

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 172

Introduced by Avery, 28.

Read first time January 07, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to commissions; to amend sections 12-1208,
2 71-1906.01, 82-504, and 84-104.08, Reissue Revised
3 Statutes of Nebraska, and sections 20-506 and 81-2509,
4 Revised Statutes Cumulative Supplement, 2010; to
5 eliminate the Commission on Latino-Americans and the
6 Commission on Indian Affairs; to create the Commission on
7 Indian and Multicultural Affairs; to provide powers and
8 duties for the commission; to provide an operative date;
9 to repeal the original sections; to outright repeal
10 sections 81-8,263, 81-8,264, 81-8,266, 81-8,267,
11 81-8,268, 81-8,269, 81-8,271, 81-2501, 81-2502, 81-2503,
12 81-2505, 81-2506, 81-2507, and 81-2508, Reissue Revised
13 Statutes of Nebraska, and sections 81-8,262, 81-8,265,
14 81-8,270, 81-8,271.01, and 81-2504, Revised Statutes
15 Cumulative Supplement, 2010; and to declare an emergency.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-1208, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 12-1208 (1) Upon notification pursuant to section
4 12-1206, the society shall promptly assist in examining the
5 discovered material to attempt to determine its origin and identity.

6 (2) If the society finds that the discovered human
7 skeletal remains or burial goods are of non-American-Indian origin
8 with a known or unknown identity, it shall notify the county attorney
9 of the finding. Upon receipt of the finding, the county attorney
10 shall cause the remains and associated burial goods to be interred in
11 consultation with the county coroner. Reburial shall be in accordance
12 with the wishes and at the expense of any known relatives in the
13 order listed by section 38-1425 or, if no relatives are known, in an
14 appropriate cemetery at the expense of the county in which the
15 remains were discovered after a one-year scientific study period if
16 such study period is considered necessary or desirable by the
17 society. In no case shall any human skeletal remains that are
18 reasonably identifiable as to familial or tribal origin be displayed
19 by any entity which receives funding or official recognition from the
20 state or any of its political subdivisions. In situations in which
21 human skeletal remains or burial goods that are unidentifiable as to
22 familial or tribal origin are clearly found to be of extremely
23 important, irreplaceable, and intrinsic scientific value, the remains
24 or goods may be curated by the society until the remains or goods may
25 be reinterred as provided in this subsection without impairing their

1 scientific value.

2 (3) If the society finds that the discovered human
3 skeletal remains or burial goods are of American Indian origin, it
4 shall promptly notify in writing the Commission on Indian and
5 Multicultural Affairs and any known relatives in the order listed in
6 section 38-1425 or, if no relatives are known, any Indian tribes
7 reasonably identified as tribally linked to such remains or goods in
8 order to ascertain and follow the wishes of the relative or Indian
9 tribe, if any, as to reburial or other disposition. Reburial by any
10 such relative or Indian tribe shall be by and at the expense of such
11 relative or Indian tribe. In cases in which reasonably identifiable
12 American Indian human skeletal remains or burial goods are unclaimed
13 by the appropriate relative or Indian tribe, the society shall notify
14 all other Indian tribes which can reasonably be determined to have
15 lived in Nebraska in order to ascertain and follow the wishes of the
16 tribe as to reburial or other disposition. Reburial by any such tribe
17 shall be by and at the expense of the tribe. If such remains or goods
18 are unclaimed by the appropriate tribe, the remains or goods shall be
19 reburied, as determined by the commission, by one of the four
20 federally recognized Indian tribes in Nebraska.

21 Sec. 2. Section 20-506, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 20-506 (1) The Racial Profiling Advisory Committee is
24 created.

25 (2)(a) The committee shall consist of:

1 (i) The executive director of the Nebraska Commission on
2 Law Enforcement and Criminal Justice, who also shall be the
3 chairperson of the committee;

4 (ii) The Superintendent of Law Enforcement and Public
5 Safety or his or her designee; and

6 ~~(iii) The director of the Commission on Latino Americans~~
7 ~~or his or her designee; and~~

8 ~~(iv)~~(iii) The executive director of the Commission on
9 Indian and Multicultural Affairs or his or her designee.

10 (b) The committee shall also consist of the following
11 persons, each appointed by the Governor from a list of three names
12 submitted to the Governor for each position:

13 (i) A representative of the Fraternal Order of Police;

14 (ii) A representative of the Nebraska County Sheriffs
15 Association;

16 (iii) A representative of the Police Officers Association
17 of Nebraska;

18 (iv) A representative of the American Civil Liberties
19 Union of Nebraska;

20 (v) A representative of the AFL-CIO;

21 (vi) A representative of the Police Chiefs Association of
22 Nebraska;

23 (vii) A representative of the Nebraska branches of the
24 National Association for the Advancement of Colored People; and

25 (viii) A representative of the Nebraska State Bar

1 Association appointed by the Governor from a list of attorneys
2 submitted by the executive council of the Nebraska State Bar
3 Association.

