

NAPA



Nebraska Association of Professional Archeologists

Vol. 4 No. 1

NEWSLETTER

Spring 1989

LETTER FROM THE PRESIDENT

Bob Hassler

A lot of activities have been going on since you received your last newsletter. The big issue, of course, is the reburial bill/s before the state legislature. In this newsletter you will find current information regarding this issue. I strongly urge you to express your opinions to your state representative concerning this issue.

Since assuming the responsibilities as President, I have been working with the various committee chairs in trying to establish a set schedule for NAPA activities. I figure that a set schedule will help keep people informed since you will know when to expect NAPA mailings and meetings. Enclosed you will find the schedule that we will be using.

In looking back, I have not accomplished all of the goals that I had set for 1988. My biggest disappointment has been the delay in getting the journal published. I realize that this task is very difficult because the editors are plowing new ground. I do believe that when the first volume is issued this spring that we will all be pleased. I would like to sincerely express my appreciation at this time to Eli Paul and John Ludwickson for their effort in developing the NAPA journal. I hope that my personal impatience (a basic characteristic!) has not been mistaken for a lack of sensitivity for the task involved.

We have made great strides in organizing the mechanics of the membership committee. Anne Wolley has put in a great effort to simplify the membership application process without jeopardizing NAPA's integrity. She has also developed a renewal system that should simplify the chore of keeping track of current members and their status. You should have received your notice to renew along with a NAPA survey form and volunteer form a couple of weeks ago. I am sure that you have all renewed by now and have sent your surveys, etc. to Anne!

In closing, I would like to express my appreciation to Cathie Masters. She has taken a lot of heat concerning several proposals that I have kicked around regarding both the membership system and the journal. Despite all, she has continued to work with me to help make NAPA a better organization for us all. Obviously, as officers of NAPA, it is our responsibility to listen to the concerns of all members and we will continue to do so. Once in a while, when things aren't so hectic, please let Anne, Cathie and the other volunteers know that you do appreciate their effort.

* THE REBURIAL ISSUE *

A bill cited as the Unmarked Human Burial Sites and Skeletal Remains Protection Act (LB340) has been introduced by State Senator Ernie Chambers. This bill is out of committee and scheduled to come to the floor for a vote as early as February 16. It may not come up that early, as there is some confusion concerning the scheduling. The bill is printed in its entirety in the newsletter, so that all NAPA members can become familiar with its contents.

Summary of Events Concerning Reburial and Other NAPA Issues

Official NAPA Board Meeting

September 16, 1988

An official NAPA Executive Board meeting was held September 16, 1988 with the following members present: Bob Hassler, Cathie Masters, Doug Bamforth, Peter Bleed, and Todd Rivers.

Dr. James Hanson was invited to the meeting to inform the Board about the status of the reburial issue and how it will affect the collections of the Nebraska State Historical Society. Pawnee tribal members from Oklahoma are requesting the return of Pawnee human remains and associated artifacts now held in Historical Society collections. The Historical Society Board will vote on return of these materials.

Dr. Peter Bleed provided the Board with an update on bills being drafted to address the reburial issue. It was determined that NAPA would need to take a position and this should be put in writing. Dr. Bleed agreed to chair a NAPA legislative committee to inform the membership and executive board on pending legislation. He also agreed to draft a reburial statement to be presented to the NAPA Board for approval.

A report from the Education Committee was provided by Rob Bozell and contained these four primary goals:

- 1) Poll the membership to compile a list of individuals who would be willing to lecture or do workshops for the public.
- 2) Compile a statewide master list of volunteers desiring to participate in field or lab work.
- 3) Develop student awards or sponsor student projects.
- 4) Identify long-range goals with the focus likely upon generating publications, news releases, pamphlets and possibly films.

Doug Bamforth, secretary/treasurer reported a balance of \$950.48 in the NAPA account. Expenditure was: \$31.46 Newsletter

Since there has been some confusion between the membership committee and the treasurer concerning dues, it was decided that all dues and membership forms would go to Anne Wolley, membership chairperson. A question was also raised about whether donations are tax deductible, and Doug agreed to investigate.

The progress of the NAPA journal was also discussed at the meeting. Enough articles have been received for the first volume. These are in the process of being reviewed and edited. Because of the concern over the delay in getting the journal to press, it was the hope of the Board that it could be out by the Plains Conference. The editors desire for a publication of high quality was a primary concern and a more realistic goal was set for the first of the year for a mock up to be done. Cathie Masters was requested to offer any kind of help to facilitate the publication of the journal.

Anne Wolley provided a report on the membership committee. This included statistics on paid up memberships for this and past years. In response to a declining membership, Anne has simplified the membership application. Changes in membership categories may be considered at a later time, but if they are changed, the NAPA by-laws will also have to be changed.

