

1 H BILL NO. 493
 2 INTRODUCED BY Hays
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 81-2503 THROUGH 81-2513, R.C.M. 1947, TO REFLECT
 6 ADMINISTRATIVE CHANGES IN STATE HISTORIC PRESERVATION
 7 PROGRAM; SUBSTITUTING MONTANA HISTORICAL SOCIETY FOR FISH
 8 AND GAME DEPARTMENT; ADDING "ARCHITECTURAL" TO DEFINITION OF
 9 SITE AND OBJECT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 81-2503, R.C.M. 1947, is amended to
 13 read as follows:
 14 "81-2503. Definitions. As used in this act:
 15 ~~(1) "Department" means the state fish and game~~
 16 ~~department of the state of Montana.~~
 17 ~~(2) (1)~~ "Society" means the Montana historical society.
 18 ~~(3) (2)~~ "Board" means the state board of land
 19 commissioners.
 20 ~~(4) (3)~~ "Historical" means after the advent of white
 21 man into Montana.
 22 ~~(5) (4)~~ "Prehistorical" means before the advent of
 23 white man into Montana.
 24 ~~(6) (5)~~ "Paleontological" means noncultural
 25 prehistorical material of a geological nature such as

1 fossilized plants and animals.
 2 ~~(7) (6)~~ "Site" means any historic, prehistoric,
 3 archaeological, paleontologic, scientific, architectural, or
 4 cultural site upon lands subject to this act.
 5 ~~(8) (7)~~ "Object" means any historic, prehistoric,
 6 archaeological, paleontologic, scientific, architectural, or
 7 cultural object or cluster of objects or materials,
 8 buildings, structures, or combinations thereof.
 9 ~~(9) (8)~~ "Registered site" means any site registered by
 10 the ~~department~~ society as provided in this act or covered by
 11 cooperative agreement under ~~section 8 [81-2508] of this act.~~
 12 ~~(10) (9)~~ "Registered objects" mean any object
 13 registered by the ~~department~~ society as provided in this act
 14 or covered by cooperative agreement under ~~section 8~~
 15 ~~[81-2508] of this act.~~
 16 ~~(11) (10)~~ "Person" means any individual, partnership,
 17 association, society, institute, corporation or the agents
 18 thereof; the singular includes the plural."
 19 Section 2. There is a new R.C.M. section that reads as
 20 follows:
 21 Montana historical society substituted in other
 22 statutes. Wherever the word "department" appears in 81-2504
 23 through 81-2513, the word "society" shall be substituted
 24 therefor.
 25 Section 3. Effective date. This act is effective on

LC 1166/01

1 its passage and approval.

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Approved by Committee
on State Administration

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 25 Section 2. Section 81-2504, R.C.M. 1947, is amended to

1 read as follows:

2 "81-2504. Registration of sites and objects on state
 3 land -- protection. The board is authorized on the
 4 recommendation of the ~~department and~~ society to designate
 5 for registration by the department sites and objects
 6 situated on land under the control of the state of Montana.
 7 The board may withdraw or reserve, at any time, sufficient
 8 state land administered by the board as may be necessary for
 9 the proper care and management of such sites and objects. No
 10 state land may be sold nor any development shall be allowed
 11 which will disturb the registered site or registered object
 12 unless it is protected or excavated in accordance with this
 13 act. The use of state land for the care and management of
 14 such sites and objects is hereby declared by the legislature
 15 to be a worthy object of the trust as specified in section
 16 81-103. The board is authorized to take adequate steps to
 17 protect such sites and objects."

18 Section 3. Section 81-2505, R.C.M. 1947, is amended to
 19 read as follows:

20 "81-2505. Permit to excavate, remove or restore
 21 registered site or object. No person may excavate, remove or
 22 restore any registered site or registered object without
 23 first obtaining a permit from the ~~department~~ society. Said
 24 permits are to be granted only after careful consideration
 25 of the application for a permit, and be subject to the

1 strict compliance with the following guidelines:

2 (a) Permits may be granted only for work to be
 3 undertaken by reputable museums, universities, colleges, or
 4 other historical, scientific or educational institutions,
 5 societies or persons with a view toward dissemination of
 6 knowledge about cultural properties, provided no such permit
 7 shall be granted unless the ~~department~~ society is satisfied
 8 that the applicant or applicants possess the necessary
 9 qualifications to guarantee the proper excavation of those
 10 sites and objects which may add substantially to man's
 11 knowledge about Montana and its antiquities.

12 (b) The permit must specify that a summary report of
 13 such investigations, containing relevant maps, documents,
 14 drawings and photographs be submitted to the ~~department~~
 15 society which shall in turn submit the report to an
 16 appropriate repository. The ~~department~~ society shall
 17 determine the appropriate time period allowable between all
 18 work undertaken, and submission of the summary report.

