

Amendment No. 309

Senate Amendment to Senate Bill No. 244	(BDR 33-515)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

HAC/BJE



Date: 4/21/2017

S.B. No. 244—Revises provisions relating to historic preservation. (BDR 33-515)



SENATE BILL NO. 244—SENATORS RATTI, CANNIZZARO, FORD; AND GOICOECHEA

MARCH 7, 2017

JOINT SPONSOR: ASSEMBLYWOMAN SWANK

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to historic preservation. (BDR 33-515)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to historic preservation; providing notice and consultation with Indian tribes with regard to native Indian human remains and other cultural items under certain circumstances; requiring the Museum Director of the Nevada State Museum and the Office of Historic Preservation of the State Department of Conservation and Natural Resources to adopt regulations concerning the process for repatriation of such human remains and other cultural items; revising the membership of certain related boards and commissions; increasing the penalties for the defacement of prehistoric sites, historic sites and Indian burial sites; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the preservation of historic sites and prehistoric sites. Pursuant to these provisions a permit is generally required to investigate, explore or excavate a historic site or prehistoric site on federal or state lands or to remove any object from such a site. (NRS 381.197) For the purposes of these provisions, existing law provides that a "historic site": (1) dates from the middle of the 18th century until 50 years before the current year; and (2) is a site, landmark or monument of historical significance that pertains to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials. Existing law further provides that a "prehistoric site": (1) dates from before the middle of the 18th century; and (2) is any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe. (NRS 381.195)

Section 6 of this bill prohibits, with limited exceptions, a person from knowingly ~~investigating, exploring or~~ excavating a ~~(historic or)~~ prehistoric site on private lands located in this State unless the person first obtains a permit from the Museum Director of the Nevada State Museum. **Section 6** requires the Museum Director to adopt regulations governing the procedures for obtaining such a permit.

Sections 5 and 26 of this bill require both the Museum Director of the Nevada State Museum and the Office of Historic Preservation of the State Department of Conservation and

Natural Resources to adopt regulations that set forth the process for repatriation of native Indian human remains and other cultural items falling within the purview of each state agency.

Sections 10, 16 and 22 of this bill require native Indian human remains or other cultural items to be returned to the closest culturally affiliated Indian tribe in accordance with the repatriation process if the human remains or other cultural items were: (1) deemed abandoned by the institution that held the property; (2) found or discovered pursuant to a permit to investigate, explore or excavate historic or prehistoric sites; or (3) seized by law enforcement officers as taken or collected on historic or prehistoric sites without a permit.

Sections 15, 17-19 and 22 of this bill require the Museum Director to provide notice and consultation with the applicable Indian tribes throughout the permitting process with regard to a permit to investigate, explore or excavate historic or prehistoric sites, including, without limitation, before: (1) granting a permit; (2) renewing a permit; and (3) placing a limitation on the period or location for which the permit is issued.

~~Existing law authorizes an Indian tribe or an enrolled member of an Indian tribe to bring a civil action for an injunction, damages suffered and, under certain circumstances, attorney's fees for a violation of certain provisions governing the protection of Indian burial sites. (NRS 383.100) Section 25 of this bill expands the violations for which such a civil action can be brought to include violations of provisions governing the preservation and protection of historic and prehistoric sites.~~

Section 29 of this bill requires the Administrator of the Office to include the process of repatriation of native Indian cultural items in the comprehensive statewide historic preservation plan which the Administrator is required to prepare pursuant to existing law.

Section 33 of this bill revises the procedure that is required to take place upon the discovery of an Indian burial site on private or public land.

Sections 34 and 37 of this bill increase the penalties for: (1) the willful defacement of a native Indian cairn or grave to \$2,000 for the first offense and \$4,500 for the second or subsequent offense; and (2) the knowing and willful defacement of a historic or prehistoric site or the trafficking of cultural property obtained from state land without a permit to \$1,000 for a first offense and \$3,500 for a second or subsequent offense.

Sections 8 and 38 of this bill expand the membership of both the Board of Museums and History and the Commission for Cultural Centers and Historic Preservation to include a member on the Board and on the Commission who is an enrolled member of a Nevada Indian tribe.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 381 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. *In providing notice and consultation with Indian tribes as required by this chapter, the museum director of an institution shall immediately notify, in writing, and initiate consultation with any Indian tribe:*

(a) Who is or is likely to be culturally affiliated with the applicable cultural item or site;

(b) On whose aboriginal lands the applicable cultural item was discovered or the site was located; and

(c) Who is reasonably known to have a direct cultural relationship to the applicable cultural item or site.

2. *The written notice must include a proposed time and place for the consultation with the museum director.*

Sec. 3. *The museum director of an institution shall use the criteria for determining cultural affiliation set forth in 43 C.F.R. § 10.14 to determine which Indian tribe has the closest cultural affiliation, if any, with regard to a particular cultural item or site.*

1 Sec. 4. *To be deemed an object of cultural significance, an object must*
2 *have ongoing historical, traditional or cultural importance central to an Indian*
3 *tribe or culture itself, rather than property owned by a member of an Indian tribe,*
4 *and which, therefore, cannot be alienated, appropriated or conveyed by any*
5 *person, regardless of whether the person is a member of the Indian tribe. The*
6 *object must have been considered inalienable by the Indian tribe at the time the*
7 *object was separated from such group.*

8 Sec. 5. 1. *The Museum Director of the Nevada State Museum shall adopt*
9 *regulations as necessary to carry out the provisions of sections 2 to 5, inclusive,*
10 *of this act and NRS 381.195 to 381.227, inclusive, and section 6 of this act,*
11 *including, without limitation, regulations which set forth the process for*
12 *repatriation of native Indian human remains and other cultural items.*

13 2. *Any regulations adopted pursuant to this section must be developed in*
14 *consultation with Indian tribes and incorporate the values, beliefs and traditions*
15 *of the Indian tribes as determined and conveyed by the members of the Indian*
16 *tribes during the consultation with the Museum Director.*

17 Sec. 6. 1. ~~1-4~~ Except as otherwise provided in subsection 2, a person shall
18 not knowingly investigate, explore or excavate a ~~historic or~~ prehistoric site on
19 private lands located within this State unless the person first obtains a permit
20 issued by the Museum Director.

21 2. A person who is engaging in a lawful activity on private lands, including,
22 without limitation, construction, mining, logging or farming is not required to
23 obtain a permit pursuant to subsection 1 to engage in that lawful activity.