Informal NAPA Board Meeting

October 1988

Peter Bleed presented his statement of the NAPA position on returning the Pawnee remains and associated burial goods by the Nebraska State Historical Society for approval by the NAPA Executive Board. After some discussion the following statement was approved as the official position of NAPA on this issue:

WHEREAS: Archeological remains are an important source of information about humankind's common past, and

WHEREAS: The careful maintenance of archeologically recovered human remains and other materials is a well established and socially acceptable practice throughout the modern world reflecting deep and sincere respect for the people and cultures of the past, and

WHEREAS: The collections of the Nebraska State Historical Society are a scientifically invaluable resource held for the common good,

THEREFORE: The Nebraska Association of Professional Archeologists opposes the destruction of archeological collections of the Nebraska State Historical Society.

Annual Meeting of NAPA held at the 46th Annual Plains Conference
November 4, 1988

This was a brief meeting consisting mainly of reports from the chairpersons of the education, membership, and publication committees. Rob Bozell reviewed the goals of the education committee and resigned as chairman. John Ludwickson reported on the progress of the journal, mentioning that he anticipated having a mock up by the first of the year. The reburial issue was mentioned as a possible problem in the near future. Anne Wolley distributed a survey form for members to indicate what direction they would like to see NAPA take. Members were also asked to check their addresses and correct them if necessary.

Nebraska State Historical Society Board Meeting 12/17/88

The Board of the Nebraska Historical Society voted to return 20% of the Pawnee human remains if the tribe could present a plan for reburial which included interment in a vault. This was rejected by the Pawnee.

Official NAPA Board Meeting January 20, 1989

Attending at this meeting were: Bob Hassler, Cathie Masters, Gayle Carlson, Dr. John Weymouth, Dr. Peter Bleed, Melissa Connor, and Tood Rivers. Jim Winfrei and John Ludwickson were also present. Peter Bleed discussed the three legislative bills (LB340, LB691, LB151) coming before the state legislature which directly or indirectly concerns reburial or return of museum collections. These bills are printed following the summary of events.

It was established at the meeting that NAPA would take a position of opposition to LB340 and reserve judgement on LB151 and LB691 until a later time. LB340 was scheduled for public committee hearing on January 25, 1989 and Cathie Masters was appointed as spokesperson for NAPA on the opposition agenda.

John Ludwickson gave the board a report on the status of the journal. There have been difficulties finding time to devote to the journal, primarily due to all the energy put into the reburial issue, but he said it would be ready by the meeting of NAPA at the Nebraska Academy of Science meetings in the spring.

Public Hearing on LB340 January 25, 1989

The following is a copy of the opposition agenda:

- 1) Dr. Peter Bleed - UNL Anthropology professor
- 2) Ed Bisailon - Director of the Hastings Museum
- 3) Dr. Douglas Scott - Midwest Archeological Center, NPS
- 4) Dr. Mark Lynott - Society of Professional Archeologists

- 5) Cathie Masters - Nebraska Association of Professional Archeologists
- 6) Becky Day - Landmarks, Inc.
- 7) John Ludwickson - Nebraska State Historical Society
- 8) Rob Bozell - Nebraska State Historical Society
- 9) Dr. James Wengert, M.D. - Society Member
- 10) Dr. G. William LeWorthy, M.D. - Society Member
- 11) Dr. C. Betrand Schultz - Nebraska Academy of Science

Each of these individuals was to give a five minute statement, but due to the fact that others who were not on the agenda chose to come up and testify, some of those scheduled did not have time to speak. In this case written statements were provided to committee members instead.

Historical Society Board Meeting February 3, 1989

After much discussion the Executive Board voted to support Senator Chambers' LB340, IF IT IS AMENDED AS FOLLOWS:

1. All human remains excavated in Nebraska be reburied in Nebraska.
2. Three years be allowed for scientists to study existing collections.
3. No restrictions on what Nebraska museums may exhibit, or on how objects are exhibited.
4. A committee be established to resolve disputes between Nebraska museums and Indian tribes.
5. Artifacts important to Nebraska history and to American history be preserved and not destroyed.

Note: LB340 applies to the University of Nebraska and all state, city, and county museums, as well as to the State Historical Society.

LB340

As you will discover when you give LB340 a careful reading, some of the primary areas of concern are as follows:

- 1) The bill does not treat all human remains the same. Section 3 (1) states that all human burials are accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds, or religious affiliations...

The bill then proceeds to divide non-Indian and American Indian remains, and states that non-Indian burials shall be turned over to the county attorney for interment, while a one year period of scientific study will be granted for American

Indian remains (and by implication not for non-Indian). American Indians are further divided into Pawnee and other Indian tribes for consideration. This bill does not accord all burials equal treatment.

