

CHAPTER NO. 563.

HOUSE BILL NO. 785

INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

IN THE HOUSE

February 13, 1979	Introduced and referred to Committee on Natural Resources.
February 20, 1979	Intent statement attached. Committee recommend bill do pass. Report adopted.
February 21, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass as as amended.
February 23, 1979	Correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Natural Resources.
March 14, 1979	Committee recommend bill be concurrent in as amended. Report adopted.
March 16, 1979	Second reading, concurred in.
March 20, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 21, 1979	Returned from second house. Concurred in as amended.
March 22, 1979	On motion consideration passed until the 71st Legislative Day.

March 30, 1979

Second reading, amendments
adopted.

March 31, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 785
2 INTRODUCED BY Alvin Stankovic Sully
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
5 RELATED TO ANTIQUITIES; CREATING A PRESERVATION REVIEW BOARD
6 AND AN HISTORIC PRESERVATION OFFICE; PRESCRIBING THE DUTIES
7 OF THE OFFICE AND ITS PRINCIPAL OFFICER; PROVIDING FOR
8 PERMITS; PROVIDING FOR PENALTIES; AND REPEALING SECTIONS
9 22-3-401 THROUGH 22-3-413, MCA."
10

11 WHEREAS, Article IX, section 4, of the Montana
12 constitution requires that the legislature provide for the
13 identification, acquisition, restoration, enhancement,
14 preservation, and administration of historic, archeologic,
15 scientific, and cultural areas, sites, records, and objects
16 and for their use and enjoyment by the people; and

17 WHEREAS, rapid social and economic development of
18 contemporary society threatens to destroy the remaining
19 vestiges of Montana's rich heritage; and

20 WHEREAS, it is in the interest of all Montanans that
21 state government provide leadership in historic preservation
22 for the general education, inspiration, pleasure, and
23 enrichment of the people.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Preservation review board. (1) There is a
2 preservation review board within the Montana Historical
3 Society consisting of nine members.

4 (2) Members shall be appointed by the governor in the
5 following manner:

6 (a) five professional persons recognized in the fields
7 of archeology, history, architecture, or architectural
8 history; however, no more than two members may be appointed
9 from any one of these fields;

10 (b) a professional paleontologist;

11 (c) the state liaison officer for the federal land and
12 water conservation fund;

13 (d) two members of the public who have actively
14 demonstrated an interest in historic preservation matters.

15 (3) Each member shall serve a 4-year term. A member
16 may be reappointed.

17 Section 2. Transition period -- appointment of
18 preservation review board members. (1) For the purpose of
19 providing staggered terms, the initial terms of preservation
20 review board members shall be as follows:

- 21 (a) two members appointed for a 1-year term;
 - 22 (b) two members appointed for 2-year terms;
 - 23 (c) two members appointed for 3-year terms; and
 - 24 (d) three members appointed for 4-year terms.
- 25 (2) Thereafter, all members of the council shall be

1 appointed for 4-year terms.

2 Section 3. Salary and expenses of board members.
3 Unless he is a full-time salaried officer or employee of
4 this state or of a political subdivision, each member is
5 entitled to be paid \$20 a day for each day in which he is
6 actually and necessarily engaged in board duties and to
7 reimbursement for travel expenses as provided for in
8 2-18-501 through 2-18-503, incurred in the performance of
9 board duties.

10 Section 4. Definitions. As used in [sections 1 through
11 16], unless the context clearly indicates otherwise, the
12 following definitions apply:

13 (1) "Antiquities permit" means the permit granted for
14 exploration or field investigations of heritage properties
15 or paleontological remains provided for in [section 8].

16 (2) "Heritage property" means any district, site,
17 building, structure, or object located upon or beneath the
18 earth or under water that is significant in American
19 history, architecture, archeology, or culture.

20 (3) "Historic preservation office" means the office
21 within the Montana historical society provided for in
22 [section 6].

23 (4) "Historic preservation officer" means the officer
24 provided for in [section 6].

25 (5) "Paleontological remains" means scientifically

1 significant fossilized plants and animals of a geological
2 nature found upon or beneath the earth or under water.

3 (6) "Preservation review board" means the board
4 provided for in [section 1].

5 (7) "Register" means the National Register of Historic
6 Places, the official list of the nation's heritage
7 properties worthy of preservation because of national,
8 state, or local significance.

9 (8) "Registered property" means any heritage property
10 listed in the register.

11 (9) "State agency" means any executive agency of the
12 state of Montana.

13 Section 5. Preservation review board -- duties. The
14 preservation review board shall:

15 (1) recommend nominations to the register;

16 (2) approve or disapprove all nominations to the
17 register;

18 (3) approve or disapprove additions to statewide
19 inventories of heritage properties;

20 (4) review the annual work program that recommends
21 preservation goals and grant allocations for the next
22 succeeding fiscal year; and

23 (5) act in an advisory capacity to the historic
24 preservation office and to state agencies.

25 Section 6. Historic preservation office -- duties of

1 historic preservation officer. (1) There is established the
 2 historic preservation office within the Montana Historical
 3 Society to consist of an historic preservation officer and a
 4 qualified professional staff.

5 (2) The historic preservation officer is appointed by
 6 the governor.

7 (3) The historic preservation officer has the
 8 following duties and responsibilities:

9 (a) follow necessary procedures to qualify the state
 10 for money that is now or will be made available under any
 11 act of congress of the United States or otherwise for
 12 purposes of historic preservation;

13 (b) conduct an ongoing statewide survey to identify
 14 and document heritage properties and paleontological
 15 remains;

16 (c) maintain a state inventory file of heritage
 17 properties and paleontological remains and maintain a
 18 repository for all such inventory work done in the state;

19 (d) evaluate and formally nominate potential register
 20 properties according to the criteria established by the
 21 register;

22 (e) prepare and annually review the state preservation
 23 plan, register nominations, and historic preservation grant
 24 activity;

25 (f) maintain, publish, and disseminate information

1 relating to heritage properties and paleontological remains
 2 in the state;

3 (g) cooperate with and assist local, state, and
 4 federal government agencies in comprehensive planning that
 5 allows for the preservation of heritage properties and
 6 paleontological remains;

7 (h) any other necessary or appropriate activity
 8 permitted by law to carry out and enforce the provisions of
 9 [sections 3 through 16].

10 Section 7. Registration of heritage properties. (1)
 11 Any citizen of Montana may submit the necessary forms to
 12 nominate heritage properties to the register.

13 (2) For properties not administered, controlled, or
 14 owned by the state, the historic preservation officer may,
 15 upon approval by the preservation review board and after
 16 written notification by the landowner, nominate heritage
 17 properties to the register and may enter into cooperative
 18 agreements with the federal government, local governments,
 19 and other governmental entities or private landowners or the
 20 owners of objects to ensure preservation and protection of
 21 registered properties.