24 3. The Museum Director shall adopt regulations governing a permit issued
25 pursuant to subsection 1. The regulations must, without limitation:

26 (a) Set forth the process for obtaining a permit required pursuant to
27 subsection 1;

28 (b) Set forth the qualifications of an applicant for such a permit;

29 (c) Provide notice to and consult with the applicable Indian tribes
30 throughout the permitting process in the manner provided by section 2 of this act;

31 (d) Provide for the enforcement of the provisions of this section, including,
32 without limitation, the examination of the permit of a person claiming privileges
33 pursuant to this section; and

34 (e) Fully protect the constitutional rights of property owners.

35 ~~1-4~~ 4. Any regulations adopted pursuant to this section must be developed
36 in consultation with Indian tribes and incorporate the values, beliefs and
37 traditions of the Indian tribes as determined and conveyed by the members of the
38 Indian tribes during the consultation with the Museum Director.

39 Sec. 7. NRS 381.001 is hereby amended to read as follows:

40 381.001 As used in this chapter, unless the context otherwise requires:

41 1. "Administrator" means the Administrator of the Division.

42 2. "Board" means the Board of Museums and History.

43 3. "Cultural affiliation" or "culturally affiliated" means *that there is a*
44 *relationship of shared group identity that may be reasonably traced historically or*
45 *prehistorically between a present-day Indian tribe and an identifiable earlier*
46 *group which is associated with a particular object or site.*

47 4. "Cultural item" means *human remains, a funerary object, a sacred*
48 *object or an object of cultural significance.*

49 5. "Department" means the Department of Tourism and Cultural Affairs.

50 ~~1-4~~ 6. "Director" means the Director of the Department.

51 ~~1-5~~ 7. "Division" means the Division of Museums and History of the
52 Department.

~~6-1~~ 8. *“Funerary object” means an object that, as a part of the death rite or ceremony of a culture, is reasonably believed to have been placed with individual human remains either at the time of death or later.*

9. “Historic structures, buildings and other property of the Nevada State Prison” means the structures, buildings and other property described in paragraph (b) of subsection 1 of NRS 321.004.

~~7-1~~ 10. *“Indian tribe” has the meaning ascribed to it in NRS 383.011.*

11. “Institution” means an institution of the Division established pursuant to NRS 381.004.

~~8-1~~ 12. “Museum director” means the executive director of an institution of the Division appointed by the Administrator pursuant to NRS 381.0062.

13. *“Object of cultural significance” means an object which meets the qualifications of section 4 of this act.*

14. *“Sacred object” means a historic or prehistoric object that was or is needed by traditional religious leaders of an Indian tribe ~~for~~ for the practice of the traditional religion of an Indian tribe.*

Sec. 8. NRS 381.002 is hereby amended to read as follows:

381.002 1. The Board of Museums and History ~~1, consisting of eleven members, is hereby created.~~

2. *The Board consists of 12 members* appointed ~~by the Governor, is hereby created.~~

~~2-1~~ *as follows:*

(a) The Governor shall appoint to the Board:

~~(a)~~ (I) Five representatives of the general public who are knowledgeable about museums.

~~(b)~~ (2) Six members representing the fields of history, prehistoric archeology, historical archeology, architectural history, and architecture with qualifications as defined by the Secretary of Interior’s standards for historic preservation in the following fields:

~~(1)~~ (I) One member who is qualified in history;

~~(2)~~ (II) One member who is qualified in prehistoric archeology;

~~(3)~~ (III) One member who is qualified in historic archeology;

~~(4)~~ (IV) One member who is qualified in architectural history;

~~(5)~~ (V) One member who is qualified as an architect; and

~~(6)~~ (VI) One additional member who is qualified, as defined by the Secretary of Interior’s standards for historic preservation, in any of the fields of expertise described in ~~subparagraphs (1) to (5);~~ *sub-subparagraphs (I) to (V),* inclusive.

(b) *The Nevada Indian Commission, after consultation with the Inter-Tribal Council of Nevada, Inc., or its successor organization, shall appoint to the Board one member who is an enrolled member of a Nevada Indian tribe.*

3. The Board shall elect a Chair and a Vice Chair from among its members at its first meeting of every even-numbered year. The terms of the Chair and Vice Chair are 2 years or until their successors are elected.

4. With respect to the functions of the Office of Historic Preservation, the Board may develop, review and approve policy for:

(a) Matters relating to the State Historic Preservation Plan;

(b) Nominations to the National Register of Historic Places and make a determination of eligibility for listing on the Register for each property nominated; and

(c) Nominations to the State Register of Historic Places and make determination of eligibility for listing on the Register for each property nominated.

5. With respect to the functions of the Division, the Board shall develop, review and make policy for investments, budgets, expenditures and general control of the Division's private and endowed dedicated trust funds pursuant to NRS 381.003 to 381.0037, inclusive.

6. In all other matters pertaining to the Office of Historic Preservation and the Division of Museums and History, the Board serves in an advisory capacity.

7. The Board may adopt such regulations as it deems necessary to carry out its powers and duties.

Sec. 9. NRS 381.008 is hereby amended to read as follows:

381.008 ~~[When]~~

1. Except as otherwise provided in subsection 2, when not in conflict with any condition or restraint placed on a gift and with the approval of the Board, the museum director of each institution may sell duplicates, surplus and items inappropriate to the collection of the institution. The proceeds of the sale must be held in trust and may be expended only as approved by the Board for the purchase of photographs, memorabilia and other historical articles, and collections related to history, prehistory or natural history to enrich the collections of the Division.

2. Before the museum director of an institution sells or otherwise disposes of any native Indian cultural item pursuant to this section, the museum director shall provide notice to and consult with each applicable Indian tribe in accordance with section 2 of this act.

3. The museum director shall determine which Indian tribe has the closest cultural affiliation to the cultural item in accordance with section 3 of this act and shall give an opportunity to the Indian tribe in Nevada, if any, with the closest cultural affiliation to:

(a) Acquire the cultural item identified for sale or disposal; or

(b) Approve of the sale or disposal by the museum director of the cultural item, if the Indian tribe does not acquire the cultural item.

Sec. 10. NRS 381.009 is hereby amended to read as follows:

381.009 1. Any property held by an institution for 3 years or more, to which no person has made claim, shall be deemed to be abandoned and, *except as otherwise provided in subsection 4*, becomes the property of the Division if the Administrator complies with the provisions of subsection 2.