2) There are no accountability requirements for those receiving human remains and associated burial goods from institutions holding them in trust. The bill calls for disposal of burials and associated goods at the discretion of those who claim without proof that such objects are their own. The bill reads in Section B (3) "if the society finds that the discovered human skeletal remains or burial goods are of American Indian origin with known or unknown tribal or personal identification, it shall promptly notify in writing the Nebraska Indian Commission and any persons or Indian tribes reasonably identified as associated with such remains or goods to ascertain the wishes of the person or Indian tribe, if any, as to reburial or other disposition. It is a concern of opponents to the bill what other disposition might mean. It is a very real concern that very valuable associated burial goods could become part of a flourishing black market trade. There is no way to know if associated goods will also be interred. As it stands, individuals can do anything they want with them.

It is our understanding that 90% of all American Indian skeletal collections that have been reburied could be retrieved in the event that attitudes change or medical research merited such an action. If no one knows if or where reinterment took place, this would not be possible.

3) No funding is provided in this bill for identification or study of human remains discovered or now in possession of institutions.

Section 8 (1) states that the Nebraska State Historical Society shall promptly assist in examining the discovered material to attempt to determine its origin and identity. Section 8 (3) states that the remains or goods shall be reburied as provided in subsection (2) of this section after a one-year scientific study period...

These tasks would have to be done by a physical anthropologist. Since the Historical Society does not employ a physical anthropologist, one would have to be hired or the work contracted for. Clyde Snow, a nationally recognized forensic anthropologist charges \$650 per skeleton for analysis. There are hundreds of types of analyses which could be used for scientific study. Who would decide which of these would be appropriate?

In addition, receiving funding for research can be a difficult matter, sometimes requiring a year or more before approval and funds can be obtained. There is, of course, no way to predict or schedule what research projects will be developed.

4) There were also strong objections to the provisions in the law for civil penalties for unknowingly disturbing burial sites. Apparently amendments added after the hearing have eliminated this problem. However, the way it stood then Section 10 (1) stated that "any person, Indian tribe, or Indian tribal member

shall have a civil cause of action against any person alledged to have violated the Unmarked Human Burial sites"...

This in essence meant that any American Indian, tribe, or person could bring charges against any farmer, construction company, or institution who had unknowingly unearthed any human remains which had not been reported. Few people are qualified to recognize certain fragmentary human bones from those of a dog, cat, cow, or other animal. Any person who encountered such bones and failed to report them, even though they were not experienced in identification, faced a series of liabilities including emotional distress to the plaintiff in the action. This would also have placed a burden on law enforcement officers who would be called whenever bones are discovered.

Letter delivered to all state senators February 21, 1989

On February 22, 1989 LB340 is scheduled to be brought to the floor of the unicameral. As a last effort to voice our concerns the following letter was delivered to all senators after approval by the members of the NAPA Board.

The Nebraska Association of Professional Archeologists is deeply concerned about the passage of LB340 - the human remains burial act. Representatives of the group submitted written statements at the Committee hearings of the bill. However, as the bill now comes up for discussion on the floor, we feel we must again bring our objections to your attention. LB340 must be amended because:

1. The bill mandates the irrevocable and final loss of scientific and historical collections from museums across Nebraska, beginning Sept. 10, 1989.
2. There is inadequate funding and inadequate time allowed for the study that the importance of the resource demands. Lack of funding prevented study in the first place - now inadequate funding will prevent gaining the knowledge that was the reason for the excavation and storage of these materials to start with.
3. The bill mandates differing treatments of the skeletal material of different races. Treatment must be the same for skeletal material from all races.
4. The bill provides no way to resolve disputes and will invite lawsuits against the State of Nebraska.
5. If LB340 passes, without amendments, Nebraska will be the only state with a law that requires the destruction of museum artifacts. No court or legislature will be able to reverse the damage.

Senator Warner's amendments address many of these problems and LB340 must not be passed without such amendments or Nebraska's heritage will suffer. LB 691 has been operating

effectively in Oklahoma and should be given serious consideration.

Sincerely,
Cathie Masters, Vice President
Nebraska Association of
Professional Archeologists

CURRENT NAPA COMMITTEE CHAIRS, BOARDMEMBERS AND OFFICERS

<u>Officers</u>	<u>Term</u>	<u>Phone</u>
Bob Hassler, President	1990	402-391-7947
Cathie Masters, Vice President	1990	402-437-5392
Doug Bamforth, Secretary/Treasurer	1990	402-472-2411

<u>Boardmembers</u>	<u>Term</u>	<u>Phone</u>
Bob Hassler	1990	402-391-4947
Cathie Masters	1990	402-437-5392
Doug Bamforth	1990	402-472-2411
John Weymouth	1989	402-472-2775
Melissa Connor	1989	402-437-5392
Gayle Carlson	1989	402-471-4789
Todd Rivers	1991	402-467-1314

<u>Committee Chairpersons</u>	<u>Term</u>	<u>Phone</u>
Education Committee - Becky Otto	1990	402-221-3070
Publication Committee - Cathie Masters	1990	402-437-5392
Membership Committee - Anne Wolley	1990	402-437-5392
Ad Hoc Legislative Committee		
Peter Bleed	1990	402-472-2411
Ad Hoc Finance Committee		
Don Clark	1990	402-391-7947
Ad Hoc Selection Committee		
Alan Osborn	1990	402-472-2411

NAPA SCHEDULE

Newsletter

- | | |
|--------------|--------------------------------------|
| 1. February | Deadline for materials - January 31 |
| 2. May | Deadline for materials - April 30 |
| 3. September | Deadline for materials - August 31 |
| 4. December | Deadline for materials - November 30 |

Boardmeetings

1. January
2. March
3. June
4. October

Annual Meeting of NAPA

The annual meeting of NAPA will be held during the Nebraska Academy of Sciences meetings in April. An additional meeting will be held at the Plains Conference.