22 (3) For lands administered, controlled, or owned by
 23 the state, the historic preservation officer may, upon
 24 approval by the preservation review board, nominate heritage
 25 properties to the register. The historic preservation

1 officer shall notify the appropriate state agency and give
 2 public notice when any property is being considered for
 3 nomination. Unless state agency or public objections are
 4 submitted in writing within 30 days after notification, the
 5 historic preservation officer shall complete the
 6 nominations. When a state agency or any citizen of Montana
 7 submits written objections, the historic preservation
 8 officer shall consider the objections and may conduct a
 9 public hearing. Within 60 days after submission of the
 10 objections or after the public hearing, the historic
 11 preservation officer shall make a final decision on the
 12 proposed registration and prepare a statement responsive to
 13 the objections submitted.

14 Section 8. Issuance of permits. (1) No person may
 15 excavate, remove, or restore any heritage property or
 16 paleontological remains on lands administered, controlled,
 17 or owned by the state without first obtaining an antiquities
 18 permit from the historic preservation officer.

19 (2) Antiquities permits are to be granted only after
 20 careful consideration of the application for a permit and
 21 after consultation with the appropriate state agency.
 22 Permits are subject to strict compliance with the following
 23 guidelines:

24 (a) Antiquities permits may be granted only for work
 25 to be undertaken by reputable museums, universities,

1 colleges, or other historical, scientific, or educational
 2 institutions, societies, or persons with a view toward
 3 dissemination of knowledge about cultural properties,
 4 provided no such permit may be granted unless the historic
 5 preservation officer is satisfied that the applicant
 6 possesses the necessary qualifications to guarantee the
 7 proper excavation of those sites and objects that may add
 8 substantially to man's knowledge about Montana and its
 9 antiquities.

10 (b) The antiquities permit must specify that a summary
 11 report of such investigations, containing relevant maps,
 12 documents, drawings, and photographs, be submitted to the
 13 historic preservation officer. The historic preservation
 14 officer shall determine the appropriate time period
 15 allowable between all work undertaken and submission of the
 16 summary report.

17 (3) All heritage property and paleontological remains
 18 collected under an antiquities permit are the permanent
 19 property of the state and must be deposited in museums or
 20 other institutions within the state or loaned to qualified
 21 institutions outside the state, unless otherwise provided
 22 for in the antiquities permit.

23 (4) An antiquities permit is not a substitution for
 24 any other type of permit that a state agency may require for
 25 other purposes.

1 Section 9. State agency participation. State agencies
2 shall:

3 (1) adopt policies for the preservation of heritage
4 properties and paleontological remains and avoid, whenever
5 feasible, state actions, or state assisted or licensed
6 actions that substantially alter heritage properties or
7 paleontological remains;

8 (2) identify and develop, in consultation with the
9 historic preservation officer, methods and procedures to
10 ensure that the identification and protection of heritage
11 properties and paleontological remains is given appropriate
12 consideration in state agency decisionmaking;

13 (3) deposit in the historic preservation office all
14 inventory reports, including maps, photographs, and site
15 forms, of heritage properties and paleontological remains.

16 Section 10. Environmental review process. (1) Each
17 state agency responsible for the preparation of an
18 environmental impact statement in accordance with the
19 Montana Environmental Policy Act shall, as a part of its
20 evaluation and study process, consult with and obtain the
21 comments of the historic preservation officer concerning the
22 identification and location of heritage properties and
23 paleontological remains that may be adversely impacted by
24 the proposed action.

25 (2) When heritage properties and paleontological

1 remains are located and identified as described in
2 subsection (i), the responsible state agency, in
3 consultation with the historic preservation officer and the
4 preservation review board, shall include as part of its
5 environmental impact statement a plan for the avoidance or
6 mitigation of damage to heritage properties and
7 paleontological remains to the greatest extent practicable.
8 Whenever necessary or appropriate, the state agency may
9 require an applicant for a lease, permit, license, or other
10 approval to develop an avoidance or mitigation plan in
11 consultation with the historic preservation officer and the
12 preservation review board.

13 Section 11. Denial of applications. State agencies may
14 deny or approve with conditions any application for an
15 easement, lease, permit, contract, license, or certificate
16 in order to protect registered properties.

17 Section 12. Report of discovered heritage properties
18 or paleontological remains. Any person conducting
19 activities, including survey, excavation, or construction,
20 who discovers on any lands administered, controlled, or
21 owned by the state any heritage property or paleontological
22 remains as defined in [section 4] or who finds that an
23 operation licensed or otherwise entitled by the state may
24 damage heritage properties or paleontological remains shall
25 promptly report to the historic preservation officer the

1 discovery of such findings and shall take all reasonable
2 steps to ensure preservation of the heritage property or
3 paleontological remains.

4 Section 13. Injury, damage, or removal of heritage
5 property and paleontological remains. No person may
6 knowingly or purposely injure, damage, or remove any
7 heritage property or paleontological remains on private land
8 without written consent of the owner or on lands
9 administered, controlled, or owned by the state, without a
10 permit pursuant to [section 8].

11 Section 14. Reproduction or sale of heritage property
12 and paleontological remains. (1) No person may reproduce or
13 falsely identify any heritage property or paleontological
14 remains with the intent to sell the property or remains as
15 an original.

16 (2) No person may sell any heritage property or
17 paleontological remains with the knowledge that the property
18 or remains have previously been collected or excavated in
19 violation of [sections 3 through 14].

20 Section 15. Violation a misdemeanor -- penalty. A
21 person violating any provision of [sections 3 through 14] is
22 guilty of a misdemeanor and upon conviction shall be fined
23 not more than \$1,000 or be imprisoned in the county jail for
24 not more than 6 months, or both. Each day of continued
25 violation of any provision of [sections 3 through 14]

1 constitutes a distinct and separate offense.

2 Section 16. Judicial remedy. The policies, duties, and
3 procedures of [sections 3 through 14] are enforceable by any
4 party on application to a district court of the state. The
5 court may grant such relief, including injunctive relief, as
6 it determines appropriate.

7 Section 17. Severability. If a part of this act is
8 invalid, all valid parts that are severable from the invalid
9 part remain in effect. If a part of this act is invalid in
10 one or more of its applications, the part remains in effect
11 in all valid applications that are severable from the
12 invalid applications.