2. The Administrator shall cause to be published in at least one newspaper of general circulation in the county in which the institution is located at least once a week for 2 consecutive weeks a notice and listing of the property. The notice must contain:

(a) The name and last known address, if any, of the last known owner of the property;

(b) A description of the property; and

(c) A statement that if proof of a claim is not presented by the owner to the institution and if the owner's right to receive the property is not established to the Administrator's satisfaction within 60 days after the date of the second published notice, the property will be considered abandoned and become the property of the Division.

3. If no claim has been made to the property within 60 days after the date of the second published notice, title, including literary rights, to the property vests in the Division, free from all claims of the owner and of all persons claiming through or under the owner.

4. If property deemed to be abandoned pursuant to subsection 1 is native Indian human remains or another cultural item, the Administrator shall:

(a) Provide notice to and consult with each applicable Indian tribe in accordance with section 2 of this act;

(b) Determine which Indian tribe has the closest cultural affiliation to the human remains or other cultural item, in accordance with section 3 of this act; and

(c) Return the human remains or other cultural item to the closest culturally affiliated Indian tribe in accordance with the repatriation process adopted pursuant to section 5 of this act, if a request for repatriation is made.

Sec. 11. NRS 381.195 is hereby amended to read as follows:

381.195 As used in NRS 381.195 to 381.227, inclusive ~~H~~, *and section 6 of this act:*

1. "Historic" means from the middle of the 18th century until 50 years before the current year.

2. "Historic site" means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.

3. "Museum Director" means the Museum Director of the Nevada State Museum.

4. "Prehistoric" means before the middle of the 18th century.

5. "Prehistoric site" means any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.

Sec. 12. NRS 381.197 is hereby amended to read as follows:

381.197 Except for action taken under an agreement with the Office of Historic Preservation of the State Department of Conservation and Natural Resources pursuant to NRS 383.430, and except as otherwise provided in this section, a person shall not investigate, explore or excavate an historic or prehistoric site on federal or state lands or remove any object therefrom unless the person is the holder of a valid and current permit issued pursuant to the provisions of NRS 381.195 to 381.227, inclusive ~~H~~, *and section 6 of this act.* Conduct that would otherwise constitute a violation of this section is not a violation of this section if it is also a violation of NRS 383.435.

Sec. 13. ~~NRS 381.199 is hereby amended to read as follows:~~

~~381.199 1. An applicant is required to secure, from the Museum Director, or an agent designated by the Museum Director, a permit for the investigation, exploration or excavation of a historic or prehistoric site on any state or federal lands within the boundaries of the State of Nevada.~~

~~2. If the land to be investigated, explored or excavated is owned or held by the United States, the applicant is also required to secure a permit from the proper authorities in accordance with federal law, including, without limitation, the provisions of 16 U.S.C. §§ [431 to 433, inclusive.] 470aa et seq. and 54 U.S.C. § 320302.] (Deleted by amendment.)~~

Sec. 14. NRS 381.201 is hereby amended to read as follows:

381.201 1. The Museum Director may designate any state board, state department, division of a state department or state institution as an agent for the purpose of issuing permits. ~~[The Except as otherwise provided in subsection 4, the agency so designated may adopt regulations relating to investigations, explorations or excavations carried out pursuant to any permit issued by that agency.]~~

2. ~~[An agency so designated]~~ *If the Museum Director designates an agent pursuant to subsection 1 [shall] :*

(a) The agent must act in the manner in which the Museum Director is required to act pursuant to provisions of NRS 381.195 to 381.227, inclusive, and section 6 of this act, in the instances in which the Museum Director is required to:

~~(a) Provide notice to and consult with each applicable Indian tribe pursuant to section 2 of this act; and~~

~~(b) Determine which Indian tribe has the closest cultural affiliation to the historic or prehistoric site designated in a permit pursuant to section 3 of this act.~~

~~3. If the Museum Director is required to agree to return any native Indian human remains or other cultural item discovered to the closest culturally affiliated Indian tribe in accordance with the repatriation process adopted by the Museum Director pursuant to section 5 of this act, an agency designated pursuant to subsection 1 shall return any such human remains or other cultural item in accordance with the repatriation process adopted pursuant to subsection 4, if a request for repatriation is made.~~

~~4. An agency designated pursuant to subsection 1 shall adopt regulations which set forth the process for repatriation of native Indian human remains and other cultural items. Any such regulations must be developed in consultation with Indian tribes and incorporate the values, beliefs and traditions of the Indian tribes as determined and conveyed by the members of the Indian tribes during the consultation with the agency, and any regulations adopted pursuant thereto; and~~

(b) The Museum Director must ensure that the agent acts in the manner in which the Museum Director is required to act pursuant to provisions of NRS 381.195 to 381.227, inclusive, and section 6 of this act, and any regulations adopted pursuant thereto.

Sec. 15. NRS 381.203 is hereby amended to read as follows:

381.203 1. In order to qualify as the recipient of a permit, the applicant must show:

(a) That the investigation, exploration or excavation is undertaken for the benefit of ~~the~~:

(1) ~~A~~ reputable museum, university, college or other recognized scientific or educational institution, with a view of increasing knowledge ~~the~~; and

(2) ~~Indian tribes, to the extent that the investigation, exploration or excavation relates to Indian tribes, and is conducted in a manner that incorporates the values, beliefs and traditions of the Indian tribes.~~

(b) ~~the~~ Except as otherwise provided in subsection 2, that the gathering is made for permanent preservation in public museums or other recognized educational or scientific institutions.

(c) That the applicant possesses sufficient knowledge and scientific training to make such an investigation, exploration or excavation.

(d) The location of the site where the applicant proposes to investigate, explore or excavate.

2. Before granting a permit, the Museum Director shall:

(a) Provide notice to and consult with each applicable Indian tribe in accordance with section 2 of this act;

(b) Determine which Indian tribe has the closest cultural affiliation to the historic or prehistoric site in accordance with section 3 of this act; and

(c) Agree to return any native Indian human remains or other cultural item discovered to the closest culturally affiliated Indian tribe in accordance with the repatriation process adopted pursuant to section 5 of this act, if a request for repatriation is made.

3. The Museum Director may prescribe reasonable regulations for carrying out such investigations, explorations or excavations.

