

1 House BILL NO. 483
 2 INTRODUCED BY Bradley
 3 BY REQUEST OF THE MONTANA HISTORICAL SOCIETY
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS ON ANTIQUITIES; PROVIDING THAT A HISTORIC PRESERVATION
 7 OFFICER SHOULD IN SPECIFIED INSTANCES PROTECT FROM
 8 DISCLOSURE CERTAIN INFORMATION ON THE LOCATION OF HERITAGE
 9 PROPERTIES; MAKING THE PROVISIONS RELATING TO THE NOMINATION
 10 OF PROPERTY TO THE NATIONAL REGISTER OF HISTORIC PLACES
 11 SIMILAR TO FEDERAL PROVISIONS; AMENDING SECTIONS 22-3-421,
 12 22-3-423, AND 22-3-431, MCA; AND PROVIDING AN IMMEDIATE
 13 EFFECTIVE DATE."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 22-3-421, MCA, is amended to read:
 17 "22-3-421. Definitions. As used in this part, unless
 18 the context clearly indicates otherwise, the following
 19 definitions apply:

20 (1) "Antiquities permit" means the permit granted for
 21 exploration-or-field-investigations excavation, removal, or
 22 restoration of heritage properties or paleontological
 23 remains provided for in 22-3-432.

24 (2) "Heritage property" means any district, site,
 25 building, structure, or object located upon or beneath the

1 earth or under water that is significant in American
 2 history, architecture, archaeology, or culture.

3 (3) "Historic preservation office" means the office
 4 within the Montana historical society provided for in
 5 2-15-1512.

6 (4) "Historic preservation officer" means the officer
 7 provided for in 2-15-1512.

8 (5) "Paleontological remains" means fossilized plants
 9 and animals of a geological nature found upon or beneath the
 10 earth or under water which are rare and critical to
 11 scientific research.

12 (6) "Preservation review board" means the board
 13 provided for in 2-15-1512.

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

18 (8) "Registered property" means any heritage property
 19 listed in the register.

20 (9) "State agency" means any executive agency of the
 21 state of Montana."

22 Section 2. Section 22-3-423, MCA, is amended to read:
 23 "22-3-423. Duties of historic preservation officer.
 24 The historic preservation officer has the following duties
 25 and responsibilities:

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

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

8 (3) maintain a state inventory file of heritage
9 properties and paleontological remains and maintain a
10 repository for all such inventory work done in the state;

11 (4) evaluate and formally nominate potential register
12 properties according to the criteria established by the
13 register;

14 (5) prepare and annually review the state preservation
15 plan, register nominations, and historic preservation grant
16 activity;

17 (6) maintain, publish, and disseminate information
18 relating to heritage properties and paleontological remains
19 in the state;

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

24 (8) enter into cooperative agreements with the federal
25 government, local governments, and other governmental

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

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

9 (10) protect from disclosure to the public any
10 information relating to the location or character of
11 heritage properties when disclosure would create a
12 substantial risk of harm, theft, or destruction to such
13 resources or to the area or place where the resources are
14 located; and

15 ~~†10~~(11) any other necessary or appropriate activity
16 permitted by law to carry out and enforce the provisions of
17 this part."

18 Section 3. Section 22-3-431, MCA, is amended to read:

19 "22-3-431. Registration of heritage properties. (1)
20 Any citizen of Montana may submit to the historic
21 preservation officer for his consideration the necessary
22 forms to nominate heritage properties to the register.

23 (2) (a) For private properties not-owned-by-the-state,
24 the historic preservation officer shall notify the owner of
25 the property and allow him a reasonable period of time to

1 concur or object to the nomination of the property for
 2 registration. If the owner of the property, or a majority
 3 of owners if the property has more than one owner, objects
 4 to registration, the historic preservation officer may not
 5 nominate the property unless the objection is withdrawn. If
 6 there are no such objections, the historic preservation
 7 officer may, upon approval by the preservation review board
 8 ~~and--with--the--written--concurrence--of--the--owner--or--owners--of~~
 9 ~~the--property,~~ nominate heritage properties to the register.
 10 ~~In---the---case---of---a---historic---district,---the---historic~~
 11 ~~preservation-officer-may-nominate-the-property-only-with-the~~
 12 ~~concurrence-of:~~

13 ~~(a)--a-majority-of-the-property-owners-of-the-district;~~
 14 ~~and~~

15 ~~(b)--the-owners-of-more-than-one-half-of--the--property~~
 16 ~~in-the-district.~~

17 (b) The historic preservation officer and the
 18 preservation review board may review the nomination of
 19 property that was not nominated due to owner objection to
 20 determine whether the property is eligible for registration.
 21 If the historic preservation officer and the preservation
 22 review board determine that the property is eligible for
 23 registration, the preservation officer shall provide for the
 24 register information about the property for determination of
 25 registration eligibility.

1 (c) The historic preservation officer shall follow the
 2 procedures mandated by 36 CFR 60.6 relating to seeking
 3 property owner concurrence or objection to registration.