13 Section 18. Repealer. Sections 22-3-401 through
14 22-3-413, MCA, are repealed.

-End-

1 STATEMENT OF INTENT RE: HB 785
2
3

4 HB 785 formally establishes the Historic Preservation
5 Office and identifies its duties and responsibilities. This
6 bill is not creating a new office, but simply renames the
7 old one to conform with the accepted title shared by similar
8 offices in states throughout the country. The duties and
9 responsibilities are also the same and are those established
10 by federal rules and regulations for Historic Preservation
11 offices in all states and trust territories. Such duties and
12 responsibilities are necessary for the state to qualify for
13 historic preservation grant monies appropriated by Congress
14 each year.

15 HB 785 requires that the State Historic Preservation
16 Office maintain the required staffing to assure that federal
17 funds will continue to come into Montana. As written, the
18 committee is assured that the State Historic Preservation
19 Office must meet the requirements, even if changes should be
20 made when the legislature is not in session.

21 The proposed bill departs from the current Antiquities
22 Act in the establishment of a Preservation Review Board, in
23 concert with the federal designation.

24 The proposed Review Board will be increased to nine
25 members, of which a majority are professionals trained in

1 fields relating to historic preservation and archaeology.
2 The bill mandates that one member will be the State Liaison
3 Officer for the federal Land and Water Conservation Funds,
4 and although it is not a federal requirement, the inclusion
5 of the Liaison Officer is particularly important in Montana.
6 The Liaison Officer is the Parks Director at the Department
7 of Fish and Game, and since many of the state parks and
8 monuments are established around historic sites,
9 participation of the Liaison Officer on the Review Board is
10 crucial in coordinating efforts in the state.

11 The proposed legislation continues the Antiquities
12 Permit section as exists in the current Antiquities Act, but
13 this bill will clarify provisions for who qualifies for a
14 permit and the permit system is expanded to include all
15 state lands rather than only registered properties.

16 HB 785 will substitute the National Register of
17 Historic Places for the little-known state register as the
18 official listing of important historic or heritage
19 properties. The adoption of the National Register
20 designation will simplify the registering system and avoid
21 needless duplication of efforts.

22 The proposed bill continues the penalties sections but
23 increases protection for private landowners and allows
24 prosecution for violation on private lands.

25 Most importantly, the bill provides for state agency

1 participation in the protection of heritage properties
2 through a coordinated effort with the Historic Preservation
3 Office. Coordination and cooperation is essential in
4 assuring adequate consideration of heritage properties and
5 paleontological remains in the everyday affairs of state
6 government.

7 Section 6 authorizes the historic preservation officer
8 to carry out and enforce the provisions of sections 3
9 through 16. This may be done by rule. Sections 9 through 11
10 require state agencies to participate in this program
11 through development of procedures to include evaluation of
12 heritage properties and paleontological remains in agency
13 decisionmaking. These procedures may be adopted by rule.

14 First adopted by the HOUSE COMMITTEE ON NATURAL
15 RESOURCES on February 20, 1979.

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2 INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

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13 (b) conduct an ongoing statewide survey to identify
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16 (c) maintain a state inventory file of heritage
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 18 repository for all such inventory work done in the state;

19 (d) evaluate and formally nominate potential register
 20 properties according to the criteria established by the
 21 register;

22 (e) prepare and annually review the state preservation
 23 plan, register nominations, and historic preservation grant
 24 activity;

25 (f) maintain, publish, and disseminate information

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3 (g) cooperate with and assist local, state, and
 4 federal government agencies in comprehensive planning that
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1 officer shall notify the appropriate state agency and give
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 18 permit from the historic preservation officer.

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 8 substantially to man's knowledge about Montana and its
 9 antiquities.

10 (b) The antiquities permit must specify that a summary
 11 report of such investigations, containing relevant maps,
 12 documents, drawings, and photographs, be submitted to the
 13 historic preservation officer. The historic preservation
 14 officer shall determine the appropriate time period
 15 allowable between all work undertaken and submission of the
 16 summary report.

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 24 any other type of permit that a state agency may require for
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3 (1) adopt policies for the preservation of heritage
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5 feasible, state actions, or state assisted or licensed
6 actions that substantially alter heritage properties or
7 paleontological remains;

8 (2) identify and develop, in consultation with the
9 historic preservation officer, methods and procedures to
10 ensure that the identification and protection of heritage
11 properties and paleontological remains is given appropriate
12 consideration in state agency decisionmaking;

13 (3) deposit in the historic preservation office all
14 inventory reports, including maps, photographs, and site
15 forms, of heritage properties and paleontological remains.

16 Section 10. Environmental review process. (1) Each
17 state agency responsible for the preparation of an
18 environmental impact statement in accordance with the
19 Montana Environmental Policy Act shall, as a part of its
20 evaluation and study process, consult with and obtain the
21 comments of the historic preservation officer concerning the
22 identification and location of heritage properties and
23 paleontological remains that may be adversely impacted by
24 the proposed action.

25 (2) When heritage properties and paleontological

1 remains are located and identified as described in
2 subsection (1), the responsible state agency, in
3 consultation with the historic preservation officer and the
4 preservation review board, shall include as part of its
5 environmental impact statement a plan for the avoidance or
6 mitigation of damage to heritage properties and
7 paleontological remains to the greatest extent practicable.
8 Whenever necessary or appropriate, the state agency may
9 require an applicant for a lease, permit, license, or other
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22 remains as defined in [section 4] or who finds that an
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25 promptly report to the historic preservation officer the

1 discovery of such findings and shall take all reasonable
2 steps to ensure preservation of the heritage property or
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7 heritage property or paleontological remains on private land
8 without written consent of the owner or on lands
9 administered, controlled, or owned by the state, without a
10 permit pursuant to [section 8].

11 Section 14. Reproduction or sale of heritage property
12 and paleontological remains. (1) No person may reproduce or
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14 remains with the intent to sell the property or remains as
15 an original.

16 (2) No person may sell any heritage property or
17 paleontological remains with the knowledge that the property
18 or remains have previously been collected or excavated in
19 violation of [sections 3 through 14].

20 Section 15. Violation a misdemeanor -- penalty. A
21 person violating any provision of [sections 3 through 14] is
22 guilty of a misdemeanor and upon conviction shall be fined
23 not more than \$1,000 or be imprisoned in the county jail for
24 not more than 6 months, or both. Each day of continued
25 violation of any provision of [sections 3 through 14]

1 constitutes a distinct and separate offense.

2 Section 16. Judicial remedy. The policies, duties, and
3 procedures of [sections 3 through 14] are enforceable by any
4 party on application to a district court of the state. The
5 court may grant such relief, including injunctive relief, as
6 it determines appropriate.

7 Section 17. Severability. If a part of this act is
8 invalid, all valid parts that are severable from the invalid
9 part remain in effect. If a part of this act is invalid in
10 one or more of its applications, the part remains in effect
11 in all valid applications that are severable from the
12 invalid applications.

