

Amendment No. 965

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

Adoption of this amendment will ADD an appropriation where one does not currently exist in S.B. 244 R1.

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.

AMI/RRY



Date: 5/29/2017

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~~ **requiring** notice and consultation with Indian tribes with regard to native Indian human remains **funerary objects** 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~~ **prehistoric native Indian** human remains and ~~other cultural items~~ **funerary objects**; revising the membership of certain related boards and commissions; increasing the penalties for the defacement of prehistoric sites, historic sites and Indian burial sites; **making appropriations**; 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 **:(1) prohibits** ~~with limited exceptions~~ **a person from** ~~knowingly investigating, exploring or~~ **excavating a** ~~prehistoric~~ **site on private lands located in this State that the person knows is a prehistoric Indian burial site** unless the person first obtains a permit from the Museum Director of the Nevada State Museum ~~;~~ **: and (2) provides that a person is not required to obtain such a permit to engage in lawful activity on private**

lands if that activity is engaged in exclusively for purposes other than the excavation of a prehistoric Indian burial site. Section 6 requires the Museum Director to adopt regulations governing such a permit, including, without limitation, regulations setting forth the procedures for obtaining and renewing such a permit.

Section 5.5 of this bill provides that notwithstanding any provision of chapter 381 of NRS to the contrary: (1) a person is not required to obtain a permit pursuant to section 6 if the person has obtained a permit pursuant to federal law for the same purpose; and (2) the Administrator of the Division of Museums and History of the Department of Tourism and Cultural Affairs, the Museum Director of the Nevada State Museum or the museum director of an institution of the Division are not required to comply with certain requirements concerning notice to, consultation with or returning items to an Indian tribe if the Administrator or a museum director, as applicable, provides such notice to or consultation with or returns items to the Indian tribe in accordance with the repatriation process required pursuant to federal law.

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 prehistoric native Indian human remains and ~~other cultural items~~ funerary objects falling within the purview of each state agency.

Section 10 of this bill requires native Indian human remains or other cultural items of an Indian tribe to be returned to the closest culturally affiliated Indian tribe in accordance with the repatriation process provided in the regulations adopted pursuant to section 5 if the human remains or other items were deemed abandoned by the institution of the Division that held the property.

Sections ~~(10)~~ 16 and 22 of this bill require prehistoric native Indian human remains or ~~other cultural items~~ funerary objects to be returned to the closest culturally affiliated Indian tribe in accordance with the repatriation process provided in the regulations adopted pursuant to section 5 if the human remains or ~~other cultural items~~ funerary objects were: (1) ~~deemed abandoned by the institution that held the property;~~ (2) found or discovered pursuant to ~~a permit~~ certain permits to investigate, explore or excavate historic or prehistoric sites; or ~~(2)~~ (2) seized by law enforcement officers as taken or collected on historic or prehistoric sites without a required permit.

~~Sections 15, 17, 19 and 22~~ Section 19 of this bill ~~requires~~ requires the Museum Director to provide notice and consultation with the applicable Indian tribes ~~throughout the permitting process~~ with regard to ~~a permit~~ certain reports made by a holder of certain permits 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.~~

Section 20 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, if work done, material collected or other pertinent data contained in the report pertains to prehistoric native Indian human remains or a funerary object.

Section 26.5 of this bill provides that notwithstanding any provision of chapter 383 of NRS to the contrary, the Office of Historic Preservation is not required to comply with certain requirements concerning notice to, consultation with or returning items to an Indian tribe if the Office provides such notice to or consultation with or returns items to the Indian tribe in accordance with the repatriation process required pursuant to federal law.

Section 33 of this bill: (1) revises the procedure that is required to take place upon the discovery of an Indian burial site on private or public land ~~to~~; and (2) provides that such procedure does not apply to a permit issued pursuant to section 6 of this bill.

Sections 34 and 37 of this bill increase the penalties for: (1) the willful removal, mutilation, defacement injury or destruction 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 removal, mutilation, excavation, defacement, injury or destruction 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. Section 34 further provides that the penalty for the willful removal of a native Indian cairn or

grave only applies to a person who removes such a cairn or grave without any required permit.

