

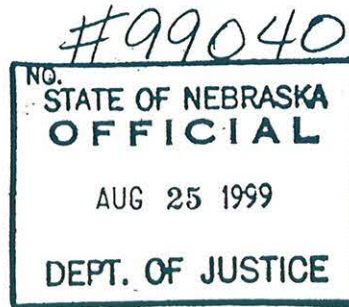


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DATE: August 17, 1999

SUBJECT: The Statutory Authority of the Commission on Indian Affairs and the Nebraska State Historical Society to Act Under the Nebraska Unmarked Burial Sites Act and Skeletal Remains Protection Act, Neb. Rev. Stat. §§ 12-1201 through 12-1212 (1997) When Presented with Information that Local Political Subdivisions Have Approved of Changes in Zoning, Land Use or Subdivision Development on Areas that Are Known or Have an Extremely High Potential to Possess Unmarked Burial Sites.

REQUESTED BY: Lawrence Sommer, State Historic Preservation Officer and Director, and
Judi Morgan, Executive Director of the Nebraska Commission on Indian Affairs

WRITTEN BY: Don Stenberg, Attorney General
Melanie J. Whittamore-Mantzios, Assistant Attorney General

You have requested our opinion regarding the roles of the Nebraska State Historical Society ("Society") and the Commission on Indian Affairs ("Commission") under the Nebraska Unmarked Burial Sites Act, Neb. Rev. Stat. §§ 12-1201 through 12-1212 (1997), when the Society and the Commission have been presented with information that local political subdivisions have approved of changes in zoning, land use, or subdivision development on areas of land that are known to or have an extremely high potential to possess unmarked burials. There does not appear to be any statutory authority for the Society or the Commission to do anything under either scenario.

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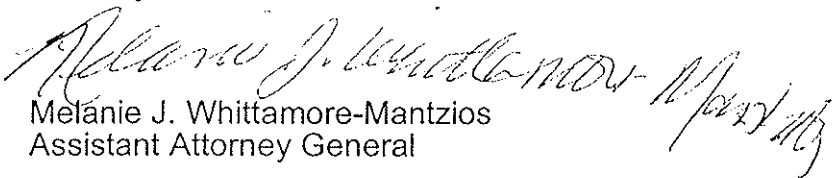
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The Nebraska Unmarked Burial Sites Act and Skeletal Remains Protection Act, Neb. Rev. Stat. §§ 12-1201 through 12-1212 (1997) ("Act") provides protection for unmarked burial sites and skeletal remains. The only roles specified for the Society and Commission occur after the discovery of remains or goods. Neb. Rev. Stat. § 12-1208 (1997). The Society is to assist in examining the discovered human skeletal remains or burial goods to determine its origin and identity. If the Society determines that the discovered human skeletal remains or burial goods are of American Indian origin the Society shall promptly notify in writing the Commission and any known relatives, or any Indian tribe reasonably identified as tribally linked to such remains. § 12-1208(3). There is no other role for the Society or the Commission than this in the Act.

Sincerely,

Don Stenberg
Attorney General


Melanie J. Whittamore-Mantzios
Assistant Attorney General

APPROVED BY:


DON STENBERG, Attorney General