13 Section 18. Repealer. Sections 22-3-401 through
14 22-3-413, MCA, are repealed.

-End-

1 HOUSE BILL NO. 785

2 INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
5 RELATED TO ANTIQUITIES; CREATING A PRESERVATION REVIEW BOARD
6 AND AN HISTORIC PRESERVATION OFFICE; PRESCRIBING THE DUTIES
7 OF THE OFFICE AND ITS PRINCIPAL OFFICER; PROVIDING FOR
8 PERMITS; PROVIDING FOR PENALTIES; AND REPEALING SECTIONS
9 22-3-401 THROUGH 22-3-413, MCA."

10
11 WHEREAS, Article IX, section 4, of the Montana
12 constitution requires that the legislature provide for the
13 identification, acquisition, restoration, enhancement,
14 preservation, and administration of historic, archeologic,
15 scientific, and cultural areas, sites, records, and objects
16 and for their use and enjoyment by the people; and

17 WHEREAS, rapid social and economic development of
18 contemporary society threatens to destroy the remaining
19 vestiges of Montana's rich heritage; and

20 WHEREAS, it is in the interest of all Montanans that
21 state government provide leadership in historic preservation
22 for the general education, inspiration, pleasure, and
23 enrichment of the people.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Preservation review board. (1) There is a
2 preservation review board within the Montana Historical
3 Society consisting of nine members.

4 (2) Members shall be appointed by the governor in the
5 following manner:

6 (a) five professional persons recognized in the fields
7 of archeology, history, architecture, or architectural
8 history; however, no more than two members may be appointed
9 from any one of these fields;

10 (b) a professional paleontologist;

11 (c) the state liaison officer for the federal land and
12 water conservation fund;

13 (d) two members of the public who have actively
14 demonstrated an interest in historic preservation matters.

15 (3) Each member shall serve a 4-year term. A member
16 may be reappointed.

17 Section 2. Transition period -- appointment of
18 preservation review board members. (1) For the purpose of
19 providing staggered terms, the initial terms of preservation
20 review board members shall be as follows:

21 (a) two members appointed for a 1-year term;

22 (b) two members appointed for 2-year terms;

23 (c) two members appointed for 3-year terms; and

24 (d) three members appointed for 4-year terms.

25 (2) Thereafter, all members of the council shall be

1 appointed for 4-year terms.

2 Section 3. Salary and expenses of board members.
 3 Unless he is a full-time salaried officer or employee of
 4 this state or of a political subdivision, each member is
 5 entitled to be paid \$25 a day for each day in which he is
 6 actually and necessarily engaged in board duties and to
 7 reimbursement for travel expenses as provided for in
 8 2-18-501 through 2-18-503, incurred in the performance of
 9 board duties.

10 Section 4. Definitions. As used in [sections 1 through
 11 16], unless the context clearly indicates otherwise, the
 12 following definitions apply:

13 (1) "Antiquities permit" means the permit granted for
 14 exploration or field investigations of heritage properties
 15 or paleontological remains provided for in [section 8].

16 (2) "Heritage property" means any district, site,
 17 building, structure, or object located upon or beneath the
 18 earth or under water that is significant in American
 19 history, architecture, archeology, or culture.

20 (3) "Historic preservation office" means the office
 21 within the Montana historical society provided for in
 22 [section 6].

23 (4) "Historic preservation officer" means the officer
 24 provided for in [section 6].

25 (5) "Paleontological remains" means scientifically

1 significant fossilized plants and animals of a geological
 2 nature found upon or beneath the earth or under water.

3 (6) "Preservation review board" means the board
 4 provided for in [section 1].

5 (7) "Register" means the National Register of Historic
 6 Places, the official list of the nation's heritage
 7 properties worthy of preservation because of national,
 8 state, or local significance.

9 (8) "Registered property" means any heritage property
 10 listed in the register.

11 (9) "State agency" means any executive agency of the
 12 state of Montana.

13 Section 5. Preservation review board -- duties. The
 14 preservation review board shall:

15 (1) recommend nominations to the register;

16 (2) approve or disapprove all nominations to the
 17 register;

18 (3) approve or disapprove additions to statewide
 19 inventories of heritage properties;

20 (4) review the annual work program that recommends
 21 preservation goals and grant allocations for the next
 22 succeeding fiscal year; and

23 (5) act in an advisory capacity to the historic
 24 preservation office and to state agencies.

25 Section 6. Historic preservation office -- duties of

1 historic preservation officer. (1) There is established the
 2 historic preservation office within the Montana Historical
 3 Society to consist of an historic preservation officer and a
 4 qualified professional staff.

5 (2) The historic preservation officer is appointed by
 6 the governor.

7 (3) The historic preservation officer has the
 8 following duties and responsibilities:

9 (a) follow necessary procedures to qualify the state
 10 for money that is now or will be made available under any
 11 act of congress of the United States or otherwise for
 12 purposes of historic preservation;

13 (b) conduct an ongoing statewide survey to identify
 14 and document heritage properties and paleontological
 15 remains;

16 (c) maintain a state inventory file of heritage
 17 properties and paleontological remains and maintain a
 18 repository for all such inventory work done in the state;

19 (d) evaluate and formally nominate potential register
 20 properties according to the criteria established by the
 21 register;

22 (e) prepare and annually review the state preservation
 23 plan, register nominations, and historic preservation grant
 24 activity;

25 (f) maintain, publish, and disseminate information

1 relating to heritage properties and paleontological remains
 2 in the state;

3 (g) cooperate with and assist local, state, and
 4 federal government agencies in comprehensive planning that
 5 allows for the preservation of heritage properties and
 6 paleontological remains;

7 (h) any other necessary or appropriate activity
 8 permitted by law to carry out and enforce the provisions of
 9 [sections 3 through 16].

10 Section 7. Registration of heritage properties. (1)
 11 Any citizen of Montana may submit the necessary forms to
 12 nominate heritage properties to the register.

13 (2) For properties not administered, controlled, or
 14 owned by the state, the historic preservation officer may,
 15 upon approval by the preservation review board and after
 16 written notification by IQ the landowner, nominate heritage
 17 properties to the register and may enter into cooperative
 18 agreements with the federal government, local governments,
 19 and other governmental entities or private landowners or the
 20 owners of objects to ensure preservation and protection of
 21 registered properties.