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 appointed by the Governor after giving consideration to any recommendation of an enrolled member of a Nevada Indian tribe ~~which is submitted by the Nevada Indian Commission, after consultation with the Inter-Tribal Council of Nevada, Inc., or its successor organization.~~

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 ~~featural item~~ artifact or site;*

(b) *On whose aboriginal lands the applicable ~~featural item~~ artifact was discovered or the site was located ~~is and~~ ; or*

(c) *Who is reasonably known to have a direct cultural relationship to the applicable ~~featural item~~ artifact 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 ~~the~~ particular ~~featural item~~ artifact or site.*

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

Sec. 5. 1. *The Museum Director of the Nevada State Museum shall adopt regulations as necessary to carry out the provisions of sections 2 to ~~5~~, 5.5, inclusive, of this act and NRS 381.195 to 381.227, inclusive, and section 6 of this act, including, without limitation, regulations which set forth the process for repatriation of prehistoric native Indian human remains and ~~other cultural items~~ funerary objects.*

2. *Any regulations adopted pursuant to this section 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 Museum Director.*

Sec. 5.5. *Notwithstanding any provision of this chapter to the contrary:*

1. *A person is not required to obtain a permit pursuant to section 6 of this act if the person has obtained a permit pursuant to federal law for the same purpose; and*

2. *The Administrator, Museum Director of the Nevada State Museum or the museum director of an institution are not required to provide notice to, consult*

1 with or return items to an Indian tribe as required pursuant to this chapter if the  
2 Administrator, Museum Director of the Nevada State Museum or the museum  
3 director, of the institution, as applicable, provides such notice to, consults with or  
4 returns items to the Indian tribe in accordance with the repatriation process  
5 required pursuant to federal law.

6 Sec. 6. 1. ~~Except as otherwise provided in subsection 2, a~~ A person shall  
7 ~~not knowingly investigate, explore or~~ excavate a prehistoric site on private  
8 lands located within this State that the person knows is a prehistoric Indian  
9 burial site unless the person first obtains a permit issued by the Museum  
10 Director.

11 2. ~~A person who is engaging is not required to obtain a permit pursuant to~~  
12 subsection 1 to engage in a lawful activity on private lands, including, without  
13 limitation, construction, mining, mineral exploration, logging, for farming is  
14 ~~not required to obtain a permit pursuant to subsection 1 to engage in that lawful~~  
15 ~~activity, ranching or a federally authorized activity conducted in compliance~~  
16 with the National Historic Preservation Act, 54 U.S.C. § 300100 et seq., if that  
17 activity is engaged in exclusively for purposes other than the excavation of a  
18 prehistoric Indian burial site.

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

21 (a) Set forth the process for obtaining and renewing a permit required  
22 pursuant to subsection 1;

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

24 (c) ~~Provide~~ Require notice to and ~~consult~~ consultation with the applicable  
25 Indian tribes throughout the permitting process in the manner provided by  
26 section 2 of this act;

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

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

31 4. Any regulations adopted pursuant to this section must be developed in  
32 consultation with Indian tribes and incorporate the values, beliefs and traditions  
33 of the Indian tribes as determined and conveyed by the members of the Indian  
34 tribes during the consultation with the Museum Director.

35 5. As used in this section, "Indian burial site" has the meaning ascribed to  
36 it in NRS 383.150.

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

38 381.001 As used in this chapter, unless the context otherwise requires:

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

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

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

45 ~~4. "Cultural item" means human remains, a funerary object, a sacred~~  
46 ~~object or an object of cultural significance.~~

47 ~~5. 4.~~ "Department" means the Department of Tourism and Cultural Affairs.

48 ~~4. 6. 5.~~ "Director" means the Director of the Department.

49 ~~5. 7. 6.~~ "Division" means the Division of Museums and History of the  
50 Department.