19 (c) Permits will be preferentially granted to resident
 20 persons unless in the event that a state person is
 21 unavailable, unqualified, or uninterested in the work
 22 proposed for investigation. In the event that a permit is
 23 granted to a nonstate person, there must be provision that
 24 removed objects may not leave or must revert to the state of
 25 Montana, provided that all specimens so collected shall be

1 and remain the property of the state of Montana, and
 2 provided further that the ~~department and the~~ society may
 3 give permission for the loan of such materials for
 4 scientific or educational purposes."

5 Section 4. Section 81-2506, R.C.M. 1947, is amended to
 6 read as follows:

7 "81-2506. Distribution of collection -- loans only.
 8 The ~~department and the~~ society shall supervise the
 9 distribution of all collections made under the provisions of
 10 this act and shall distribute material from such collections
 11 on loan only."

12 Section 5. Section 81-2507, R.C.M. 1947, is amended to
 13 read as follows:

14 "81-2507. State historical register. The ~~department~~
 15 society is authorized and directed to compile and keep a
 16 register of all registered sites and registered objects.
 17 This register shall be known as the state historical
 18 register."

19 Section 6. Section 81-2508, R.C.M. 1947, is amended to
 20 read as follows:

21 "81-2508. Co-operative agreements with private owners.
 22 The ~~department~~ society is authorized to enter into
 23 cooperative agreements with private landowners or the owners
 24 of objects to preserve, mark, maintain, excavate, or
 25 otherwise deal with such sites and objects upon such terms

1 as may be agreed upon by the ~~department~~ society and such
 2 private owners. The cooperative agreements may contain a
 3 clause that the sites and objects shall be registered under
 4 this act, and also a provision that the state of Montana
 5 shall hold the owner harmless for any liability that may
 6 occur while the property is under the control of the state
 7 of Montana."

8 Section 7. Section 81-2509, R.C.M. 1947, is amended to
 9 read as follows:

10 "81-2509. Co-operation with governmental units. The
 11 ~~department~~ society is authorized and directed to cooperate
 12 with all federal, state and local government agencies, in
 13 the identification, acquisition, restoration, enhancement,
 14 preservation and administration of all such sites and
 15 objects for the use and enjoyment of the people, and for the
 16 purpose of exhibition and interpretation of the history and
 17 culture of the state of Montana."

18 Section 8. Section 81-2510, R.C.M. 1947, is amended to
 19 read as follows:

20 "81-2510. Injunction to prevent waste, destruction and
 21 removal -- protection program. The ~~department~~ society is
 22 authorized and directed to apply to any district court of
 23 the state of Montana for a writ of injunction to prevent the
 24 waste, removal and destruction of any such registered site
 25 or registered object. The ~~department~~ society shall not be

1 required to give any bond in such application. Upon hearing
 2 of the petition for injunction, the court may restrain
 3 waste, removal or destruction upon said site, or of such
 4 object for a period of one (1) year. The court may also
 5 provide in its order that during such period the ~~department~~
 6 society shall present to the parties involved a program for
 7 the protection, preservation, restoration and maintenance of
 8 the registered site or registered objects."

9 Section 9. Section 81-2511, R.C.M. 1947, is amended to
 10 read as follows:

11 "81-2511. Violation as misdemeanor — penalty. Any
 12 person who shall willfully injure, remove or damage any
 13 registered site or object thereon without obtaining a permit
 14 or shall violate any of the regulations made by the
 15 ~~department~~ society relating to state parks, historical,
 16 paleontological or prehistorical sites, buildings,
 17 structures, monuments or objects, shall be guilty of a
 18 misdemeanor and shall upon conviction be fined not more than
 19 one thousand dollars (\$1,000), or be imprisoned in the
 20 county jail for not more than six (6) months, or both such
 21 fine and imprisonment."

22 Section 10. Section 81-2512, R.C.M. 1947, is amended
 23 to read as follows:

24 "81-2512. Report of discovered sites or objects —
 25 preservation. Any person conducting any activities,

1 including survey, excavation or construction who discovers
 2 on any lands owned, leased or controlled by this state or
 3 any agency thereof, any object or objects as defined in this
 4 act, shall promptly report to the ~~department~~ society the
 5 existence of any such site or object discovered in the
 6 course of such survey, excavation or construction, and shall
 7 take all reasonable steps to secure its preservation."

8 Section 11. Section 81-2513, R.C.M. 1947, is amended
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10 "81-2513. Advisory council. The governor may appoint
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 15 matters of Montana's antiquities."

16 Section 12. Effective date. This act is effective on
 17 its passage and approval.

-End-

April 1, 1977

SENATE
STANDING COMMITTEE REPORT
Committee on State Administration

That House Bill No. 493, third reading, be amended as follows:

1. Amend page 3, section 2, line 5.

Following: "the"

Strike: "department"

Insert: "society"

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