22 (3) For lands administered, controlled, or owned by
 23 the state, the historic preservation officer may, upon
 24 approval by the preservation review board, nominate heritage
 25 properties to the register. The historic preservation

1 officer shall notify the appropriate state agency and give
 2 public notice when any property is being considered for
 3 nomination. Unless state agency or public objections are
 4 submitted in writing within 30 days after notification, the
 5 historic preservation officer shall complete the
 6 nominations. When a state agency or any citizen of Montana
 7 submits written objections, the historic preservation
 8 officer shall consider the objections and may conduct a
 9 public hearing. Within 60 days after submission of the
 10 objections or after the public hearing, the historic
 11 preservation officer shall make a final decision on the
 12 proposed registration and prepare a statement responsive to
 13 the objections submitted.

14 Section 8. Issuance of permits. (1) No person may
 15 excavate, remove, or restore any heritage property or
 16 paleontological remains on lands administered, controlled,
 17 or owned by the state without first obtaining an antiquities
 18 permit from the historic preservation officer.

19 (2) Antiquities permits are to be granted only after
 20 careful consideration of the application for a permit and
 21 after consultation with the appropriate state agency.
 22 Permits are subject to strict compliance with the following
 23 guidelines:

24 (a) Antiquities permits may be granted only for work
 25 to be undertaken by reputable museums, universities,

1 colleges, or other historical, scientific, or educational
 2 institutions, societies, or persons with a view toward
 3 dissemination of knowledge about cultural properties,
 4 provided no such permit may be granted unless the historic
 5 preservation officer is satisfied that the applicant
 6 possesses the necessary qualifications to guarantee the
 7 proper excavation of those sites and objects that may add
 8 substantially to man's knowledge about Montana and its
 9 antiquities.

10 (b) The antiquities permit must specify that a summary
 11 report of such investigations, containing relevant maps,
 12 documents, drawings, and photographs, be submitted to the
 13 historic preservation officer. The historic preservation
 14 officer shall determine the appropriate time period
 15 allowable between all work undertaken and submission of the
 16 summary report.

17 (3) All heritage property and paleontological remains
 18 collected under an antiquities permit are the permanent
 19 property of the state and must be deposited in museums or
 20 other institutions within the state or loaned to qualified
 21 institutions outside the state, unless otherwise provided
 22 for in the antiquities permit.

23 (4) An antiquities permit is not a substitution for
 24 any other type of permit that a state agency may require for
 25 other purposes.

1 Section 9. State agency participation. State agencies
2 shall:

3 (1) adopt policies for the preservation of heritage
4 properties and paleontological remains and avoid, whenever
5 feasible, state actions, or state assisted or licensed
6 actions that substantially alter heritage properties or
7 paleontological remains;

8 (2) identify and develop, in consultation with the
9 historic preservation officer, methods and procedures to
10 ensure that the identification and protection of heritage
11 properties and paleontological remains is given appropriate
12 consideration in state agency decisionmaking;

13 (3) deposit in the historic preservation office all
14 inventory reports, including maps, photographs, and site
15 forms, of heritage properties and paleontological remains.

16 Section 10. Environmental review process. (1) Each
17 state agency responsible for the preparation of an
18 environmental impact statement in accordance with the
19 Montana Environmental Policy Act shall, as a part of its
20 evaluation and study process, consult with and obtain the
21 comments of the historic preservation officer concerning the
22 identification and location of heritage properties and
23 paleontological remains that may be adversely impacted by
24 the proposed action, PROVIDED, HOWEVER, THAT WHERE THE GRANT
25 OF AN INTEREST IN STATE LAND REQUIRES THE PREPARATION OF AN

1 ENVIRONMENTAL IMPACT STATEMENT UNDER THE MONTANA
2 ENVIRONMENTAL POLICY ACT, THE ENVIRONMENTAL IMPACT STATEMENT
3 SHALL BE LIMITED TO AN EVALUATION OF THE HERITAGE PROPERTIES
4 AND PALEONTOLOGICAL REMAINS LOCATED IN, ON, UNDER AND WITHIN
5 ONLY THE AFFECTED STATE LAND.

6 (2) When heritage properties and paleontological
7 remains are located and identified as described in
8 subsection (1), the responsible state agency, in
9 consultation with the historic preservation officer and the
10 preservation review board, shall include as part of its
11 environmental impact statement a plan for the avoidance or
12 mitigation of damage to heritage properties and
13 paleontological remains to the greatest extent practicable.
14 Whenever necessary or appropriate, the state agency may
15 require an applicant for a lease, permit, license, or other
16 approval to develop an avoidance or mitigation plan in
17 consultation with the historic preservation officer and the
18 preservation review board.

19 Section 11. Denial of applications. State agencies may
20 deny or approve with conditions any application for an
21 easement, lease, permit, contract, license, or certificate
22 in order to protect registered HERITAGE properties AND
23 PALEONTOLOGICAL REMAINS.

24 Section 12. Report of discovered heritage properties
25 or paleontological remains. Any person conducting

1 activities, including surveys, excavation, or construction,
 2 who discovers on any lands administered, controlled, or
 3 owned by the state any heritage property or paleontological
 4 remains as defined in [section 4] or who finds that an
 5 operation licensed or otherwise entitled by the state may
 6 damage heritage properties or paleontological remains shall
 7 promptly report to the historic preservation officer the
 8 discovery of such findings and shall take all reasonable
 9 steps to ensure preservation of the heritage property or
 10 paleontological remains.

11 Section 13. Injury, damage, or removal of heritage
 12 property and paleontological remains. No person may
 13 knowingly or purposely injure, damage, or remove any
 14 heritage property or paleontological remains on private land
 15 without written consent of the owner or on lands
 16 administered, controlled, or owned by the state, without a
 17 permit pursuant to [section 8].

18 Section 14. Reproduction or sale of heritage property
 19 and paleontological remains. (1) No person may reproduce or
 20 falsely identify any heritage property or paleontological
 21 remains with the intent to sell the property or remains as
 22 an original.

23 (2) No person may sell any heritage property or
 24 paleontological remains with the knowledge that the property
 25 or remains have previously been collected or excavated in

1 violation of [sections 3 through 14].

2 Section 15. Violation a misdemeanor -- penalty. A
 3 person violating any provision of [sections 3 through 14] is
 4 guilty of a misdemeanor and upon conviction shall be fined
 5 not more than \$1,000 or be imprisoned in the county jail for
 6 not more than 6 months, or both. Each day of continued
 7 violation of any provision of [sections 3 through 14]
 8 constitutes a distinct and separate offense.

9 Section 16. Judicial remedy. The policies, duties, and
 10 procedures of [sections 3 through 14] are enforceable by any
 11 party on application to a district court of the state. The
 12 court may grant such relief, including injunctive relief, as
 13 it determines appropriate.

