

AMENDMENTS TO LB 211

(Amendments to Final Reading copy)

1           1.     Strike section 2 and insert the following new  
2 sections:

3           "Section 1. Sections 1 to 10 of this act shall be known  
4 and may be cited as the Nebraska Archaeological Resources  
5 Preservation Act.

6           Sec. 2. The Legislature hereby finds and declares that:

7           (1) Archaeological sites represent an important public  
8 resource embodying the record of our state's cultural heritage;

9           (2) The resource base of archaeological sites is being  
10 threatened at an increasing rate by agricultural, urban,  
11 commercial, transportation, governmental, and industrial  
12 development; and

13           (3) The rights of private property owners must be  
14 maintained even when their property contains archaeological sites  
15 or resources.

16           Sec. 3. For purposes of the Nebraska Archaeological  
17 Resources Preservation Act:

18           (1) Archaeological resource means any material object of  
19 past human life or activities that is of archaeological interest.  
20 Such objects include, but are not limited to, pottery, basketry,  
21 bottles, weapons, tools, structures or portions of structures,  
22 dwellings, rock paintings, rock carvings, intaglios, graves, human  
23 skeletal materials, or any portion or piece of any of such items.

1 Nonfossilized and fossilized paleontological specimens, or any  
2 portion or piece thereof, shall not be considered archaeological  
3 resources unless found in an archaeological context. No object  
4 shall be treated as an archaeological resource under this  
5 subdivision unless such object is determined to be at least fifty  
6 years of age;

7 (2) Archaeological site means a place or location where  
8 archaeological resources are found;

9 (3) Master archaeological site file means the records  
10 inventory of all known Nebraska archaeological sites maintained by  
11 the Nebraska State Historical Society;

12 (4) National Register of Historic Places means the  
13 register of districts, sites, buildings, structures, and objects  
14 significant in American history, architecture, archaeology,  
15 engineering, and culture, maintained by the Secretary of the  
16 Interior under the authority of the federal Historic Sites,  
17 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National  
18 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);

19 (5) State agency means any division, department, board,  
20 bureau, commission, or agency of the State of Nebraska; and

21 (6) Undertaking means a project, activity, or program  
22 funded in whole or in part under the jurisdiction of a state  
23 agency.

24 Sec. 4. (1) There is hereby established the State  
25 Archaeology Office which shall be a division within the Nebraska  
26 State Historical Society. The purpose of the office shall be to  
27 coordinate and encourage appropriate archaeological undertakings

1 and to preserve archaeological resources. The State Archaeology  
2 Office may adopt and promulgate rules and regulations to carry out  
3 the purposes of the Nebraska Archaeological Resources Preservation  
4 Act.

5 (2) The State Archaeology Office shall be headed by the  
6 State Archaeologist. The State Archaeologist shall be a graduate  
7 of a recognized college or university with a graduate degree in  
8 archaeology or anthropology and shall have sufficient practical  
9 experience and knowledge of archaeology to carry out the purposes  
10 of the act.

11 (3) The State Archaeology Office may:

12 (a) Promote development of archaeological resources for  
13 educational, cultural, tourism, and scientific purposes;

14 (b) Support popular and avocational interest in  
15 archaeological resources through field trips, demonstrations,  
16 seminars, and excavations throughout the state;

17 (c) Conduct a program of locating, identifying,  
18 quantifying, and assessing the significance of the state's  
19 archaeological resources;

20 (d) Maintain the master archaeological site file;

21 (e) Advise state agencies, political subdivisions,  
22 nongovernmental organizations, commercial and business interests,  
23 private property owners, individuals, and others as to the  
24 provisions and requirements of the act;

25 (f) Serve as the liaison office in transactions dealing  
26 with archaeological resources between state agencies and between  
27 the state and the federal government;

1           (g) Cooperate with state agencies and others in  
2 overseeing the execution of undertakings required by the act;

3           (h) Serve as the liaison office between state agencies  
4 and Indian tribes, the Commission on Indian Affairs, or other  
5 constituent groups culturally affiliated with archaeological sites  
6 involved in undertakings;

7           (i) Maintain a list of archaeologists qualified to  
8 conduct research projects required by the act;

9           (j) Maintain a permanent repository and electronic data  
10 base of published and unpublished sources on the archaeological  
11 resources of the state;

12           (k) Prepare, publish, and distribute for professional use  
13 and public education reports, bulletins, pamphlets, maps, and other  
14 products necessary to achieve the purposes of the act;