51 ~~6. 8. 7.~~ "Funerary object" means an object that, as a part of the death  
52 rite or ceremony of ~~the culture of~~ an Indian tribe is reasonably believed to have

1 *been placed with individual prehistoric native Indian human remains either at*  
 2 *the time of death or later.*

3 ~~10. 8. "Historic" has the meaning ascribed to it in NRS 381.195.~~

4 ~~9. "Historic structures, buildings and other property of the Nevada State~~  
 5 ~~Prison" means the structures, buildings and other property described in paragraph~~  
 6 ~~(b) of subsection 1 of NRS 321.004.~~

7 ~~11. 10. "Indian tribe" has the meaning ascribed to it in NRS 383.011.~~

8 ~~11. "Institution" means an institution of the Division established pursuant to~~  
 9 ~~NRS 381.004.~~

10 ~~12. "Museum director" means the executive director of an institution of~~  
 11 ~~the Division appointed by the Administrator pursuant to NRS 381.0062.~~

12 ~~13. "Object of cultural significance" means an object which meets the~~  
 13 ~~qualifications of section 4 of this act.~~

14 ~~14. "Sacred object" means a historic or prehistoric object that was or is~~  
 15 ~~needed by traditional religious leaders of an Indian tribe for the practice of the~~  
 16 ~~traditional religion of an Indian tribe. "Prehistoric" has the meaning ascribed to~~  
 17 ~~it in NRS 381.195.~~

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

19 381.002 1. The Board of Museums and History ~~consisting of eleven~~  
 20 ~~twelve members~~ is hereby created.

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

23 ~~2. as follows:~~

24 ~~(a)~~ The Governor shall appoint to the Board:

25 ~~(a) (1)~~ Five representatives of the general public who are knowledgeable  
 26 about museums.

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

31 ~~(1) (1)~~ One member who is qualified in history;

32 ~~(2) (1)~~ One member who is qualified in prehistoric archeology;

33 ~~(3) (1)~~ One member who is qualified in historic archeology;

34 ~~(4) (1)~~ One member who is qualified in architectural history;

35 ~~(5) (1)~~ One member who is qualified as an architect; and

36 ~~(6) (1)~~ One additional member who is qualified, as defined by the

37 Secretary of Interior's standards for historic preservation, in any of the fields of  
 38 expertise described in subparagraphs (1) to (5). ~~sub-subparagraphs (1) to (1),~~  
 39 inclusive.

40 ~~(b) The~~

41 (c) One member, after giving consideration to any recommendation of an  
 42 enrolled member of a Nevada Indian tribe which is submitted by the Nevada  
 43 Indian Commission, after consultation with the Inter-Tribal Council of Nevada,  
 44 Inc., or its successor organization, shall appoint to the Board one member who  
 45 is an enrolled member of a Nevada Indian tribe.

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

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

51 (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 a 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.] (Deleted by amendment.)~~

**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 ~~of an Indian tribe~~, the Administrator shall:*

(a) *Provide notice to and consult with each applicable Indian tribe in ~~accordance with~~ the manner provided by 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~~ the manner provided by 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 manner provided by the repatriation process adopted pursuant to section 5 of this act, if a request for repatriation is made.*

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

6. *As used in this section:*

(a) *“Cultural item” means human remains, a funerary object, a sacred object or an object of cultural significance.*

(b) *“Object of cultural significance” means an object which meets the qualifications of subsection 5.*

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

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

381.195 As used in NRS 381.195 to 381.227, inclusive ~~of~~, *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 383.420, 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 ~~of~~, and section 6 of this act. Conduct that would~~

1 otherwise constitute a violation of this section is not a violation of this section if it  
2 is also a violation of NRS 383.435. ~~(Deleted by amendment.)~~

3 Sec. 13. (Deleted by amendment.)

4 Sec. 13.5. NRS 381.199 is hereby amended to read as follows:

5 381.199 1. An applicant is required to secure, from the Museum Director, or  
6 an agent designated by the Museum Director, a permit described in NRS 381.197  
7 for the investigation, exploration or excavation of any state or federal lands within  
8 the boundaries of the State of Nevada.