14 Section 17. Severability. If a part of this act is
 15 invalid, all valid parts that are severable from the invalid
 16 part remain in effect. If a part of this act is invalid in
 17 one or more of its applications, the part remains in effect
 18 in all valid applications that are severable from the
 19 invalid applications.

20 Section 18. Repealer. Sections 22-3-401 through
 21 22-3-413, MCA, are repealed.

-End-

1 STATEMENT OF INTENT RE: HB 785

2
3
4 HB 785 formally establishes the Historic Preservation
5 Office and identifies its duties and responsibilities. This
6 bill is not creating a new office, but simply renames the
7 old one to conform with the accepted title shared by similar
8 offices in states throughout the country. The duties and
9 responsibilities are also the same and are those established
10 by federal rules and regulations for Historic Preservation
11 offices in all states and trust territories. Such duties and
12 responsibilities are necessary for the state to qualify for
13 historic preservation grant monies appropriated by Congress
14 each year.

15 HB 785 requires that the State Historic Preservation
16 Office maintain the required staffing to assure that federal
17 funds will continue to come into Montana. As written, the
18 committee is assured that the State Historic Preservation
19 Office must meet the requirements, even if changes should be
20 made when the legislature is not in session.

21 The proposed bill departs from the current Antiquities
22 Act in the establishment of a Preservation Review Board, in
23 concert with the federal designation.

24 The proposed Review Board will be increased to nine
25 members, of which a majority are professionals trained in

1 fields relating to historic preservation and archaeology.
2 The bill mandates that one member will be the State Liaison
3 Officer for the federal Land and Water Conservation Funds,
4 and although it is not a federal requirement, the inclusion
5 of the Liaison Officer is particularly important in Montana.
6 The Liaison Officer is the Parks Director at the Department
7 of Fish and Game, and since many of the state parks and
8 monuments are established around historic sites,
9 participation of the Liaison Officer on the Review Board is
10 crucial in coordinating efforts in the state.

11 The proposed legislation continues the Antiquities
12 Permit section as exists in the current Antiquities Act, but
13 this bill will clarify provisions for who qualifies for a
14 permit and the permit system is expanded to include all
15 state lands rather than only registered properties.

16 HB 785 will substitute the National Register of
17 Historic Places for the little-known state register as the
18 official listing of important historic or heritage
19 properties. The adoption of the National Register
20 designation will simplify the registering system and avoid
21 needless duplication of efforts.

22 The proposed bill continues the penalties sections but
23 increases protection for private landowners and allows
24 prosecution for violation on private lands.

25 Most importantly, the bill provides for state agency

1 participation in the protection of heritage properties
2 through a coordinated effort with the Historic Preservation
3 Office. Coordination and cooperation is essential in
4 assuring adequate consideration of heritage properties and
5 paleontological remains in the everyday affairs of state
6 government.

7 Section 6 authorizes the historic preservation officer
8 to carry out and enforce the provisions of sections 3
9 through 16. This may be done by rule. Sections 9 through 11
10 require state agencies to participate in this program
11 through development of procedures to include evaluation of
12 heritage properties and paleontological remains in agency
13 decisionmaking. These procedures may be adopted by rule.

14 First adopted by the HOUSE COMMITTEE ON NATURAL
15 RESOURCES on February 20, 1979.

1 HOUSE BILL NO. 785

2 INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
5 RELATED TO ANTIQUITIES; CREATING A PRESERVATION REVIEW BOARD
6 AND AN HISTORIC PRESERVATION OFFICE; PRESCRIBING THE DUTIES
7 OF THE OFFICE AND ITS PRINCIPAL OFFICER; PROVIDING FOR
8 PERMITS; PROVIDING FOR PENALTIES; AND REPEALING SECTIONS
9 22-3-401 THROUGH 22-3-413, MCA."

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14 preservation, and administration of historic, archeologic,
15 scientific, and cultural areas, sites, records, and objects
16 and for their use and enjoyment by the people; and

17 WHEREAS, rapid social and economic development of
18 contemporary society threatens to destroy the remaining
19 vestiges of Montana's rich heritage; and

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21 state government provide leadership in historic preservation
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3 Society consisting of nine members.

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9 from any one of these fields;

10 (b) a professional paleontologist;

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12 water conservation fund;

13 (d) two members of the public who have actively
14 demonstrated an interest in historic preservation matters.

15 (3) Each member shall serve a 4-year term. A member
16 may be reappointed.

17 Section 2. Transition period -- appointment of
18 preservation review board members. (1) For the purpose of
19 providing staggered terms, the initial terms of preservation
20 review board members shall be as follows:

21 (a) two members appointed for a 1-year term;

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24 (d) three members appointed for 4-year terms.

25 (2) Thereafter, all members of the council shall be

1 appointed for 4-year terms.

2 Section 3. Salary and expenses of board members.
 3 Unless he is a full-time salaried officer or employee of
 4 this state or of a political subdivision, each member is
 5 entitled to be paid \$25 a day for each day in which he is
 6 actually and necessarily engaged in board duties and to
 7 reimbursement for travel expenses as provided for in
 8 2-18-501 through 2-18-503, incurred in the performance of
 9 board duties.

10 Section 4. Definitions. As used in [sections 1 through
 11 ~~16 14~~], unless the context clearly indicates otherwise, the
 12 following definitions apply:

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 14 exploration or field investigations of heritage properties
 15 or paleontological remains provided for in [section 8].

16 (2) "Heritage property" means any district, site,
 17 building, structure, or object located upon or beneath the
 18 earth or under water that is significant in American
 19 history, architecture, archeology, or culture.

20 (3) "Historic preservation office" means the office
 21 within the Montana historical society provided for in
 22 [section 6].

23 (4) "Historic preservation officer" means the officer
 24 provided for in [section 6].

25 (5) "Paleontological remains" means scientifically

1 significant fossilized plants and animals of a geological
 2 nature found upon or beneath the earth or under water ~~WHICH~~
 3 ~~ARE RARE AND CRITICAL TO SCIENTIFIC RESEARCH.~~

4 (6) "Preservation review board" means the board
 5 provided for in [section 1].

6 (7) "Register" means the National Register of Historic
 7 Places, the official list of the nation's heritage
 8 properties worthy of preservation because of national,
 9 state, or local significance.

10 (8) "Registered property" means any heritage property
 11 listed in the register.

12 (9) "State agency" means any executive agency of the
 13 state of Montana.

14 Section 5. Preservation review board -- duties. The
 15 preservation review board shall:

16 (1) recommend nominations to the register;

17 (2) approve or disapprove all nominations to the
 18 register;

19 (3) approve or disapprove additions to statewide
 20 inventories of heritage properties;

21 (4) review the annual work program that recommends
 22 preservation goals and grant allocations for the next
 23 succeeding fiscal year; and

24 (5) act in an advisory capacity to the historic
 25 preservation office and to state agencies.

