

HOUSE BILL NO. 586

INTRODUCED BY G. OBLANDER, D. LOGE, R. FITZGERALD, R. KNUDSEN, K. ZOLNIKOV, L. DEMING, G.
NIKOLAKAKOS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PRIORITY TO LOCAL MUSEUMS FOR DEPOSITS
OF PALEONTOLOGICAL REMAINS ON STATE LANDS; AND AMENDING SECTIONS 22-3-423, 22-3-424,
AND SECTION 22-3-432, MCA."

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

Section 1. Section 22-3-423, MCA, is amended to read:

~~"22-3-423. Duties of historic preservation officer.~~ Subject to the supervision of the director of the
historical society, the historic preservation officer has the following duties and responsibilities:

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

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

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

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

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

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

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

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

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

3 (9) ~~adopt rules outlining procedures by which a state agency that has no approved rules under 22-~~
4 ~~3-424(1) shall systematically consider heritage properties or paleontological remains on lands owned by the~~
5 ~~state and avoid, whenever feasible, state actions or state assisted or licensed actions that substantially alter the~~
6 ~~properties. These procedures must give priority to depositing paleontological remains in museums or qualified~~
7 ~~institutions most proximate to the excavation site;~~

8 (10) ~~respond to requests for consultation under section 106 of the National Historic Preservation~~
9 ~~Act, as provided for in 22-3-429;~~

10 (11) ~~develop procedures and guidelines for the evaluation of heritage property or paleontological~~
11 ~~remains as provided in 22-3-428;~~

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

15 (13) ~~report the information gathered pursuant to 22-3-422(6), along with any recommendations by~~
16 ~~the historic preservation officer or the review board, to the education interim committee in accordance with 5-~~
17 ~~11-210. The report required in this subsection must also be incorporated into the biennial report required to be~~
18 ~~submitted to the governor and the legislature under 22-3-107(8).~~

19 (14) ~~any other necessary or appropriate activity permitted by law to carry out and enforce the~~
20 ~~provisions of this part."~~

21

22 **Section 2.** Section 22-3-424, MCA, is amended to read:

23 ~~"22-3-424. Duties of state agencies. State agencies, including the Montana university system, shall:~~

24 (1) ~~in consultation with the historical society adopt rules for the identification and preservation of~~
25 ~~heritage properties and paleontological remains on lands owned by the state to avoid, whenever feasible, state~~
26 ~~actions or state assisted or licensed actions that substantially alter heritage properties or paleontological~~
27 ~~remains on lands owned by the state or, in the absence of such rules, act in compliance with rules adopted~~
28 ~~under 22-3-423 ;~~

1 ~~(2) — identify and develop, in consultation with the historic preservation officer, methods and~~
2 ~~procedures to ensure that the identification and protection of heritage properties and paleontological remains on~~
3 ~~lands owned by the state are given appropriate consideration in state agency decisionmaking;~~

4 ~~(3) — deposit in the historic preservation office all inventory reports, including maps, photographs,~~
5 ~~and site forms, of heritage properties and paleontological remains; and~~

6 ~~(4) — pursuant to 22-3-422 (6), provide to the preservation review board on the first Tuesday in~~
7 ~~February of every even-numbered year the following information:~~

8 ~~(a) — a list of the heritage properties managed by the agencies as those properties have been~~
9 ~~identified pursuant to this section;~~

10 ~~(b) — the status and condition of each heritage property;~~

11 ~~(c) — the stewardship efforts in which the agencies have engaged to maintain each heritage property~~
12 ~~and the cost of those activities;~~

13 ~~(d) — a prioritized list of the maintenance needs for the properties; and~~

14 ~~(e) — a record of the agencies' compliance with subsections (1) and (2); and~~

15 ~~(5) — give priority to depositing paleontological remains in museums or qualified institutions most~~
16 ~~proximate to the excavation site."~~

17

18 **Section 1.** Section 22-3-432, MCA, is amended to read:

19 **"22-3-432. Antiquities permits.** (1) A person may not excavate, remove, or restore any heritage
20 property or paleontological remains on lands owned by the state without first obtaining an antiquities permit
21 from the historic preservation officer.

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

25 (a) Antiquities permits may be granted only for work to be undertaken by reputable museums,
26 universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view
27 toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the
28 historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee

1 the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its
2 antiquities.

3 (b) The antiquities permit must specify that a summary report of the investigations, containing
4 relevant maps, documents, drawings, and photographs, must be submitted to the historic preservation officer.
5 The historic preservation officer shall determine the appropriate time period allowable between all work
6 undertaken and submission of the summary report.

7 (3) All heritage property and paleontological remains collected under an antiquities permit are the
8 permanent property of the state and must be deposited in museums or other APPROVED institutions within the
9 state or MAY BE loaned to qualified institutions outside the state, ~~unless otherwise provided for in the antiquities~~
10 ~~permit. Priority must be given to depositing paleontological remains in museums or qualified institutions most~~
11 ~~proximate to the excavation site~~ THESE PROCEDURES MUST CONSIDER THE NEEDS OF APPROVED IN-STATE MUSEUMS
12 OR INSTITUTIONS THAT ARE MOST PROXIMATE TO EXCAVATION. FOR FOSSILS THAT DON'T MEET SCIENTIFIC CRITERIA AS
13 SIGNIFICANT, APPROVAL MAY NOT BE UNREASONABLY WITHHELD.

14 (4) An antiquities permit is not a substitution for any other type of permit that a state agency may
15 require for other purposes."

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