9 2. If the land to be investigated, explored or excavated is owned or held by  
10 the United States, the applicant is also required to secure a permit from the proper  
11 authorities in accordance with the provisions of 16 U.S.C. §§ 431 to 433, inclusive.

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

13 381.201 1. The Museum Director may designate any state board, state  
14 department, division of a state department or state institution as an agent for the  
15 purpose of issuing permits. ~~1. The agency so designated may adopt regulations~~  
16 ~~relating to investigations, explorations or excavations carried out pursuant to any~~  
17 ~~permit issued by that agency. 1. pursuant to NRS 381.195 to 381.227, inclusive, and~~  
18 section 6 of this act.

19 2. *If the Museum Director designates an agent pursuant to subsection 1:*

20 (a) *The agent must act in the manner in which the Museum Director is*  
21 *required to act pursuant to provisions of NRS 381.195 to 381.227, inclusive, and*  
22 *section 6 of this act, and any regulations adopted pursuant thereto; and*

23 (b) *The Museum Director must ensure that the agent acts in the manner in*  
24 *which the Museum Director is required to act pursuant to provisions of NRS*  
25 *381.195 to 381.227, inclusive, and section 6 of this act, and any regulations*  
26 *adopted pursuant thereto.*

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

28 381.203 1. In order to qualify as the recipient of a permit, ~~1. 1~~ described in  
29 NRS 381.197, the applicant must show:

30 (a) That the investigation, exploration or excavation is undertaken for the  
31 benefit of ~~a 1~~ a 1

32 ~~(1) A reputable museum, university, college or other recognized scientific~~  
33 ~~or educational institution, with a view of increasing knowledge. 1. 1~~ 1. 1

34 ~~(2) Indian tribes, to the extent that the investigation, exploration or~~  
35 ~~excavation relates to Indian tribes, and is conducted in a manner that~~  
36 ~~incorporates the values, beliefs and traditions of the Indian tribes. 1. 1~~

37 (b) That ~~1. Except as otherwise provided in subsection 2, that~~ the gathering is  
38 made for permanent preservation in public museums or other recognized  
39 educational or scientific institutions.

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

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

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

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

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

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

1 ~~3.1~~ The Museum Director may prescribe reasonable regulations for carrying  
2 out such investigations, explorations or excavations.

3 **Sec. 15.5. NRS 381.205 is hereby amended to read as follows:**

4 381.205 Upon granting ~~the~~ a permit ~~described in NRS 381.197,~~ the  
5 Museum Director shall immediately notify the Office of Historic Preservation, the  
6 sheriff in the county in which the permit is to be exercised, and personnel of the  
7 Nevada Highway Patrol controlling the state roads of the district embracing the site  
8 in which the permit is to be exercised.

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

10 381.207 1. The holder of a permit ~~described in NRS 381.197,~~ except as  
11 otherwise provided in subsections 2 and 3, who does work upon aboriginal mounds  
12 and earthworks, ancient burial grounds, prehistoric sites, deposits of fossil bones or  
13 other archeological and vertebrate paleontological features within the State shall  
14 give to the State 50 percent of all articles, implements and materials found or  
15 discovered ~~of which the holder retained possession after completion of the~~  
16 ~~process set forth in subsection 4,~~ to be deposited with the Nevada State Museum,  
17 for exhibition or other use within the State as determined by the Museum Director.  
18 The Museum Director may accept less than 50 percent of such items. Upon receipt  
19 of items pursuant to this subsection, the Museum Director shall notify the Office of  
20 Historic Preservation.

21 2. The holder of a permit described in NRS 381.197 who does any such work  
22 within the State under the authority and direction of the Nevada Historical Society,  
23 the Nevada State Museum Las Vegas, or an institution or political subdivision of  
24 the State shall give 50 percent of all articles, implements and materials found or  
25 discovered ~~of which the holder retained possession after completion of the~~  
26 ~~process set forth in subsection 4,~~ to the Society, institution or political subdivision.  
27 The holder of the permit may retain the other 50 percent.