Sec. 16. NRS 381.207 is hereby amended to read as follows:

381.207 1. The holder of a permit, except as otherwise provided in subsections 2 and 3, who does work upon aboriginal mounds and earthworks, ancient burial grounds, prehistoric sites, deposits of fossil bones or other

1 archeological and vertebrate paleontological features within the State shall give to
2 the State 50 percent of all articles, implements and materials found or discovered ~~+~~
3 *of which the holder retained possession after completion of the process set forth*
4 *in subsection 4*, to be deposited with the Nevada State Museum, for exhibition or
5 other use within the State as determined by the Museum Director. The Museum
6 Director may accept less than 50 percent of such items. Upon receipt of items
7 pursuant to this subsection, the Museum Director shall notify the Office of Historic
8 Preservation.

9 2. The holder of a permit who does any such work within the State under the
10 authority and direction of the Nevada Historical Society, the Nevada State Museum
11 Las Vegas, or an institution or political subdivision of the State shall give 50
12 percent of all articles, implements and materials found or discovered *of which the*
13 *holder retained possession after completion of the process set forth in subsection*
14 *4*, to the Society, institution or political subdivision. The holder of the permit may
15 retain the other 50 percent.

16 3. If the Nevada Historical Society, the Nevada State Museum Las Vegas, or
17 an institution or political subdivision of the State is the holder of the permit, it may
18 retain all articles, implements and materials found or discovered ~~+~~ *of which it*
19 *retained possession after completion of the process set forth in subsection 4*.

20 4. *If any of the articles, implements or materials found or discovered are*
21 *native Indian human remains or other cultural items, the Museum Director*
22 *shall:*

23 *(a) Provide notice to and consult with each applicable Indian tribe in*
24 *accordance with section 2 of this act;*

25 *(b) Determine which Indian tribe has the closest cultural affiliation to the*
26 *historic or prehistoric site in accordance with section 3 of this act; and*

27 *(c) Return any native Indian human remains or other cultural item*
28 *discovered to the closest culturally affiliated Indian tribe in accordance with the*
29 *repatriation process adopted pursuant to section 5 of this act, if a request for*
30 *repatriation is made.*

31 5. Whenever the Office of Historic Preservation acquires articles, implements
32 and materials under the provisions of this section, they must be transferred to the
33 Museum Director for exhibition or other use within the State as determined by the
34 Museum Director.

35 6. *If any native Indian cultural items found or discovered by the holder of a*
36 *permit are exhibited within this State pursuant to this section, the items must be*
37 *exhibited respectfully, as determined in consultation with the closest culturally*
38 *affiliated Indian tribe, if any.*

39 **Sec. 17.** NRS 381.209 is hereby amended to read as follows:

40 381.209 1. The Museum Director may limit a permit as to time and
41 location. A permit may not be granted:

42 ~~1-1~~ (a) For a period of more than 1 year.

43 ~~1-2~~ (b) For investigation, exploration or excavation in a larger area than the
44 applicant can reasonably be expected to explore fully and systematically within the
45 time limit set in the permit.

46 ~~1-3~~ (c) For the removal of any ancient monument, structure or site which can
47 be permanently preserved under the control of the State of Nevada in situ, and
48 remain an object of interest, if desired by the State, for a park, landmark or
49 monument for the benefit of the public.

50 2. *Before limiting a permit as to time and location, the Museum Director*
51 *shall provide notice to and consult with each applicable Indian tribe in*
52 *accordance with section 2 of this act.*

1 **Sec. 18.** NRS 381.211 is hereby amended to read as follows:

2 381.211 *1.* A permit may be renewed for an additional period of time upon
3 application by the permit holder, if the work contemplated by the permit has been
4 diligently prosecuted.

5 *2. Before renewing a permit, the Museum Director shall:*

6 *(a) Provide notice to and consult with each applicable Indian tribe in*
7 *accordance with section 2 of this act;*

8 *(b) Determine which Indian tribe has the closest cultural affiliation to the*
9 *historic or prehistoric site in accordance with section 3 of this act; and*

10 *(c) Agree to return any native Indian human remains or other cultural item*
11 *discovered to the closest culturally affiliated Indian tribe in accordance with the*
12 *repatriation process adopted pursuant to section 5 of this act, if a request for*
13 *repatriation is made.*

14 **Sec. 19.** NRS 381.215 is hereby amended to read as follows:

15 381.215 *1.* After the close of each season's work, within a reasonable time
16 designated in the permit, every permit holder shall furnish to the Museum Director
17 a report containing a detailed account of the work done, material collected and
18 other pertinent data.

19 *2. Except as otherwise provided in subsection 3, if any of the work done,*
20 *material collected or other pertinent data is associated with native Indians, the*
21 *Museum Director shall:*

22 *(a) Provide notice to and consult with each applicable Indian tribe in*
23 *accordance with section 2 of this act;*

24 *(b) Determine which Indian tribe has the closest cultural affiliation to the*
25 *work done, material collected or other pertinent data in accordance with section 3*
26 *of this act; and*

27 *(c) Furnish the report described in subsection 1 to the closest culturally*
28 *affiliated Indian tribe, if any.*

29 *3. The Museum Director is not required to comply with the provisions of*
30 *paragraph (a) of subsection 2 if the Museum Director has already obtained the*
31 *information necessary to make the determination required pursuant to paragraph*
32 *(b) of subsection 2 through the permit process set forth in NRS 381.195 to*
33 *381.227, inclusive, and section 6 of this act.*

34 **Sec. 20.** NRS 381.219 is hereby amended to read as follows:

35 381.219 Nothing contained in NRS 381.195 to 381.227, inclusive, *and*
36 *section 6 of this act* shall interfere with or prevent any person from collecting
37 minerals, rocks or gems, ~~arrowheads or other Indian artifacts~~ so long as they are
38 not part of a prehistoric site, nor prevent the photographing of objects of interest.