Upcoming Meetings

Official NAPA Board Meeting - March 31, 1989
Annual Meeting (NE Academy of Science) - April 14, 1989

NEW APPOINTEES

Education Committee

Becky Otto, U.S. Corps of Engineers, Omaha, has accepted the position of chairperson replacing Rob Bozell. Becky has excellent experience working with volunteer organizations interested in archeology. Her background will definitely be an asset for NAPA. Her first goal will be to help establish a speaker's bureau to help organizations have greater access to NAPA members for talks on archeology. She will be contacting each member by mail requesting volunteers. Please seriously consider participating in the speaker's bureau. This is one of the greatest public relations avenues that we can take. She will also be developing a volunteer certification program involving continuing education for both professional and amateur archeologists. Her success depends upon your input, so feel free to contact her about your concerns and willingness to help.

Ad Hoc Finance Committee

Don Clark, Central Life Assurance Company, Omaha, has accepted the position of chairperson. Don has been involved with financial planning for personal, business, and professional organizations for over 30 years. Don's goal will be to outline financial avenues to facilitate the formation of education, research and possible group benefit packages for NAPA members. As with Becky, Don's chore will be much easier if he receives input from NAPA members. On the survey form sent with your renewal notice there are several financial questions. If you have not yet responded, please do so for this will give Don some initial feedback as to your interest. I expect that in the near future you will receive a more detailed questionnaire from Don. Please give him your support.

Ad Hoc Selection Committee

Alan Osborn, Department of Anthropology, University of Nebraska at Lincoln, has accepted the position as chairperson.

This position is needed because four boardmembers are to be elected this year at the annual meeting. Alan will work with Anne Wolley and Cathie Masters in finding nominees for the board. If you are interested please make sure that you fill out the volunteer form that was sent to you in your renewal package. We need your help! Please get involved and remember to come to the meeting on April 14 to place your vote!

GETTING THE WORD OUT

The newsletter is currently supposed to go out quarterly. We, unfortunately, have fallen behind. With the new schedule outlined above, this should be more controllable. The one thing that isn't controllable by setting a schedule is whether or not we have something to say. As a member of NAPA we need you to send Cathie any opinion, piece of information, field report, etc. that you would like to share with your colleagues. There are certain deadlines which we have set for each newsletter (see above). If your word does not get into one newsletter, we will try and put it into the next. Please remember that the newsletter is your best means to let us all know what fine activities you are doing! Brag and let us all know!

THANKS FOR THE GOOD RESPONSE

We want to thank the many who have already renewed their memberships for 1989, bringing the balance in our treasury to \$1205.48. Keep those renewals coming. We are also very grateful to the following members who have made donations: Bill Hunt, Charles Mousel, and Jerry W. Carlson.

A FINAL WORD

Cathie Masters, Editor

The reburial issue has made many of us keenly aware of the gap which exists between the public and the archeological profession. Many people view archeologists as grave robbers and the personification of Indiana Jones. There is a definite lack of understanding about the goals and methods of archeology. A large percentage of the public does not realize that most archeological projects are now being carried out for salvage. They believe that archeologists seek out grave sites, and choose sites for the rich harvest of valuable artifacts.

Listening to the testimony given at the hearing for LB340 has made me aware of the need for a concerted effort by the archeological community to improve its public image. Hopefully through the efforts of the education committee, NAPA can put some serious effort into establishing better public relations and a presence within the community. This goal cannot be accomplished through the efforts of the education committee alone. It will require the individual efforts of all the members to promote the benefits of archeology to the public. Please consider volunteering and putting time into preserving archeology.

LB 34C

LEGISLATURE OF NEBRASKA
NINETY-FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL

Introduced by

Ernie Chambers #11

Read first time 'JAN 11 1955

Committee:

A BILL

1 FOR AN ACT relating to burial sites and skeletal
2 remains; to adopt the Unmarked Human Burial
3 Sites and Skeletal Remains Protection Act; to
4 amend section 28-1301, Reissue Revised
5 Statutes of Nebraska, 1943; to provide a
6 penalty; to provide exceptions; to harmonize
7 provisions; and to repeal the original
8 section.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 through 11 of this act
2 shall be known and may be cited as the Unmarked Human
3 Burial Sites and Skeletal Remains Protection Act.
4 Sec. 2. The Legislature hereby finds and
5 declares that:

6 (1) Human burial sites which do not presently
7 resemble well-tended and well-marked cemeteries are
8 subject to a higher degree of vandalism and inadvertent
9 destruction than well-tended and well-marked cemeteries;
10 (2) Although existing law prohibits removal,
11 concealment, or abandonment of any dead human body and
12 provides for the care and maintenance of abandoned and
13 neglected Indian cemeteries and burial grounds and
14 pioneer cemeteries, additional statutory guidelines and
15 protections are in the public interest;

16 (3) Existing law on cemeteries reflects the
17 value society places on preserving human burial sites,
18 but does not clearly provide equal and adequate
19 protection or incentives to assure preservation of all
20 human burial sites in this state;

21 (4) An unknown number of unmarked human burial
22 sites containing the remains of pioneers, settlers, and
23 Indians are scattered throughout the state;

24 (5) No adequate procedure regarding the
25 treatment and disposition of human skeletal remains from
26 unmarked graves exists to protect the interests of

1 descendants or other interested persons; and

2 (6) There are scientific, educational,
3 religious, and cultural interests in the remains of our
4 ancestors and those interests, whenever possible, should
5 be served.

6 Sec. 3. The purposes of the Unmarked Human
7 Burial Sites and Skeletal Remains Protection Act shall
8 be to:

9 (1) Assure that all human burials are accorded
10 equal treatment and respect for human dignity without
11 reference to ethnic origins, cultural backgrounds, or
12 religious affiliations by providing adequate protection
13 for unmarked human burial sites and human skeletal
14 remains located on all private and public lands within
15 this state.

16 (2) Prohibit disturbance of unmarked human
17 burial sites, except as expressly permitted by this act;

18 (3) Establish procedures for the proper care
19 and protection of unmarked human burial sites, human
20 skeletal remains, and burial goods found in this state;

21 (4) Ensure that all unmarked human burial
22 sites discovered in this state are to be left
23 undisturbed to the maximum extent possible unless such
24 sites are in reasonable danger of destruction or unless
25 there is evidence of criminal wrongdoing and that the
26 disposition of the contents be carried out in accordance

1 with the act; and

2 (5) Permit the scientific study and
3 reinterment of human skeletal remains and burial goods.

4 Sec. 4. For purposes of the Unmarked Human
5 Burial Sites and Skeletal Remains Protection Act:

6 (1) Burial goods shall mean any items
7 reasonably believed to have been intentionally placed
8 with a human body at the time of burial for interment
9 with such body;

10 (2) Human burial site shall mean any place
11 where human skeletal remains are buried;

12 (3) Human skeletal remains shall mean the body
13 or any part of the body of a deceased human in any stage
14 of decomposition;

15 (4) Indian tribe shall mean any federally
16 recognized or state-recognized Indian tribe, band, or
17 community;

18 (5) Professional archaeologist shall mean a
19 person having a postgraduate degree in archaeology,
20 anthropology, history, or a related field with a
21 specialization in archaeology and with demonstrated
22 ability to design and execute an archaeological study
23 and to present the written results and interpretations
24 of such a study in a thorough, scientific, and timely
25 manner; and

26 (6) Unmarked human burial shall mean any

1 interment by whatever means of human skeletal remains
2 for which there exists no grave marker, including
3 burials located in abandoned and neglected cemeteries.
4
5 Sec. 5. Any person who encounters or
6 discovers human skeletal remains or burial goods
7 associated with an unmarked human burial in or on the
8 ground shall immediately cease any activity which may
9 cause further disturbance of the unmarked human burial
10 and shall within forty-eight hours report the presence
11 and location of such remains or goods to a local law
12 enforcement officer in the county in which the remains
13 are found. Any person who knowingly fails to make such
14 a report shall be guilty of a Class III misdemeanor.

15 Sec. 6. A law enforcement officer who
16 receives notification pursuant to section 5 of this act
17 shall promptly notify the landowner, the county
18 attorney, and the Nebraska State Historical Society.

19 Sec. 7. Upon notification pursuant to section
20 6 of this act, the county attorney shall determine
21 whether the remains are associated with or suspected of
22 association with any crime and, if a determination of
23 prosecutable criminal activity is made, shall retain
24 custody of the remains in accordance with routine
25 procedures until such time as the remains may be
26 reburied in accordance with the Unmarked Human Burial
27 Sites and Skeletal Remains Protection Act.

1 Sec. 8. (1) Upon notification pursuant to
2 section 6 of this act, the Nebraska State Historical
3 Society shall promptly assist in examining the
4 discovered material to attempt to determine its origin
5 and identity.

6 (2) If such society finds that the discovered
7 human skeletal remains or burial goods are of non-Indian
8 origin with a known or unknown identity, it shall notify
9 the county attorney of the finding. Upon receipt of the
10 finding, the county attorney shall cause the remains and
11 associated burial goods to be interred in consultation
12 with the county coroner. Reburial shall be in
13 accordance with the wishes and at the expense of any
14 known relatives in the order listed by section 71-1332
15 or, if no relatives are known, in an appropriate
16 cemetery at the expense of the county in which the
17 remains were discovered.