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

32 4. If any of the articles, implements or materials found or discovered are  
33 prehistoric native Indian human remains or ~~other cultural items,~~ funerary  
34 objects, the Museum Director shall:

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

37 (b) Determine which Indian tribe has the closest cultural affiliation to the  
38 ~~historic or prehistoric site,~~ prehistoric native Indian human remains or funerary  
39 objects in accordance with section 3 of this act; and

40 (c) Return any prehistoric native Indian human remains or ~~other cultural~~  
41 ~~items,~~ funerary objects discovered to the closest culturally affiliated Indian tribe in  
42 accordance with the repatriation process adopted pursuant to section 5 of this act,  
43 if a request for repatriation is made.

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

48 ~~6. If any native Indian cultural items found or discovered by the holder of a~~  
49 ~~permit are exhibited within this State pursuant to this section, the items must be~~  
50 ~~exhibited respectfully, as determined in consultation with the closest culturally~~  
51 ~~affiliated Indian tribe, if any.~~

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

2       381.209 ~~HH~~ The Museum Director may limit a permit described in NRS  
3 381.197 as to time and location. ~~HA~~ Such a permit may not be granted:

4       1. ~~HA~~ For a period of more than 1 year.

5       2. ~~HB~~ For investigation, exploration or excavation in a larger area than the  
6 applicant can reasonably be expected to explore fully and systematically within the  
7 time limit set in the permit.

8       3. ~~HC~~ For the removal of any ancient monument, structure or site which can  
9 be permanently preserved under the control of the State of Nevada in situ, and  
10 remain an object of interest, if desired by the State, for a park, landmark or  
11 monument for the benefit of the public.

12 ~~1. 2. Before limiting a permit as to time and location, the Museum Director~~  
13 ~~shall provide notice to and consult with each applicable Indian tribe in~~  
14 ~~accordance with section 2 of this act.~~

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

16       381.211 ~~HH~~ A permit described in NRS 381.197 may be renewed for an  
17 additional period of time upon application by the permit holder, if the work  
18 contemplated by the permit has been diligently prosecuted.

19 ~~1. 2. Before renewing a permit, the Museum Director shall~~

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

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

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

28       Sec. 18.5. NRS 381.213 is hereby amended to read as follows:

29       381.213 Failure to begin work under the permit within 6 months after the  
30 effective date of ~~the permit,~~ a permit described in NRS 381.197, or failure to  
31 prosecute diligently such work after it is begun, shall render the permit void without  
32 any order from the Board.

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

34       381.215 1. After the close of each season's work, within a reasonable time  
35 designated in ~~the~~ a permit ~~HA~~ described in NRS 381.197, every permit holder shall  
36 furnish to the Museum Director a report containing a detailed account of the work  
37 done, material collected and other pertinent data.

38       2. Except as otherwise provided in subsection 3, if any of the work done,  
39 material collected or other pertinent data ~~is associated with~~ pertains to  
40 prehistoric native Indians, Indian human remains or a funerary object, the  
41 Museum Director shall:

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

44       (b) Determine which Indian tribe has the closest cultural affiliation to the  
45 ~~work done, material collected or other pertinent data~~ prehistoric native Indian  
46 human remains or funerary object in accordance with section 3 of this act; and

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

49       3. The Museum Director is not required to comply with the provisions of  
50 paragraph (a) of subsection 2 if the Museum Director has already obtained the  
51 information necessary to make the determination required pursuant to paragraph  
52 (b) of subsection 2 through the ~~permit~~ process set forth in NRS 381.195 to  
53 381.227, inclusive, ~~and section 6 of this act.~~

1        **Sec. 19.5. NRS 381.217 is hereby amended to read as follows:**

2        381.217 A ~~permit~~ holder of a permit described in NRS 381.197 may collect  
3 specimens of petrified wood, subject to the limitations of NRS 206.320.