4 (3) The committee shall meet and organize within thirty
5 days after the appointment of the members. The committee shall meet
6 semiannually at a time and place to be fixed by the committee.
7 Special meetings may be called by the chairperson or at the request
8 of two or more members of the committee.

9 (4) The committee shall advise the executive director of
10 the commission in the conduct of his or her duties regarding the
11 review required pursuant to subsection (6) of section 20-504, provide
12 an analysis of the review, and make policy recommendations with
13 respect to racial profiling.

14 Sec. 3. Section 71-1906.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-1906.01 The department may adopt and promulgate rules
17 and regulations establishing separate licensing standards for Native
18 American foster homes located outside the boundaries of any Indian
19 reservation or tribal service area as defined in section 43-1503. The
20 department shall, in consultation with the Commission on Indian and
21 Multicultural Affairs, develop appropriate standards for the
22 licensing of such foster homes. Such standards shall comply with the
23 federal Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq., the
24 Nebraska Indian Child Welfare Act, and all other applicable federal
25 and state laws.

1 Sec. 4. Section 81-2509, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 81-2509 For purposes of sections 81-2509 to 81-2515:

4 (1) Census-designated place means a concentration of
5 population identified by the United States Department of Commerce,
6 Bureau of the Census, that lacks a separate municipal government but
7 otherwise physically resembles an incorporated city or village, that
8 is associated with an Indian reservation, and that is in a county
9 with fewer than six thousand four hundred inhabitants according to
10 the most recent federal decennial census;

11 (2) Commission means the Commission on Indian and
12 Multicultural Affairs;

13 (3) Indian reservation means a tract of land set apart by
14 the federal government for the use of the Native American people; and

15 (4) Political subdivision means a city, village, or
16 county within a thirty-mile radius of a census-designated place or a
17 tribal government that owns land within such thirty-mile radius.

18 Sec. 5. Section 82-504, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 82-504 (1) There is hereby established the State
21 Archaeology Office which shall be a division within the Nebraska
22 State Historical Society. The purpose of the office shall be to
23 coordinate and encourage appropriate archaeological undertakings and
24 to preserve archaeological resources. The State Archaeology Office
25 may adopt and promulgate rules and regulations to carry out the

1 purposes of the Nebraska Archaeological Resources Preservation Act.

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

8 (3) The State Archaeology Office may:

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

11 (b) Support popular and avocational interest in
12 archaeological resources through field trips, demonstrations,
13 seminars, and excavations throughout the state;

14 (c) Conduct a program of locating, identifying,
15 quantifying, and assessing the significance of the state's
16 archaeological resources;

17 (d) Maintain the master archaeological site file;

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

22 (f) Serve as the liaison office in transactions dealing
23 with archaeological resources between state agencies and between the
24 state and the federal government;

25 (g) Cooperate with state agencies and others in

1 overseeing the execution of undertakings required by the act;

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

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

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

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

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

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

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

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

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

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

5 Sec. 6. Section 84-104.08, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 84-104.08 (1) The Governor shall, prior to the fourth
8 Monday in September of each year, issue a proclamation inviting and
9 urging the people of the State of Nebraska to observe American Indian
10 Day with suitable ceremony and fellowship.

11 (2) The State Department of Education and the Commission
12 on Indian and Multicultural Affairs shall, ~~make,~~ within the limits of
13 funds available for such purpose, make information available to all
14 people of this state regarding American Indian Day and the observance
15 thereof.

16 Sec. 7. (1) There is hereby established the Commission on
17 Indian and Multicultural Affairs. For purposes of sections 7 to 14 of
18 this act, commission means the Commission on Indian and Multicultural
19 Affairs.

20 (2) The commission shall consist of ten members appointed
21 by the Governor. Six of the members shall be enrolled tribal members
22 of a federally recognized Indian tribe residing within Nebraska and
23 from the following categories: One from the Omaha Tribe reservation;
24 one from the Winnebago Tribe reservation; one from the Santee Tribe
25 reservation; one from the Ponca Tribe of Nebraska; and two members at

1 large. Three of the remaining four members shall be appointed so that
2 one member represents each of the three most populous census
3 categories based on race or national origin as determined by the most
4 recent federal decennial census, except that such members shall not
5 represent the census category of White or American Indian. The final
6 member of the commission shall be an at-large member. The commission
7 shall elect one of its members as chairperson. Members of the
8 commission shall serve four-year terms or for the unexpired term in
9 the event of a vacancy, except that when making the initial
10 appointments of members, one-half of the members shall serve two-year
11 terms and one-half of the members shall serve four-year terms.