1 Section 6. Historic preservation office -- duties of
 2 historic preservation officer. (1) There is established the
 3 historic preservation office within the Montana Historical
 4 Society to consist of an historic preservation officer and a
 5 qualified professional staff.

6 (2) The historic preservation officer is appointed by
 7 the governor.

8 (3) The historic preservation officer has the
 9 following duties and responsibilities:

10 (a) follow necessary procedures to qualify the state
 11 for money that is now or will be made available under any
 12 act of congress of the United States or otherwise for
 13 purposes of historic preservation;

14 (b) conduct an ongoing statewide survey to identify
 15 and document heritage properties and paleontological
 16 remains;

17 (c) maintain a state inventory file of heritage
 18 properties and paleontological remains and maintain a
 19 repository for all such inventory work done in the state;

20 (d) evaluate and formally nominate potential register
 21 properties according to the criteria established by the
 22 register;

23 (e) prepare and annually review the state preservation
 24 plan, register nominations, and historic preservation grant
 25 activity;

1 (f) maintain, publish, and disseminate information
 2 relating to heritage properties and paleontological remains
 3 in the state;

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

8 (h) ENTER INTO COOPERATIVE AGREEMENTS WITH THE FEDERAL
 9 GOVERNMENT, LOCAL GOVERNMENTS, AND OTHER GOVERNMENTAL
 10 ENTITIES OR PRIVATE LANDOWNERS OR THE OWNERS OF OBJECTS TO
 11 ENSURE PRESERVATION AND PROTECTION OF REGISTERED PROPERTIES;

12 (1) any other necessary or appropriate activity
 13 permitted by law to carry out and enforce the provisions of
 14 [sections 3 through 16 14].

15 Section 7. Registration of heritage properties. (1)
 16 Any citizen of Montana may submit TO THE HISTORIC
 17 PRESERVATION OFFICER FOR HIS CONSIDERATION the necessary
 18 forms to nominate heritage properties to the register.

19 (2) For properties not administered, controlled, or
 20 owned by the state, the historic preservation officer may,
 21 upon approval by the preservation review board and after
 22 written notification APPROVAL by HE BY the landowner,
 23 nominate heritage properties to the register, and may enter
 24 into cooperative agreements with the federal government,
 25 local governments, and other governmental entities or

1 ~~private landowners or the owners of objects to ensure~~
2 ~~preservation and protection of registered properties~~

3 (3) For lands ~~administered, controlled, or owned by~~
4 the state, the historic preservation officer may, upon
5 approval by the preservation review board, nominate heritage
6 properties to the register. The historic preservation
7 officer shall notify the appropriate state agency and give
8 public notice when any property is being considered for
9 nomination. Unless state agency or public objections are
10 submitted in writing within 30 days after notification, the
11 historic preservation officer shall complete the
12 nominations. When a state agency or any citizen of Montana
13 submits written objections, the historic preservation
14 officer shall consider the objections and may conduct a
15 public hearing. IF A HEARING IS HELD, IT SHALL BE COMMENCED
16 WITHIN 30 DAYS AFTER THE FINAL DATE FOR SUBMISSION OF
17 WRITTEN OBJECTIONS. Within 60 days after submission of the
18 objections or after the public hearing, the historic
19 preservation officer shall make a final decision on the
20 proposed registration and prepare a statement responsive to
21 the objections submitted.

22 Section 8. Issuance of permits. (1) No person may
23 excavate, remove, or restore any heritage property or
24 paleontological remains on lands ~~administered, controlled,~~
25 ~~or owned by the state without first obtaining an antiquities~~

1 permit from the historic preservation officer.

2 (2) Antiquities permits are to be granted only after
3 careful consideration of the application for a permit and
4 after consultation with the appropriate state agency.
5 Permits are subject to strict compliance with the following
6 guidelines:

7 (a) Antiquities permits may be granted only for work
8 to be undertaken by reputable museums, universities,
9 colleges, or other historical, scientific, or educational
10 institutions, societies, or persons with a view toward
11 dissemination of knowledge about cultural properties,
12 provided no such permit may be granted unless the historic
13 preservation officer is satisfied that the applicant
14 possesses the necessary qualifications to guarantee the
15 proper excavation of those sites and objects that may add
16 substantially to man's knowledge about Montana and its
17 antiquities.

18 (b) The antiquities permit must specify that a summary
19 report of such investigations, containing relevant maps,
20 documents, drawings, and photographs, be submitted to the
21 historic preservation officer. The historic preservation
22 officer shall determine the appropriate time period
23 allowable between all work undertaken and submission of the
24 summary report.

25 (3) All heritage property and paleontological remains

1 collected under an antiquities permit are the permanent
2 property of the state and must be deposited in museums or
3 other institutions within the state or loaned to qualified
4 institutions outside the state, unless otherwise provided
5 for in the antiquities permit.

6 (4) An antiquities permit is not a substitution for
7 any other type of permit that a state agency may require for
8 other purposes.

9 Section 9. State agency participation. State agencies
10 shall:

11 (1) adopt policies for the preservation of heritage
12 properties and paleontological remains ON LANDS OWNED BY THE
13 STATE and avoid, whenever feasible, state actions, or state
14 assisted or licensed actions that substantially alter
15 heritage properties or paleontological remains ON LANDS
16 OWNED BY THE STATE;

17 (2) identify and develop, in consultation with the
18 historic preservation officer, methods and procedures to
19 ensure that the identification and protection of heritage
20 properties and paleontological remains ON LANDS OWNED BY THE
21 STATE is given appropriate consideration in state agency
22 decisionmaking;

23 (3) deposit in the historic preservation office all
24 inventory reports, including maps, photographs, and site
25 forms, of heritage properties and paleontological remains.

1 Section 10. Environmental review process. (1) Each
2 state agency responsible for the preparation of an
3 environmental impact statement in accordance with the
4 Montana Environmental Policy Act shall, as a part of its
5 evaluation and study process, consult with and obtain the
6 comments of the historic preservation officer concerning the
7 identification and location of heritage properties and
8 paleontological remains ON LANDS OWNED BY THE STATE that may
9 be adversely impacted by the proposed action, PROVIDED,
10 HOWEVER, THAT WHERE THE GRANT OF AN INTEREST IN STATE LAND
11 REQUIRES THE PREPARATION OF AN ENVIRONMENTAL IMPACT
12 STATEMENT UNDER THE MONTANA ENVIRONMENTAL POLICY ACT, THE
13 ENVIRONMENTAL IMPACT STATEMENT SHALL BE LIMITED TO AN
14 EVALUATION OF THE HERITAGE PROPERTIES AND PALEONTOLOGICAL
15 REMAINS LOCATED IN, ON, UNDER AND WITHIN ONLY THE AFFECTED
16 STATE LAND.