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

5        ~~381.219 Nothing contained in NRS 381.195 to 381.227, inclusive, and~~  
6 ~~section 6 of this act shall interfere with or prevent any person from collecting~~  
7 ~~minerals, rocks or gems, [arrowheads or other Indian artifacts] so long as they are~~  
8 ~~not part of a prehistoric site, nor prevent the photographing of objects of interest.~~  
9 **(Deleted by amendment.)**

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

11        381.221 The Division of State Parks of the State Department of Conservation  
12 and Natural Resources, and personnel thereof, the sheriffs in their respective  
13 counties, the Nevada Highway Patrol, and all other peace officers shall be charged  
14 with the enforcement of NRS 381.195 to 381.227, inclusive ~~§~~, and section 6 of  
15 this act. Those persons charged with the enforcement of NRS 381.195 to 381.227,  
16 inclusive, and section 6 of this act may ~~act~~ within their established  
17 jurisdiction.

18        1. At any time, examine the permit of any person claiming privileges granted  
19 under NRS ~~381.195 to 381.227, inclusive,~~ 381.197 and may fully examine all  
20 work done under the permit ~~§~~; and

21        2. Examine the permit of a person claiming privileges under a permit issued  
22 pursuant to section 6 of this act in the manner set forth in the regulations  
23 adopted pursuant to that section.

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

25        381.223 1. Any object of antiquity taken, or collection made, on historic or  
26 prehistoric sites covered by NRS ~~381.195 to 381.227, inclusive,~~ 381.197 without  
27 a permit must be seized by the proper law enforcement officers, who shall notify  
28 the Museum Director of the action ~~§. The object or collection so taken must be~~  
29 ~~forfeited to the State for exhibition or other use within the State as determined by~~  
30 ~~the Museum Director,~~ and deposit the object or collection with the Museum  
31 Director for safekeeping. Upon receipt of any ~~forfeited~~ item seized pursuant to  
32 this section the Museum Director shall notify the Office of Historic Preservation.  
33 Except as otherwise provided in subsection 2, any object or collection so taken  
34 must be forfeited to the State for exhibition or other use within the State as  
35 determined by the Museum Director.

36        2. If an object of antiquity or collection seized pursuant to subsection 1 is  
37 prehistoric native Indian human remains or ~~another cultural item,~~ a funerary  
38 object, the Museum Director shall:

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

41        (b) Determine which Indian tribe has the closest cultural affiliation to the  
42 prehistoric native Indian human remains or ~~other cultural item,~~ funerary object  
43 in accordance with section 3 of this act; and

44        (c) Return the prehistoric native Indian human remains or ~~other cultural~~  
45 items ~~funerary object~~ to the closest culturally affiliated Indian tribe in  
46 accordance with the repatriation process adopted pursuant to section 5 of this act,  
47 if a request for repatriation is made.

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

49        381.227 Unless a greater penalty is provided by a specific statute and except  
50 as otherwise provided in NRS 381.225, any person violating any of the provisions  
51 of NRS 381.195 to 381.227, inclusive, and section 6 of this act is guilty of a  
52 misdemeanor.

Sec. 24. Chapter 383 of NRS is hereby amended by adding thereto the provisions set forth as sections 25 ~~and~~ 26 ~~and 26.5~~ of this act.

Sec. 25. ~~The Office 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. (Deleted by amendment.)~~

Sec. 26. *The Office shall adopt regulations as necessary to carry out the provisions of this section and section ~~25~~ 26.5 of this act and NRS 383.150 to 383.440, inclusive, including, without limitation, regulations which set forth the process for repatriation of prehistoric native Indian human remains and ~~other cultural items~~ funerary objects. The 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 Office.*

*Sec. 26.5. Notwithstanding any provision of this chapter to the contrary, the Office is not required to provide notice to or consult with an Indian tribe as required pursuant to this chapter if the Office provides such notice to or consultation with the Indian tribe pursuant to federal law.*

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

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

1. "Administrator" means the Administrator of the Office.
2. "Advisory Board" means the Board of Museums and History.
3. "Commission" means the Commission for Cultural Centers and Historic Preservation created by NRS 383.500.