39 **Sec. 21.** NRS 381.221 is hereby amended to read as follows:

40 381.221 The Division of State Parks of the State Department of Conservation
41 and Natural Resources, and personnel thereof, the sheriffs in their respective
42 counties, the Nevada Highway Patrol, and all other peace officers shall be charged
43 with the enforcement of NRS 381.195 to 381.227, inclusive ~~1~~, *and section 6 of*
44 *this act.* Those persons charged with the enforcement of NRS 381.195 to 381.227,
45 inclusive, *and section 6 of this act* may ~~1, at~~ :

46 *1. At* any time, examine the permit of any person claiming privileges granted
47 under NRS ~~381.195 to 381.227, inclusive, 381.197~~ and may fully examine all
48 work done under the permit ~~1~~; *and*

49 *2. Examine the permit of a person claiming privileges under a permit issued*
50 *pursuant to section 6 of this act in the manner set forth in the regulations*
51 *adopted pursuant to that section.*

1 **Sec. 22.** NRS 381.223 is hereby amended to read as follows:

2 381.223 *1. Any object of antiquity taken, or collection made, on historic or*
3 *prehistoric sites covered by NRS ~~381.195 to 381.227, inclusive,~~ 381.197 without*
4 *a permit must be seized by the proper law enforcement officers, who shall notify*
5 *the Museum Director of the action ~~1. The object or collection so taken must be~~*
6 *~~forfeited to the State for exhibition or other use within the State as determined by~~*
7 *~~the Museum Director,~~ and deposit the object or collection with the Museum*
8 *Director for safekeeping. Upon receipt of any ~~forfeited~~ item seized pursuant to*
9 *this section the Museum Director shall notify the Office of Historic Preservation.*
10 *Except as otherwise provided in subsection 2, any object or collection so taken*
11 *must be forfeited to the State for exhibition or other use within the State as*
12 *determined by the Museum Director.*

13 *2. If an object of antiquity or collection seized pursuant to subsection 1 is*
14 *native Indian human remains or another cultural item, the Museum Director*
15 *shall:*

16 *(a) Provide notice to and consult with each applicable Indian tribe in*
17 *accordance with section 2 of this act;*

18 *(b) Determine which Indian tribe has the closest cultural affiliation to the*
19 *human remains or other cultural item, in accordance with section 3 of this act;*
20 *and*

21 *(c) Return the human remains or other cultural items to the closest*
22 *culturally affiliated Indian tribe in accordance with the repatriation process*
23 *adopted pursuant to section 5 of this act, if a request for repatriation is made.*

24 **Sec. 23.** NRS 381.227 is hereby amended to read as follows:

25 381.227 Unless a greater penalty is provided by a specific statute and except
26 as otherwise provided in NRS 381.225, any person violating any of the provisions
27 of NRS 381.195 to 381.227, inclusive, *and section 6 of this act* is guilty of a
28 misdemeanor.

29 **Sec. 24.** Chapter 383 of NRS is hereby amended by adding thereto the
30 provisions set forth as sections 25 and 26 of this act.

31 **Sec. 25.** *The Office shall use the criteria for determining cultural*
32 *affiliation set forth in 43 C.F.R. § 10.14 to determine which Indian tribe has the*
33 *closest cultural affiliation, if any, with regard to a particular cultural item or site.*

34 **Sec. 26.** *The Office shall adopt regulations as necessary to carry out the*
35 *provisions of this section and section 25 of this act and NRS 383.150 to 383.440,*
36 *inclusive, including, without limitation, regulations which set forth the process*
37 *for repatriation of native Indian human remains and other cultural items. The*
38 *regulations must be developed in consultation with Indian tribes and incorporate*
39 *the values, beliefs and traditions of the Indian tribes as determined and conveyed*
40 *by the members of the Indian tribes during the consultation with the Office.*

41 **Sec. 27.** NRS 383.011 is hereby amended to read as follows:

42 383.011 As used in this chapter, unless the context otherwise requires:

43 1. "Administrator" means the Administrator of the Office.

44 2. "Advisory Board" means the Board of Museums and History.

45 3. "Commission" means the Commission for Cultural Centers and Historic
46 Preservation created by NRS 383.500.

47 4. "Cultural affiliation" *has the meaning ascribed to it in NRS 381.001.*

48 5. "Cultural items" *has the meaning ascribed to it in NRS 381.001.*

49 6. "Cultural resources" means any objects, sites or information of historic,
50 prehistoric, archeological, architectural or paleontological significance.

51 ~~5.~~ 7. "Department" means the State Department of Conservation and
52 Natural Resources.

53 ~~6.~~ 8. "Director" means the Director of the Department.

~~7-9~~ 9. "Office" means the Office of Historic Preservation of the Department.

10. "Historic" has the meaning ascribed to it in NRS 381.195.

11. "Indian tribe" means any tribe, band, nation or other organized group or community of Indians which is recognized as eligible for the special programs and services provided by the United States to native Indians because of their status as native Indians.

12. "Prehistoric" has the meaning ascribed to it in NRS 381.195.

Sec. 28. NRS 383.021 is hereby amended to read as follows:

383.021 1. The Office of Historic Preservation is hereby created.

2. The Office shall:

(a) Encourage, plan and coordinate historic preservation and archeological activities within the State, including programs to survey, record, study and preserve or salvage cultural resources.

(b) *Carry out the provisions of sections 25 and 26 of this act.*

(c) Compile and maintain an inventory of cultural resources in Nevada deemed significant by the Administrator.

~~(d)~~ (d) Designate repositories for the materials that comprise the inventory.

~~(e)~~ (e) Provide staff assistance to the Commission.

3. *An Indian tribe may be designated as a repository to receive cultural items pursuant to paragraph (d) of subsection 2 if agreed to by the Indian tribe.*

4. The Comstock Historic District Commission is within the Office.

Sec. 29. NRS 383.081 is hereby amended to read as follows:

383.081 1. The Administrator shall prepare and maintain a comprehensive statewide historic preservation plan. The plan must contain:

(a) *The process of repatriation of cultural items adopted by regulation pursuant to section 26 of this act;*

(b) An evaluation of the needs for preservation of historic sites;

~~(b)~~ (c) A program for carrying out the plan; and

~~(c)~~ (d) Other information which the Administrator determines to be necessary.

2. The plan must:

(a) Take into account relevant federal resources and programs; and

(b) Be correlated insofar as practicable with other state, *tribal*, regional and local plans.

3. The Administrator, subject to approval by the Director, may represent and act for the State in dealing with the Federal Government or any of its agencies, instrumentalities or officers for the purposes of receiving financial assistance for planning, acquisition or development of historic preservation projects pursuant to the provisions of federal law.

4. The Administrator, subject to approval by the Director, may administer and disburse to other state agencies, political subdivisions, eleemosynary organizations, nonprofit organizations and private persons and enterprises money paid by the Federal Government to the State of Nevada as financial assistance for planning, acquisition or development of historic preservation projects, and the Administrator shall, on behalf of the State, keep such records as the Federal Government prescribes and as will facilitate an effective audit, including records which fully disclose:

(a) The amount and the disposition by the State of the proceeds of that assistance;

(b) The total cost of the project or undertaking in connection with such assistance as given or used; and

(c) The amount and nature of that portion of the cost of the project or undertaking supplied by other sources.