18 (3) If such society finds that the discovered
19 human skeletal remains or burial goods are of American
20 Indian origin with known or unknown tribal or personal
21 identification, it shall promptly notify in writing the
22 Nebraska Indian Commission and any persons or Indian
23 tribes reasonably identified as associated with such
24 remains or goods to ascertain the wishes of the person
25 or Indian tribe, if any, as to reburial or other
26 disposition. Reburial, if requested by any such person

1 or Indian tribe, shall be by and at the expense of such
2 person or Indian tribe. In all other cases, the remains
3 or goods shall be reburied as provided in subsection (2)
4 of this section after a one-year scientific study period
5 if such study period is considered necessary or
6 desirable by such society. In situations when unclaimed
7 remains or goods are clearly found to be of extremely
8 important, irreplaceable, and intrinsic scientific
9 value, the remains or goods may be curated by such
10 society until the remains or goods may be reinterred
11 without impairing their scientific value. During such
12 curation period, the remains or goods shall not be
13 displayed.

14 Sec. 9. Notwithstanding any other provision
15 of law, any institution, agency, organization, or other
16 entity in this state which receives funding or official
17 recognition from the state or any of its political
18 subdivisions and which has in its possession or control
19 on the effective date of this act any disinterred human
20 skeletal remains or burial goods, regardless of their
21 present location, shall, within one year of the
22 effective date of this act, return to the descendants or
23 descendant Indian tribes upon request of such
24 descendants or tribes for reburial or otherwise cause to
25 be reinterred pursuant to subsections (2) and (3) of
26 section 8 of this act all reasonably identifiable lineal

1 or tribal human skeletal remains and burial goods,
2 except that the Nebraska State Historical Society shall
3 return all reasonably identifiable Pawnee skeletal
4 remains and burial goods to the Pawnee tribe for
5 reburial beginning on September 10, 1989.

6 Sec. 10. (1) Any person, Indian tribe, or
7 Indian tribal member shall have a civil cause of action
8 against any person alleged to have violated the Unmarked
9 Human Burial Sites and Skeletal Remains Protection Act
10 or section 28-1301. The action shall be brought within
11 two years of discovery by the plaintiff of the alleged
12 violation or within two years of the effective date of
13 this act, whichever is later. The action shall be filed
14 either in the district court of the county in which the
15 unmarked human burial, human skeletal remains, or burial
16 goods are located or in which the defendant resides.

17 (2) If the plaintiff prevails in an action
18 brought pursuant to this section:

19 (a) The court may award reasonable attorney's
20 fees to the plaintiff and may grant injunctive or other
21 appropriate relief, including forfeiture of any human
22 skeletal remains or burial goods acquired or equipment
23 used in the violation. The court shall order the
24 disposition of any items forfeited, including the
25 reinterment of any human skeletal remains or burial
26 goods pursuant to the act; and

1 (b) The plaintiff may recover actual damages
2 or statutory damages of five hundred dollars for each
3 violation, whichever is greater. Actual damages shall
4 include special and general damages, including damages
5 for emotional distress. An award of statutory damages
6 may be made for each violation. If more than one
7 defendant is found to have participated in a violation,
8 an award of statutory damages may be made against each
9 defendant.

10 (3) If the defendant prevails in an action
11 brought pursuant to this section, the court may award
12 reasonable attorney's fees to the defendant.

13 Sec. 11. That section 28-1301, Release
14 Revised Statutes of Nebraska, 1943, be amended to read
15 as follows:

16 28-1301. (1) The definitions found in section
17 4 of this act shall apply to this section.

18 (2) Except as provided in subsection (2) (3)
19 of this section, a person commits the offense of
20 removing, abandoning, or concealing a dead human
21 skeletal remains or burial goods body if he or she:

22 (a) Shall dig up, disinter, remove, or carry
23 knowingly digs up, disinters, removes, or carries away
24 from its place of deposit or burial any dead human body
25 or the such remains thereof or shall attempt or goods,
26 attempts to do the same, or aids, incites, assists,

1 encourages, or procures or shall assist, incite, or
2 procure the same to be done;

3 (b) Throws knowingly throws away or abandons
4 any dead human body, or any portion thereof, such
5 remains or goods in any place other than a regular place
6 for burial and under a proper death certificate issued
7 under either section 71-182, or section 71-605; or

8 (c) Receives, conceals, purchases, sells,
9 transports, trades, or disposes of any dead human body,
10 or the such remains thereof, knowing or having or goods
11 if the person knows or has reason to know that the same
12 had such remains or goods have been dug up, disinterred,
13 or removed from its their place of deposit or burial or
14 has have not been reported in a proper death certificate
15 issued under either section 71-182, or section 71-605,
16 attempts to do the same, or aids, incites, assists, or
17 encourages, or procures the same to be done.