17 (2) When heritage properties and paleontological
18 remains are located and identified as described in
19 subsection (1), the responsible state agency, in
20 consultation with the historic preservation officer and the
21 preservation review board, shall include as part of its
22 environmental impact statement a plan for the avoidance or
23 mitigation of damage to heritage properties and
24 paleontological remains to the greatest extent practicable.
25 Whenever necessary or appropriate, the state agency may

1 require an applicant for a lease, permit, license, or other
2 approval EOB USE OF LAND OWNED BY THE STATE to develop an
3 avoidance or mitigation plan in consultation with the
4 historic preservation officer and the preservation review
5 board.

6 Section 11. Denial of applications. State agencies may
7 deny or approve with conditions any application for an
8 easement, lease, permit, contract, license, or certificate
9 in order to protect registered HERITAGE properties AND
10 PALEONTOLOGICAL REMAINS THAT CANNOT BE PROPERLY MITIGATED
11 PROVIDED THAT THIS SECTION IS LIMITED ONLY TO HERITAGE
12 PROPERTIES AND PALEONTOLOGICAL REMAINS WHICH HAVE BEEN
13 LOCATED AS A PART OF THE ENVIRONMENTAL IMPACT STATEMENT
14 REVIEWS PROCESS AS DESCRIBED IN [SECTION 10].

15 Section 12. Report of discovered heritage properties
16 or paleontological remains. Any person conducting
17 activities, including survey, excavation, or construction,
18 who discovers on any lands administered, controlled, or
19 owned by the state any heritage property or paleontological
20 remains as defined in [section 4] or who finds that an
21 operation licensed or otherwise entitled by the state may
22 damage heritage properties or paleontological remains ON ANY
23 LANDS OWNED BY THE STATE shall promptly report to the
24 historic preservation officer the discovery of such findings
25 and shall take all reasonable steps to ensure preservation

1 of the heritage property or paleontological remains.

2 ~~Section 13. Injury, damage, or removal of heritage~~
3 ~~property and paleontological remains. No person may~~
4 ~~knowingly or purposely injure, damage, or remove any~~
5 ~~heritage property or paleontological remains on private land~~
6 ~~without written consent of the owner or on lands~~
7 ~~administered, controlled, or owned by the state without a~~
8 ~~permit pursuant to [section 8].~~

9 Section 13. Reproduction or sale of heritage property
10 and paleontological remains. (1) No person may reproduce or
11 falsely identify any heritage property or paleontological
12 remains with the intent to sell the property or remains as
13 an original.

14 (2) No person may sell any heritage property or
15 paleontological remains with the knowledge that the property
16 or remains have previously been collected or excavated in
17 violation of [sections 3-through-14 8, 12, AND 13].

18 Section 14. Violation a misdemeanor -- penalty. A
19 person violating any provision of [sections 3-through-14 8,
20 12, AND 13] is guilty of a misdemeanor and upon conviction
21 shall be fined not more than \$1,000 or be imprisoned in the
22 county jail for not more than 6 months, or both. Each day of
23 continued violation of any provision of [sections 3-through
24 14 8, 12, AND 13] constitutes a distinct and separate
25 offense.

1 ~~Section 16. Judicial remedy. The policies, duties,~~
2 ~~and procedures of [sections 3 through 14] are enforceable by~~
3 ~~any party on application to a district court of the state.~~
4 ~~The court may grant such relief, including injunctive~~
5 ~~relief, as it determines appropriate.~~

6 Section 15. Severability. If a part of this act is
7 invalid, all valid parts that are severable from the invalid
8 part remain in effect. If a part of this act is invalid in
9 one or more of its applications, the part remains in effect
10 in all valid applications that are severable from the
11 invalid applications.

12 Section 16. Repealer. Sections 22-3-401 through
13 22-3-413, MCA, are repealed.

-End-

March 14, 1979

SENATE STANDING COMMITTEE REPORT
(Natural Resources)

That House Bill No. 785 be amended as follows:

1. Page 3, line 11.
Following: line 10
Strike: "16"
Insert: "14"
- 2 Page 3, line 25 and page 4, line 1.
Following: "means" on line 25 of page 3
Strike: "scientifically significant"
3. Page 4, line 2.
Following: "water"
Insert: "which are rare and critical to scientific research"
4. Page 6, line 7.
Following: "(h)"
Insert: "enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the owners of objects to ensure preservation and protection of registered properties; (i)"
5. Page 6, line 9.
Following: "through"
Strike: "16"
Insert: "14"
6. Page 6, line 11.
Following: "submit"
Insert: "to the historic preservation officer for his consideration"
7. Page 6, line 13.
Following: "not"
Strike: "administered, controlled, or"
8. Page 6, line 16.
Following: "written"
Strike: "notification"
Insert: "approval"
Following: "by"
Strike: "TO"
Insert: "by"
9. Page 6, lines 17 through 21.
Following: "register" on line 17
Insert: "."
Strike: remainder of line 17 through line 21
10. Page 6, line 22.
Following: "lands"
Strike: "administered, controlled, or"

11. Page 7, line 9.
Following: "hearing."
Insert: "If a hearing is held, it shall be commenced within 30 days after the final date for submission of written objections."
12. Page 7, line 16.
Following: "lands"
Strike: "administered, controlled, or"
13. Page 9, line 4.
Following: "remains"
Insert: "on lands owned by the state"
14. Page 9, line 7.
Following: "remains"
Insert: "on lands owned by the state"
15. Page 9, line 11.
Following: "remains"
Insert: "on lands owned by the state"
16. Page 9, line 23.
Following: "remains"
Insert: "on lands owned by the state"
17. Page 10, line 16.
Following: "approval"
Insert: "for use of land owned by the state"
18. Page 10, line 23.
Following: "REMAINS"
Insert: "that cannot be properly mitigated provided that this section is limited only to heritage properties and paleontological remains which have been located as a part of the environmental impact statement reviews process as described in [section 10]"
19. Page 11, line 2.
Following: "lands"
Strike: "administered, controlled, or"
20. Page 11, line 6.
Following: "remains"
Insert: "on any lands owned by the state"
21. Page 11, line 11.
Following: line 10
Strike: Section 13 in its entirety
Re-number: subsequent sections
22. Page 12, lines 1, 3, and 7.
Following: "sections"
Strike: "3 through 14"
Insert: "8, 12, and 13"
23. Page 12, lines 9 through 13.
Following: line 8
Strike: Section 16 in its entirety
Re-number: subsequent sections