checked="" type="checkbox"/>	
<i>Don Waldron</i>	<i>MREA</i>	<input checked="" type="checkbox"/>	
<i>Larry Jaskender</i>	<i>GFP</i>	<input checked="" type="checkbox"/>	

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Education

COMMITTEE

DATE 2-13-95

BILL NO. HJ 21

SPONSOR(S) Rep. Schwinden

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
MIKE GREEN	ASMSU - Bozeman	X	
Mary Gully	ASMSU - Billings	X	
SIM BROWN	- (STUDENT)	X	

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