5. Authorized representatives of the Federal Government have access for the purpose of audit and examination to any books, documents, papers and records of the State that are pertinent to financial assistance received by the State pursuant to federal law for planning, acquisition or development of historic preservation projects.

Sec. 30. NRS 383.121 is hereby amended to read as follows:

383.121 1. All departments, commissions, boards and other agencies of the State and its political subdivisions shall cooperate with the Office in order to salvage or preserve historic, prehistoric or paleoenvironmental evidence located on property owned or controlled by the United States, the State of Nevada or its political subdivisions. *The Office shall consult and cooperate with Indian tribes in order to salvage or preserve such historic, prehistoric or paleoenvironmental evidence.*

2. ~~When~~ *Except as otherwise provided in subsection 7, when* any agency of the State or its political subdivisions is preparing or has contracted to excavate or perform work of any kind on property owned or controlled by the United States, the State of Nevada or its political subdivisions which may endanger historic, prehistoric or paleoenvironmental evidence found on the property, or when any artifact, site or other historic or prehistoric evidence is discovered in the course of such excavation or work, the agency or the contractor hired by the agency shall notify the Office and cooperate with the Office to the fullest extent practicable, within the appropriations available to the agency or political subdivision for that purpose, to preserve or permit study of such evidence before its destruction, displacement or removal.

3. *Upon receiving notice pursuant to subsection 2 of the potential endangerment of or the discovery of historic, prehistoric or paleoenvironmental evidence, the Office shall immediately notify, in writing, and initiate consultation with any Indian tribe:*

(a) *Who is or is likely to be culturally affiliated with the historic, prehistoric or paleoenvironmental evidence;*

(b) *On whose aboriginal lands the historic, prehistoric or paleoenvironmental evidence was discovered; and*

(c) *Who is reasonably known to have a direct cultural relationship to the historic, prehistoric or paleoenvironmental evidence.*

4. *The written notice must include a proposed time and place for the consultation with the Office.*

5. *Within 10 days after the notice is given by the Office, the Office shall, in consultation with the Indian tribe which has the closest cultural affiliation to the historic, prehistoric or paleoenvironmental evidence as determined by the Office in accordance with section 25 of this act, develop a treatment plan for the affected property that is:*

(a) *Consistent with the standard of preservation described in the Secretary of the Interior's standards for the treatment of historic properties as set forth in 36 C.F. R. § 68.3; and*

(b) *Approved by the closest culturally affiliated Indian tribe before any such excavation or work may be resumed.*

6. The provisions of this section must be made known to all private contractors performing such excavation or work for any agency of the State or its political subdivisions.

7. *The requirements set forth in NRS 383.150 to 383.180, inclusive, apply if an Indian burial site, as defined in NRS 383.150, is disturbed.*

1 **Sec. 31.** NRS 383.150 is hereby amended to read as follows:
2 383.150 As used in NRS 383.150 to 383.190, inclusive, unless the context
3 otherwise requires:

4 1. “Cairn” means stones or other material placed in a pile as a memorial or
5 monument to the dead.

6 2. *“Funerary object” has the meaning ascribed to it in NRS 381.001.*

7 3. “Grave” means an excavation for burial of a human body.

8 ~~3.4~~ 4. “Indian burial site” means the area including and immediately
9 surrounding the cairn or grave of a native Indian.

10 ~~4. “Indian tribe” means a Nevada Indian tribe recognized by the Secretary of~~
11 ~~the Interior.~~

12 5. *“Nondestructive analysis” means analysis performed using scientific or*
13 *technological techniques to evaluate the properties of a material, component or*
14 *system without causing damage.*

15 6. “Professional archeologist” means a person who holds a graduate degree in
16 archeology, anthropology or a closely related field as determined by the
17 Administrator.

18 **Sec. 32.** NRS 383.160 is hereby amended to read as follows:

19 383.160 The Office shall:

20 1. Upon application by:

21 (a) An interested landowner, assist the landowner in ~~negotiating an agreement~~
22 ~~with an Indian tribe for~~ *contacting the Indian tribe which has the closest cultural*
23 *affiliation to an Indian burial site and any artifacts and human remains*
24 *associated with the site so that the landowner may directly consult with the*
25 *Indian tribe, if any, concerning* the treatment and disposition of ~~an~~ *the* Indian
26 burial site and any artifacts and human remains associated with the site; and

27 (b) Either party, mediate a dispute arising between a landowner and an Indian
28 tribe relating to the treatment and disposition of an Indian burial site and any
29 artifacts and human remains associated with the site.

30 2. In performing its duties pursuant to NRS 383.150 to 383.190, inclusive,
31 endeavor to:

32 (a) Protect Indian burial sites and any associated artifacts and human remains
33 from *excavation*, vandalism and destruction; and

34 (b) ~~Provide~~ *In consultation with the closest culturally affiliated Indian*
35 *tribe, provide* for the sensitive treatment and disposition of Indian burial sites and
36 any associated artifacts and human remains consistent with the planned use of land.

37 3. *The Office shall determine which Indian tribe has the closest cultural*
38 *affiliation to the Indian burial site and any artifacts and human remains*
39 *associated with the site in accordance with section 25 of this act.*

40 **Sec. 33.** NRS 383.170 is hereby amended to read as follows:

41 383.170 1. *Except as otherwise provided in subsection 2:*

42 *(a)* A person who disturbs the cairn or grave of a native Indian through
43 inadvertence while engaged in a lawful activity such as construction, mining,
44 logging or farming or any other person who discovers the cairn or grave of a native
45 Indian that has not been previously reported to the Office shall immediately report
46 the discovery and the location of the Indian burial site to the Office. ~~The~~

47 ~~2. (b)~~ *Upon receiving a report pursuant to subsection 1, the* Office shall
48 immediately ~~consult with the Nevada Indian Commission and notify the~~
49 ~~appropriate~~ *notify, in writing, and initiate consultation with any* Indian tribe ~~it~~ :

50 ~~(a)~~ *(1)* *Who is or is likely to be culturally affiliated with the Indian burial*
51 *site;*

52 ~~(b)~~ *(2)* *On whose aboriginal lands the Indian burial site was discovered;*
53 *and*

~~(c)~~ (3) Who is reasonably known to have a direct cultural relationship to the Indian burial site.

~~(b)~~ (c) The written notice must include a proposed time and place for the consultation with the Office.