12 (3) Nominations for members representing the Omaha Tribe
13 reservation, the Winnebago Tribe reservation, and the Santee Tribe
14 reservation shall be submitted to the Governor by the respective
15 tribal councils. Each tribal council shall submit at least three
16 names for nomination.

17 (4) Nominations for appointment of members to represent
18 the Ponca Tribe of Nebraska shall be made and submitted to the
19 Governor by the Tribal Council of the tribe. The Tribal Council shall
20 submit at least three names for nomination.

21 (5) Nominations for appointment of the tribal members at
22 large shall be governed by rules and regulations established by the
23 commission to insure adequate representation for those Nebraska
24 residents of American Indian ancestry not otherwise represented on
25 the commission.

1 (6) Appointments for unexpired terms shall follow the
2 same procedure as for initial and subsequent appointments. Voting
3 members shall be eligible for reappointment.

4 Sec. 8. The purpose of the commission shall be to join
5 representatives of Indian and other multicultural communities in
6 Nebraska to do all things which it may determine to enhance the cause
7 of such groups and to develop solutions to problems common to all
8 minority populations in Nebraska.

9 Sec. 9. The commission shall be a legal entity with the
10 power to receive and administer funds from state, federal, tribal,
11 and other sources and to employ and fix the compensation of an
12 executive director of its own choosing. The commission shall provide
13 an office for the executive director.

14 Sec. 10. The commission shall:

15 (1) Promote state and federal legislation beneficial to
16 the Indian and multicultural communities in Nebraska;

17 (2) Coordinate existing programs relating to the Indian
18 and multicultural communities in such areas as housing, education,
19 welfare, medical and dental care, employment, economic development,
20 law and order, and related problems;

21 (3) Work with other state and federal government agencies
22 and state and federal elected officials in the development of new
23 programs in areas mentioned under subdivision (2) of this section;

24 (4) Keep the Governor's office apprised of the situation
25 in the Indian and multicultural communities;

1 (5) Administer sections 81-2509 to 81-2515; and
2 (6) Provide the public with information and education
3 relevant to Indian and multicultural affairs in Nebraska.

4 Sec. 11. The commission may participate in alcohol
5 rehabilitation programs with any nonprofit organization.

6 Sec. 12. The members of the commission shall receive
7 reimbursement for any actual and necessary expenses as provided in
8 sections 81-1174 to 81-1177.

9 Sec. 13. (1) The commission shall meet at least once
10 every calendar quarter. Meetings shall be held on the first Friday of
11 January, April, July, and October, except that no meeting is required
12 to be held on July 1, 2011. If such day is a holiday or if the
13 commission is prevented from meeting on such day, the meeting shall
14 be held on the following Friday. Special meetings may be called at
15 the request of six members. Six members of the commission shall
16 constitute a quorum for the transaction of business.

17 (2) Any member of the commission who, without a valid
18 excuse, fails to attend quarterly or special meetings shall be
19 terminated as a member of the commission, and a successor shall be
20 appointed to complete the term of office.

21 Sec. 14. (1) For purposes of administration of the
22 commission during the interim between its regular quarterly meetings,
23 there is hereby established an executive board of the commission. The
24 executive board shall consist of four members, including the
25 chairperson of the commission and members who represent at least two

1 ethnic or racial groups that are different than that of the
2 chairperson.

3 (2) The executive board shall have the authority to enter
4 into contracts for consultation services, supplies, and equipment, if
5 the amount contracted for does not exceed the sum of two thousand
6 dollars in any one contract, and to supervise all programs instituted
7 and authorized by the commission.

8 Sec. 15. On the operative date of this act, or as soon
9 thereafter as is practicable, the State Treasurer shall transfer any
10 money remaining in the Commission on Latino-Americans Cash Fund to
11 the General Fund.

12 Sec. 16. This act becomes operative on July 1, 2011.

13 Sec. 17. Original sections 12-1208, 71-1906.01, 82-504,
14 and 84-104.08, Reissue Revised Statutes of Nebraska, and sections
15 20-506 and 81-2509, Revised Statutes Cumulative Supplement, 2010, are
16 repealed.

17 Sec. 18. The following sections are outright repealed:
18 Sections 81-8,263, 81-8,264, 81-8,266, 81-8,267, 81-8,268, 81-8,269,
19 81-8,271, 81-2501, 81-2502, 81-2503, 81-2505, 81-2506, 81-2507, and
20 81-2508, Reissue Revised Statutes of Nebraska, and sections 81-8,262,
21 81-8,265, 81-8,270, 81-8,271.01, and 81-2504, Revised Statutes
22 Cumulative Supplement, 2010.

23 Sec. 19. Since an emergency exists, this act takes effect
24 when passed and approved according to law.