18 (3) This section (2) The above-mentioned acts
19 shall not apply to: (a) A body the bodies authorized to
20 be surrendered for purposes of dissection as provided by
21 law; nor shall they apply to (b) the body of any person
22 directed to be delivered up, by competent authority for
23 purposes of dissection; nor shall they apply to nor be
24 construed to prevent (c) the officers of any lawfully
25 constituted cemetery, while acting under the direction
26 of its the board of trustees, from in removing any body

1 or the remains thereof human skeletal remains or burial
2 goods from one place of burial in said the cemetery to
3 another place in the same cemetery when disinterment and
4 reinterment permits are secured and return made thereof
5 as prescribed in pursuant to section 71-605; nor shall
6 they apply to nor be construed to prevent (d) any person
7 or persons from removing the bodies or remains thereof
8 human skeletal remains or burial goods of their
9 relatives a relative or intimate friends friend, from
10 one place of burial to another; PROVIDED, that in case
11 such last-mentioned burial had been in any lawfully
12 constituted cemetery, to another when consent for such
13 removal shall be has been obtained from the lawfully
14 constituted authority thereof, and permits for
15 disinterment and reinterment are secured and return made
16 thereof as prescribed in pursuant to section 71-605; (e)
17 any professional archaeologist engaged in an otherwise
18 lawful and scholarly excavation of a nonburial domestic
19 site who unintentionally encounters human skeletal
20 remains or associated burial goods if the archaeologist
21 complies with the notification requirements of the
22 Unmarked Human Burial Sites and Skeletal Remains
23 Protection Act; or (f) any archaeological excavation by
24 the Nebraska State Historical Society or its designee in
25 the course of execution of the duties of the society if
26 any human skeletal remains or associated burial goods

1 discovered during such excavation are disposed of
2 pursuant to section 8 of this act.
3 (3) Removal, concealment, or abandonment of
4 dead human bodies is Violation of this section shall be
5 a Class I misdemeanor.
6 Sec. 12. That original section 28-1301,
7 Reissue Revised Statutes of Nebraska, 1943, is repealed.

AMENDMENTS TO LB 340

- 1 1. On page 3, line 2, strike "descendants"
- 2 and insert "relatives"; and in line 25, strike "or"
- 3 unless" and insert "such sites need to be moved for a
- 4 highway road, or street construction project, or"
- 5 2. On page 4, line 10, strike "a human body"
- 6 and insert "specific human remains"; in line 11 strike
- 7 "body" and insert "remains"; in line 12 strike "any" and
- 8 insert "the specific"; and in line 13 after "where"
- 9 insert "any" and after "buried" insert "and the
- 10 immediately surrounding area"
- 11 3. On page 6, strike beginning with "with" in
- 12 line 24 through "identification" in line 25.
- 13 4. On page 7, line 1, strike "persons or" and
- 14 insert "known relatives in the order listed in section
- 15 71-1339 or, if no relatives are known, any"; in line 3
- 16 after "goods" insert "in order", after "ascertain"
- 17 insert "and follow", and strike "person" and insert
- 18 "relative"; in line 5 strike "if requested" and strike
- 19 "person" and insert "relative"; in line 6 strike the
- 20 comma; strike line 7 and insert "relative or Indian
- 21 tribe. In cases in which reasonably identifiable

- 1 American Indian human skeletal remains or burial goods
- 2 are unclaimed by the appropriate relative or tribe, any
- 3 such remains or goods"; in line 8 strike "of goods"; in
- 4 line 11 strike "when unclaimed" and insert "in which
- 5 human skeletal"; in line 12 after "of" insert "burial"
- 6 and after "goods" insert "that are unidentifiable as to
- 7 familial or tribal origin"; in line 20 after "of" insert
- 8 "Nebraska"; and in line 25 after "goods" insert "of
- 9 American Indian origin which are reasonably identifiable
- 10 as to familial or tribal origin"
- 11 5. On page 8, strike beginning with the
- 12 second comma in line 1 through the comma in line 2; in
- 13 line 2 after "return" insert "any such remains and
- 14 goods" and strike "descendants" and insert "relatives";
- 15 in line 3 strike "descendant" and after "tribes" insert
- 16 "for reburial"; in line 4 strike "descendants" and
- 17 insert "relatives", strike "for reburial" and insert an
- 18 underscored comma, and after "cause" insert "such
- 19 remains and goods"; strike lines 6 through 11 and insert
- 20 "section 8 of this act within one year of receiving such
- 21 request, except that any such entity which has, prior to
- 22 January 1, 1989, received a written request from any
- 23 relative or Indian tribe for the return of such
- 24 reasonably identifiable remains and goods shall return

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- 1 to such relative or tribe for burial all such remains
- 2 and goods by September 10, 1989"; and in line 14 after
- 3 "have" insert "intentionally".
- 4
- 5 insert
- 6 "(b) The plaintiff may recover actual damages
- 7 for each violation.".