15           (l) Implement a program of emergency salvage archaeology,  
16 which includes surveys and either salvage or preservation of  
17 archaeological resources imperiled by development activities or  
18 natural forces;

19           (m) Administer and manage grants, bequests, devises, tax  
20 incentives, and easements of property to the state for the purposes  
21 of preserving archaeological sites and resources; and

22           (n) Ensure the long-term curation and management of  
23 collections and records resulting from undertakings within the  
24 state;

25           (o) Identify properties included in the National Register  
26 of Historic Places that are endangered, and coordinate or  
27 facilitate the purchase and maintenance of such properties by other

1 public or private agencies in order to preserve archeological sites  
2 or resources located on the properties; and

3 (p) Conduct all other activities necessary to carry out  
4 the purposes of the act.

5 Sec. 5. (1) Except as provided in subsection (2) of this  
6 section, the head of any state agency having jurisdiction over a  
7 proposed state or state-funded undertaking, which has potential to  
8 affect archaeological resources or sites, shall, prior to the  
9 approval of the expenditure of any state funds on the undertaking,  
10 notify the State Archaeology Office of the undertaking and  
11 cooperate with the office to identify and develop measures to  
12 mitigate the effect of the undertaking on any archaeological site  
13 or resource that is included in or eligible for inclusion in the  
14 National Register of Historic Places.

15 (2) The Department of Roads shall be exempt from the  
16 provisions of the Nebraska Archaeological Resources Preservation  
17 Act as long as a cooperative agreement exists between the  
18 Department of Roads and the Nebraska State Historical Society which  
19 ensures that all highway construction projects meet federal  
20 historic preservation legislation and regulations, and such federal  
21 preservation legislation and regulations fulfill or exceed the  
22 objectives and standards of the act.

23 (3) Nothing in the Nebraska Archaeological Resources  
24 Preservation Act shall be construed to abridge the rights of  
25 private property owners and in no case shall a private property  
26 owner be required to pay for activities undertaken by the State  
27 Archaeology Office.

1           Sec. 6.     The State Archaeology Office may accept, use,  
2 disburse, and administer all funds or other property, services, and  
3 money allotted to it for purposes of the Nebraska Archaeological  
4 Resources Preservation Act and may prescribe the conditions under  
5 which such funds, property, services, or money will be accepted and  
6 administered.

7           Sec. 7.     (1) Any person who knowingly and willfully  
8 appropriates, excavates, injures, or destroys any archaeological  
9 resource on public land without written permission from the State  
10 Archaeology Office is guilty of a Class III misdemeanor.

11           (2) When the State Archaeology Office has cause to  
12 believe that a person has engaged in or is engaging in any unlawful  
13 conduct prescribed in this section, it may apply for and obtain, in  
14 an action in the appropriate district court of this state, a  
15 temporary restraining order or injunction, or both, pursuant to the  
16 Nebraska rules of civil procedure prohibiting such person from  
17 continuing such practices, or engaging therein, or doing any act in  
18 furtherance thereof.

19           Sec. 8.     No person shall enter or attempt to enter upon  
20 the lands of another without permission and intentionally  
21 appropriate, excavate, injure, or destroy any archaeological  
22 resource or any archaeological site. Any person committing such  
23 act is guilty of a Class III misdemeanor.

24           Sec. 9.     The Nebraska State Historical Society may use  
25 General Fund appropriations to match other funds, grants, or money  
26 received to carry out the Nebraska Archaeological Resources  
27 Preservation Act.

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1                   Sec. 10.   The State Archaeology Cash Fund is hereby  
2 created.    The fund may be used to carry out the purposes of the  
3 Nebraska Archaeological Resources Preservation Act.   Any money in  
4 the fund available for investment shall be invested by the state  
5 investment officer pursuant to the Nebraska Capital Expansion Act  
6 and the Nebraska State Funds Investment Act.

7                   Sec. 12.   Section 11 of this act becomes operative on  
8 January 1, 2006.   The other sections of this act become operative  
9 on their effective date.".

10                   2.    On page 1, line 1, strike "cemeteries" and insert  
11 "the Nebraska State Historical Society" and after the semicolon  
12 insert "to adopt the Nebraska Archaeological Resources Preservation  
13 Act; to provide penalties;"; and in lines 2 and 3 strike "an  
14 operative date" and insert "operative dates".

15                   3.    Rename the remaining section accordingly.