~~(d)~~ (d) Within 10 days after the notice is given by the Office, the landowner shall consult with the Indian tribe which has the closest cultural affiliation to the Indian burial site, as determined by the Office, concerning the treatment and disposition of the site and all artifacts and human remains associated with the site. The Indian tribe may, with the permission of the landowner, inspect the site. ~~and~~ Within 10 days after the inspection, the Indian tribe may recommend an appropriate means for the treatment and disposition of the site and all artifacts and human remains associated with the site.

~~(2)~~ Those recommendations may include, without limitation, that any human remains or artifacts associated with the site are:

~~(1)~~ (1) Preserved in place;

~~(2)~~ (2) Reinterred at another location that is determined in consultation with the Indian tribe which has the closest cultural affiliation to the human remains or artifacts associated with the site; or

~~(3)~~ (3) Returned to the closest culturally affiliated Indian tribe, in accordance with the repatriation process adopted pursuant to section 26 of this act, if a request for repatriation is made.

Within 10 days after receiving the recommendations for the treatment and disposition of the site and all artifacts and human remains associated with the site, the landowner may appeal the recommendations to the Office.

~~(5)~~ (e) If the Indian burial site is located on private land and:

~~(1)~~ (1) The Office fails to identify the closest culturally affiliated Indian tribe or the closest culturally affiliated Indian tribe fails to ~~make a recommendation within 48 hours~~ consult with the landowner after it receives notification pursuant to ~~subsection 1; 2~~ paragraph (b); or

~~(2)~~ (2) The landowner rejects the recommendation made pursuant to ~~subsection 4~~ paragraph (d) and mediation conducted pursuant to NRS 383.160 fails to provide measures acceptable to the landowner,

the landowner shall, at his or her own expense, reinter with appropriate dignity all artifacts and human remains associated with the site in a location not subject to further disturbance.

~~3-6~~ (f) If the Indian burial site is located on public land and action is necessary to protect the burial site from immediate destruction, the Office may cause a professional archeologist to excavate the site and remove all artifacts and human remains associated with the site for subsequent reinterment, ~~following scientific study~~ under the supervision of the closest culturally affiliated Indian tribe ~~;~~

~~4~~, if any.

~~(7)~~ (g) Any other excavation of an Indian burial site may be conducted only:

~~(1)~~ (1) By a professional archeologist;

~~(2)~~ (2) After written notification to the Administrator; and

~~(3)~~ (3) With the prior written consent of the ~~appropriate~~ closest culturally affiliated Indian tribe ~~;~~, if any. Failure of ~~an~~ an Indian tribe to respond to a request for permission within 60 days after its mailing by certified mail, return receipt requested, shall be deemed consent to the excavation.

All artifacts and human remains removed during such an excavation must ~~following scientific study~~ be reinterred under the supervision of the closest culturally affiliated Indian tribe, if any, except that the Indian tribe may, by explicit written consent, authorize the public display of a particular artifact ~~if the public~~

display is respectful, as determined in consultation with the Indian tribe. The archeologist, *closest culturally affiliated* Indian tribe, *if any*, and landowner shall negotiate an agreement to determine who will pay the expenses related to the interment.

~~10-1~~ *(h) The Office shall determine which Indian tribe has the closest cultural affiliation to an Indian burial site and all artifacts and human remains associated with the site in accordance with section 25 of this act.*

~~10-1~~ *(i) Human remains or funerary objects discovered at an Indian burial site:*

~~10-1~~ *(1) Must not be subjected to scientific study; and*

~~10-1~~ *(2) Must not be separated when the human remains and funerary objects are reinterred.*

~~10-1~~ *(j) Nondestructive analysis on any other artifacts removed from an Indian burial site may be conducted only with the explicit written consent of the closest culturally affiliated Indian tribe, if any.*

2. The provisions of subsection 1 do not apply if the person who disturbed the cairn or grave of a native Indian through inadvertence while engaged in a lawful activity is subject to an existing agreement with the closest culturally affiliated Indian tribe that relates to the discovery of historic, prehistoric or paleoenvironmental evidence.

Sec. 34. NRS 383.180 is hereby amended to read as follows:

383.180 1. Except as otherwise provided in NRS 383.170, a person who willfully removes, mutilates, defaces, injures or destroys the cairn or grave of a native Indian is guilty of a gross misdemeanor and shall be ~~punished~~:

(a) Punished by a fine of ~~(\$500) \$2,000~~ for the first offense, or by a fine of not more than ~~(\$3,000) \$4,500~~ for a second or subsequent offense, and may be further punished by imprisonment in the county jail for not more than 364 days ~~H~~; and

(b) Ordered to pay for the costs to reinter with appropriate dignity all artifacts and human remains associated with the cairn or grave.

2. A person who fails to notify the Office of the discovery and location of an Indian burial site in violation of NRS 383.170 is guilty of a gross misdemeanor and shall be punished by a fine of \$500 for the first offense, or by a fine of not more than \$1,500 for a second or subsequent offense, and may be further punished by imprisonment in the county jail for not more than 364 days.

3. A person who:

(a) Possesses any artifact or human remains taken from the cairn or grave of a native Indian on or after October 1, 1989, in a manner other than that authorized by NRS 383.170;

(b) Publicly displays or exhibits any of the human remains of a native Indian, except during a funeral ceremony; or

(c) Sells any artifact or human remains taken from the cairn or grave of a native Indian,

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. This section does not apply to:

(a) The possession or sale of an artifact:

(1) Discovered in or taken from a location other than the cairn or grave of a native Indian; or

(2) Removed from the cairn or grave of a native Indian by other than human action; or

(b) Action taken by a peace officer in the performance of his or her duties.

1 **Sec. 35.** NRS 383.190 is hereby amended to read as follows:

2 383.190 1. In addition to the imposition of any criminal penalty, an Indian
3 tribe or an enrolled member of an Indian tribe may bring a civil action to secure an
4 injunction, damages and other appropriate relief against a person who violates NRS
5 ~~383.170 or 383.180, 381.008, 381.009, 381.195 to 381.227, inclusive, and section~~
6 ~~6 of this act, 383.021, 383.081, 383.121 or 383.150 to 383.440, inclusive, or~~
7 ~~section 25 or 26 of this act.~~ The action must be brought within 2 years after the
8 discovery of the action by the plaintiff. The action may be filed in the district court
9 for the county in which the cairn, grave, ~~artifacts or~~ *native Indian human* remains
10 *or other cultural items* are located, or within which the defendant resides.