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LEGISLATURE OF NEBRASKA
NINETY-FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL

Introduced by

John S. Weisking #48
James O'Brien 25th

Read first time JAN 19 1943

Committee:

A BILL

- 1 FOR AN ACT relating to human remains; to adopt the
- 2 Unmarked Human Burial and Skeletal Remains
- 3 Protection Act.
- 4 Be it enacted by the people of the State of Nebraska,

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1 Section 1. This act shall be known and may be
2 cited as the Unmarked Human Burial and Skeletal Remains
3 Protection Act.

4 Sec. 2. For purposes of the Unmarked Human
5 Burial and Skeletal Remains Protection Act:

6 (1) Burial furniture shall mean any item
7 intentionally placed with human remains at the time of
8 burial, including, but not limited to, burial markers,
9 items of personal adornment, casket and hardware, stone,
10 bone, shell and metal ornaments, and pottery vessels;

11 (2) Burial grounds shall mean any place where
12 human skeletal remains are buried;

13 (3) Director of the museum shall mean the
14 director of the state museum at the University of
15 Nebraska-Lincoln or his or her designee;

16 (4) Director of the society shall mean the
17 Director of the Nebraska State Historical Society or his
18 or her designee; and

19 (5) Human skeletal remains shall mean the bony
20 portion of the human body which remains after the flesh
21 has decomposed.

22 Sec. 2. Any nonprofit educational
23 institution, governmental institution, or museum which
24 comes into possession or knowledge of human skeletal
25 remains or burial furniture from Nebraska shall, if
26 possible, consult with tribal leaders designated by the

1 Commission on Indian Affairs regarding the final
2 disposition of such remains or furniture prior to
3 conducting any activities for scientific or educational
4 purposes. If direct historical ties to an existing
5 tribal group cannot be established, the institution or
6 museum shall, consult with the State Historic
7 Preservation Officer, the director of the museum, and
8 the director of the society regarding final disposition
9 of the remains or furniture. If the remains or
10 furniture are not directly related to a tribal group or
11 if the remains or furniture are not claimed by the
12 tribal group consulted, the State Historic Preservation
13 Officer, the director of the museum, and the director of
14 the society may designate a repository for curation of
15 the remains or furniture for scientific purposes.

16 Sec. 3. (1) Any person who encounters or
17 discovers human skeletal remains or burial furniture or
18 what he or she believes to be human skeletal remains or
19 burial furniture in or on the ground shall immediately
20 cease any activity which may disturb the remains or
21 furniture and shall report the encounter or discovery
22 and location thereof to a law enforcement officer.

23 (2) Any law enforcement officer who receives a
24 report pursuant to subsection (1) of this section shall,
25 if he or she has reason to believe that the remains are
26 human skeletal remains, promptly notify the landowner

1 and county attorney of the encounter or discovery. If
2 the county attorney determines that the remains are not
3 associated with or suspected of association with a
4 crime, the county attorney shall notify the State
5 Historic Preservation Officer or the director of the
6 society within fifteen days of such determination.

7 The State Historic Preservation Officer or the
8 director of the society, upon receipt of such
9 notification, shall inspect the remains or furniture to
10 determine if the remains or furniture have a direct
11 historical tie to a tribal group and, upon making such a
12 determination, shall consult with the tribal leaders
13 designated by the Commission on Indian Affairs within
14 fifteen days of such determination regarding final
15 disposition of the remains or furniture and, if the
16 State Historic Preservation Officer makes the
17 determination, notify the director of the society.

18 Sec. 4. Any person who willfully fails to
19 report as required by subsection (1) of section 3 of
20 this act within forty-eight hours of the encounter or
21 discovery shall be guilty of a Class III misdemeanor.

22 Sec. 5. Any person other than a law
23 enforcement officer, licensed funeral director or
24 mortician, or professional archaeologist or physical
25 anthropologist or other official in the performance of
26 his or her official duties as prescribed by law who

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1 knowingly disturbs human skeletal remains or burial
2 furniture shall be guilty of a Class I misdemeanor.

3
4 Sec. 6. Any person other than a law
5 enforcement officer, licensed funeral director or
6 mortician, or professional archaeologist or physical
7 anthropologist or other official in the performance of
8 his or her official duties as prescribed by law who
9 disturbs or permits the disturbance of a burial ground
10 with the intent to obtain human skeletal remains or
11 burial furniture shall be guilty of a Class I
12 misdemeanor.

13 Sec. 7. Any person who knowingly buys, sells,
14 or barbers for profit human skeletal remains or burial
15 furniture from Nebraska shall be guilty of a Class I
16 misdemeanor.

17 Sec. 8. Any person who knowingly displays an
18 open burial ground or burial furniture or human skeletal
19 remains from Nebraska for profit or to aid and abet a
20 commercial enterprise shall be guilty of a Class III
21 misdemeanor. Each day of display shall constitute a
separate offense.

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