4 (3) For lands owned by the state, a county, or a
 5 municipality, the historic preservation officer may, upon
 6 approval by the preservation review board, nominate heritage
 7 properties to the register. The historic preservation
 8 officer shall notify the appropriate state governmental
 9 agency and give public notice when any such governmental
 10 property is being considered for nomination. Unless state
 11 agency or public objections are submitted in writing within
 12 30 days after notification, the historic preservation
 13 officer shall complete the nominations. When ~~a-state~~ an
 14 agency or any citizen of Montana submits written objections,
 15 the historic preservation officer shall consider the
 16 objections and may conduct a public hearing. If a hearing is
 17 held, it shall be commenced within 30 days after the final
 18 date for submission of written objections. Within 60 days
 19 after submission of the objections or after the public
 20 hearing, the historic preservation officer shall make a
 21 final decision on the proposed registration and prepare a
 22 statement responsive to the objections submitted."

23 NEW SECTION. Section 4. Extension of authority. Any
 24 existing authority of the Montana historical society to make
 25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 5. Effective date. This act is

3 effective on passage and approval.

-End-



APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

1 House BILL NO. 493
2 INTRODUCED BY Bradley
3 BY REQUEST OF THE MONTANA HISTORICAL SOCIETY
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12 22-3-423, AND 22-3-431, MCA; AND PROVIDING AN IMMEDIATE
13 EFFECTIVE DATE."
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16 Section 1. Section 22-3-421, MCA, is amended to read:
17 "22-3-421. Definitions. As used in this part, unless
18 the context clearly indicates otherwise, the following
19 definitions apply:

20 (1) "Antiquities permit" means the permit granted for
21 exploration-or-field-investigations excavation, removal, or
22 restoration of heritage properties or paleontological
23 remains provided for in 22-3-432.

24 (2) "Heritage property" means any district, site,
25 building, structure, or object located upon or beneath the

1 earth or under water that is significant in American
2 history, architecture, archaeology, or culture.

3 (3) "Historic preservation office" means the office
4 within the Montana historical society provided for in
5 2-15-1512.

6 (4) "Historic preservation officer" means the officer
7 provided for in 2-15-1512.

8 (5) "Paleontological remains" means fossilized plants
9 and animals of a geological nature found upon or beneath the
10 earth or under water which are rare and critical to
11 scientific research.

12 (6) "Preservation review board" means the board
13 provided for in 2-15-1512.

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

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20 (9) "State agency" means any executive agency of the
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22 Section 2. Section 22-3-423, MCA, is amended to read:
23 "22-3-423. Duties of historic preservation officer.
24 The historic preservation officer has the following duties
25 and responsibilities:

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2 for money that is now or will be made available under any
3 act of congress of the United States or otherwise for
4 purposes of historic preservation;

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

8 (3) maintain a state inventory file of heritage
9 properties and paleontological remains and maintain a
10 repository for all such inventory work done in the state;

11 (4) evaluate and formally nominate potential register
12 properties according to the criteria established by the
13 register;

14 (5) prepare and annually review the state preservation
15 plan, register nominations, and historic preservation grant
16 activity;

17 (6) maintain, publish, and disseminate information
18 relating to heritage properties and paleontological remains
19 in the state;

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

24 (8) enter into cooperative agreements with the federal
25 government, local governments, and other governmental

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

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

9 (10) protect from disclosure to the public any
10 information relating to the location or character of
11 heritage properties when disclosure would create a
12 substantial risk of harm, theft, or destruction to such
13 resources or to the area or place where the resources are
14 located; and

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18 Section 3. Section 22-3-431, MCA, is amended to read:

19 "22-3-431. Registration of heritage properties. (1)
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1 (c) The historic preservation officer shall follow the
 2 procedures mandated by 36 CFR 60.6 relating to seeking
 3 property owner concurrence or objection to registration.

4 (3) For lands owned by the state, a county, or a
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23 NEW SECTION. Section 4. Extension of authority. Any
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LC 0728/01

1 extended to the provisions of this act.

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3 effective on passage and approval.

-End-

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 3 BY REQUEST OF THE MONTANA HISTORICAL SOCIETY
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 11 ~~preservation officer may nominate the property only with the~~
 12 ~~concurrence of:~~

13 ~~(a) a majority of the property owners of the district;~~
 14 ~~and~~

15 ~~(b) the owners of more than one-half of the property~~
 16 ~~in the district.~~

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 18 preservation review board may review the nomination of
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-End-

1 HOUSE BILL NO. 483

2 INTRODUCED BY BRADLEY

3 BY REQUEST OF THE MONTANA HISTORICAL SOCIETY

4
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 21 final decision on the proposed registration and prepare a
 22 statement responsive to the objections submitted."

23 NEW SECTION. Section 4. Extension of authority. Any
 24 existing authority of the Montana historical society to make
 25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.
2 NEW SECTION. Section 5. Effective date. This act is
3 effective on passage and approval.

-End-