11 2. If the plaintiff prevails in the action:

12 (a) The court may award reasonable attorney fees to the plaintiff.

13 (b) The court may grant injunctive or such other equitable relief as is
14 appropriate, including forfeiture of any ~~artifacts or~~ human remains *or other*
15 *cultural items* acquired or equipment used in the violation. The court shall order the
16 disposition of any forfeited equipment as it sees fit, and order the reinterment of the
17 ~~artifacts and~~ human remains *and other cultural items* at the defendant's expense
18 under the supervision of the Indian tribe.

19 (c) The plaintiff may recover actual damages.

20 3. If the defendant prevails in the action, the court may award reasonable
21 attorney fees to the defendant.

22 **Sec. 36.** NRS 383.430 is hereby amended to read as follows:

23 383.430 1. Upon request by any state agency or political subdivision, the
24 Office may enter into an agreement with that state agency or political subdivision
25 regarding any land which the state agency or political subdivision intends to acquire
26 from an agency of the Federal Government. The agency of the Federal Government
27 may be a party to the agreement. *If the land includes any cultural items, the*
28 *Indian tribe which has the closest cultural affiliation to the cultural item may*
29 *request that the Office enter into such an agreement.*

30 2. An agreement made pursuant to subsection 1 must:

31 (a) *If the agreement involves land that includes any cultural items, include*
32 *the Indian tribe which has the closest cultural affiliation to the cultural item, if*
33 *any, as a party to the agreement;*

34 (b) Include provisions that are sufficient to ensure that the land, when acquired,
35 will receive protection for any historic or prehistoric site at a level equivalent to the
36 protection provided if the land had remained under federal ownership;

37 ~~(b)~~ (c) Require the state agency or political subdivision to submit a proposal
38 and consult with the Office before changing the use of the land or initiating a
39 project on any portion of the land; and

40 ~~(c)~~ (d) Require that any expenses associated with carrying out the agreement
41 are the responsibility of the state agency or political subdivision.

42 3. If a state agency or political subdivision submits a proposal to change the
43 use of the land or initiate a project on any portion of the land pursuant to paragraph
44 ~~(b)~~ (c) of subsection 2, the state agency or political subdivision shall:

45 (a) Provide to the Office a written statement:

46 (1) Identifying any Indian tribes that may be concerned with the religious
47 or cultural importance of the site and other interested persons for inclusion in the
48 consultation required pursuant to paragraph ~~(b)~~ (c) of subsection 2;

49 (2) Identifying any historic or prehistoric sites in accordance with the
50 requirements of the Office for recording and reporting for those sites;

51 (3) Evaluating any historic or prehistoric sites for inclusion in the State
52 Register of Historic Places, including any text excavations or other research;

(4) Evaluating the effect of the change in use of the land or the project on a historic or prehistoric site that is eligible for inclusion in the State Register of Historic Places; and

(5) Evidencing the preparation and carrying out of treatment plans that comply with the requirements of the Office for those plans; and

(b) Any other information relating to the proposed change of use required by the Office.

4. The Office shall determine which Indian tribe has the closest cultural affiliation to the cultural item in accordance with section 25 of this act.

Sec. 37. NRS 383.435 is hereby amended to read as follows:

383.435 1. Except as otherwise provided in this section, a person who knowingly and willfully removes, mutilates, defaces, excavates, injures or destroys a historic or prehistoric site or resource on state land or who receives, traffics in or sells cultural property appropriated from state land without a valid permit, unless a greater penalty is provided by a specific statute:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of ~~+\$500+~~ **\$1,000**.

(b) For a second or subsequent offense, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days or by a fine of not more than ~~+\$3000+~~ **\$3,500**, or by both fine and imprisonment.

2. This section does not apply to any action taken:

(a) In accordance with an agreement with the Office entered into pursuant to NRS 383.430; or

(b) In accordance with the provisions of NRS 381.195 to 381.227, inclusive, ***and section 6 of this act*** by the holder of a permit issued pursuant to those sections.

3. In addition to any other penalty, a person who violates a provision of this section is liable for civil damages to the state agency or political subdivision which has jurisdiction over the state land in an amount equal to the cost or, in the discretion of the court, an amount equal to twice the cost of the restoration, stabilization and interpretation of the site plus any court costs and fees.

Sec. 38. NRS 383.500 is hereby amended to read as follows:

383.500 1. The Commission for Cultural Centers and Historic Preservation is hereby created. The Commission is advisory to the Department and consists of:

(a) The Chair of the Board of Trustees of Nevada Humanities or a member of the Board of Trustees of Nevada Humanities designated by the Chair;

(b) The Chair of the Board of the Nevada Arts Council of the Department of Tourism and Cultural Affairs or a member of the Board of the Nevada Arts Council designated by the Chair;

(c) The Chair of the Advisory Board or a member of the Advisory Board designated by the Chair;

(d) A member of the Advisory Board appointed by the Governor;

(e) ***A member of the Advisory Board who is an enrolled member of a Nevada Indian tribe and who is appointed by the Nevada Indian Commission, after consultation with the Inter-Tribal Council of Nevada, Inc., or its successor organization;***

(f) One representative of the general public who has a working knowledge of the promotion of tourism in Nevada ***and who is*** appointed by the Governor; and

~~+(+) (g)~~ (g) The Chair of the State Council on Libraries and Literacy or a member of the State Council on Libraries and Literacy designated by the Chair.

2. The Commission shall:

(a) Elect from its membership a Chair who shall serve for a term of 2 years. A vacancy occurring in this position must be filled by election of the members of the Commission for the remainder of the unexpired term.

1 (b) Prescribe rules for its own management and government.

2 (c) Meet biannually, or at more frequent times if it deems necessary, and may,
3 within the limitations of its budget, hold special meetings at the call of the Chair.

4 3. ~~Three~~ **Four** members of the Commission constitute a quorum, but a
5 majority of the members of the Commission is necessary to consider particular
6 business before it and to exercise the power conferred on the Commission.

7 4. The members of the Commission are not entitled to be paid a salary, but
8 are entitled, while engaged in the business of the Commission, to receive the per
9 diem allowance and travel expenses provided for state officers and employees
10 generally.

11 **Sec. 39.** This act becomes effective:

12 1. Upon passage and approval for the purpose of adopting regulations and
13 performing any other preparatory tasks that are necessary to carry out the
14 provisions of this act; and

15 2. On July 1, 2018, for all other purposes.