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April 15, 2024

House State Government Finance & Policy Committee

3431 Amendment to 138.664 needed after House vote on HF3508 in Session on April 15; reconsider cemetery policy restriction addition.

Dear House Committee Members,

The 2024 Land's bill, HF3508, was passed by the House earlier today, April 15. At House Ways & Means last week, there was an Author's Amendment affecting State Government Policy that was not heard in committee in any committee in this or the 2023 session. HF3508 passed as amended.

Please add provision to HF 3431 that provides proper and full reflection of the amendment and floor vote.

Amendment to be included in HF3431:

At line 38.27 after "Sec. 37. Minnesota Statutes 2022, section 138.664, is amended to read:
Subd. 116. Upper Sioux Agency. Upper Sioux Agency; Yellow Medicine County." Renumber accordingly.

This amendment reflects the change in operations of the Upper Sioux Agency Historic Site that was included in the Governor's transfer of the Upper Sioux Agency State Park. HF3508 removed the historic site altogether from statute. The above amendment acknowledges the removal of the historic site from MN Historical Society and State operations and moves it to the proper chapter of historic listings in the State that are not operated by the State or MNHS. Included in 138.664 are several sites that remain on private land and are not open to the public.

138.664 is defined in 138.663 as:

Subd. 1 Policy. The land and water areas in section 138.664 comprise the state register of historic places. In the effort to preserve the historical values of the state, outstanding importance possessing historical, architectural, archaeological, and aesthetic values are of paramount importance in the development of the state; in the face of ever increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, it is important to inventory historical values. It is in the public interest to provide a register of these historic properties which represent and reflect elements of the state's cultural, social, economic, religious, political, architectural, and aesthetic heritage. The properties in section 138.664 are not operated by the Minnesota Historical Society for historical interpretive or public use and access purposes.

Subd. 2 Selection criteria. Historic properties selected for inclusion in the state register of historic places are based on the following criteria:

- (1) the quality of significance in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association;
- (2) association with events that have made a significant contribution to the broad patterns of our history;
- (3) association with the lives of persons significant in our past;
- (4) embodiment of the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (5) the yielding or likelihood of yielding information pertinent in prehistory or history.

This is a very clear and straight forward amendment that completes the removal of Upper Sioux Agency Historic Site with proper relocation to the chapter that identifies historic sites that are not operated by the MN Historical Society. The amendment makes no additions to the history of the area, reasons as already defined when the site was added to the State Register and National Register of Historic Places.

Secondly, I renew my concern regarding addition to Cemetery statute 307.08 that puts a single government entity open only to appointment based on race that determines the professionals the state may use when there is a possibility that American Indian remains may be found. In my opinion this will greatly limit the professionals qualified to perform neutral and scholarly determinations from the outset and lead to misidentification of remains based on race. The addition to cemetery statute is currently included in Article 2 Section 43 at line 41.18 in the DE4 Amendment. My letter presented to the committee this session is also attached for your review. The Administrator refused to include it in committee materials as it did not arrive prior to testimony deadline; it was hand delivered by myself to committee.

Thank you,
Stephanie Chappell
Federal Signatory/Consultant to Historic Fort Snelling Section 106 Process under the National Historic Preservation Act of 1966.

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February 14, 2024

House State and Local Government Finance and Policy Committee

Dear Chair Klevorn and Members,

HF3431, in part, adds language to Statute 307.08 addressing human remains. I oppose this language as it limits State offices that must retain authority to choose the most qualified professionals until investigation confirms identity and initiates federal involvement.

HF3431 amends 2023 legislation to statute 307.08 by adding language (introduction HF3431 Section 4. MN Statutes Supplement, section 307.08, subdivision 3a):

If probable American Indian cemeteries are to be disturbed or probable American Indian remains analyzed, the Indian Affairs Council must approve the professional archaeologist, qualified anthropologist, or other appropriate expert.

Requiring approval from the MN Indian Affairs Council removes State employee judgement and best practices. The State would also be without remedy for licensed professionals who are banned for scientific discoveries or reports that do not coincide with Indigenous claims.

The proposed language does not define “probable” and creates controversy.

This amendment removes State protection and control to investigate discoveries of mass violence victim graves; victims of Euro-American and biracial (European and Indigenous) descent who were killed between 1862 and 1865 in several counties: Blue Earth, Brown, Clay, Cottonwood, Douglas, Grant, Jackson, Kandiyohi, Lac Qui Parle, McLeod, Meeker, Murray, Nicollet, Ottertail, Pope, Redwood, Renville, Stearns, Swift, Watonwan, Wilkin, Wright, Yellow Medicine.

No Minnesota law protects non-Indigenous mass violence victim remains. An estimated 400 individuals are still unaccounted for as a result of the 1862 Massacre and War. Their remains have not been discovered.

Thank you,

Stephanie Chappell