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

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

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

~~5. 7. 6.~~ "Department" means the State Department of Conservation and Natural Resources.

~~6. 8. 7.~~ "Director" means the Director of the Department.

~~7. 9. 8.~~ "Office" means the Office of Historic Preservation of the Department.

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

~~11. 9.~~ *"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. 10.~~ *"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~~ section 26 of this act.*

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

~~(e)~~ (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~~ prehistoric native Indian human remains or funerary objects 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. (Deleted by amendment.)~~

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, prehistoric native Indian human remains or funerary objects located on such property.*

2. ~~When~~ Except as otherwise provided in subsection ~~7~~ 10, 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,~~ prehistoric native Indian human remains or a funerary object, 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,~~ prehistoric native Indian human remains or funerary object;

(b) On whose aboriginal lands the ~~historic, prehistoric or paleoenvironmental evidence,~~ prehistoric native Indian human remains or funerary object was discovered; ~~land~~ or

(c) Who is reasonably known to have a direct cultural relationship to the ~~historic, prehistoric or paleoenvironmental evidence,~~ prehistoric native Indian human remains or funerary object.

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

5. ~~Within~~ Except as otherwise provided in subsection 6, within 10 days after the notice is given by the Office, the Office shall, ~~in consultation,~~ consult with the Indian tribe which has the closest cultural affiliation to the ~~historic, prehistoric or paleoenvironmental evidence,~~ prehistoric native Indian human remains or funerary object as determined by the Office. ~~in accordance with section 25 of this act,~~

6. Failure of an Indian tribe to respond within 10 days after notice has been given to the Indian tribe pursuant to subsection 3 shall be deemed a waiver of the requirement for consultation with the Indian tribe.

7. After the period for consultation described in subsection 5, the agency of the State or its political subdivision described in subsection 2 shall, to the fullest extent practicable, within the appropriations available to the agency or political subdivision, develop a ~~treatment plan~~ resolution for the affected property that is ~~is~~

~~(a) Consistent~~ 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.~~ Standards and Guidelines for Archeology and Historic Preservation as set forth in 48 Federal Register 44716 on September 29, 1983, and any amendments thereto.

~~7. 8.~~ 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. 9.~~ The provisions of subsections 3 to 7, inclusive, do not apply to an agency of the State or its political subdivisions if the preparation or contract to excavate or perform work described in subsection 2 is subject to an existing agreement with:

(a) The closest culturally affiliated Indian tribe that relates to the discovery of prehistoric native Indian human remains or a funerary object; or

*(b) A federal agency that was executed pursuant to federal law and that relates to the discovery of prehistoric native Indian human remains or a funerary object.*

*10. 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.*

**Sec. 31.** NRS 383.150 is hereby amended to read as follows:

383.150 As used in NRS 383.150 to 383.190, inclusive, unless the context otherwise requires:

1. "Cairn" means stones or other material placed in a pile as a memorial or monument to the dead.

2. *"Funerary object" has the meaning ascribed to it in NRS 381.001.*

3. "Grave" means an excavation for burial of a human body.

~~3.~~ 4. "Indian burial site" means the area including and immediately surrounding the cairn or grave of a native Indian.

~~4. "Indian tribe" means a Nevada Indian tribe recognized by the Secretary of the Interior.~~

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

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

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

383.160 The Office shall:

1. Upon application by:

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

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

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

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

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

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

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

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

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

(b) *Upon receiving a report pursuant to subsection 1, paragraph (a), the* Office shall immediately ~~consult with the Nevada Indian Commission and notify~~

~~the appropriate~~ notify, in writing, and initiate consultation with any Indian tribe  
~~††~~ :

(1) Who is or is likely to be culturally affiliated with the Indian burial site;

(2) On whose aboriginal lands the Indian burial site was discovered;  
~~land~~ or

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

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

(d) ~~Within~~ Except as otherwise provided in paragraph (e), 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, if any, 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.

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

(1) Preserved in place;

(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) 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, if any, 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.

(e) Failure of an Indian tribe to respond within 10 days after notice has been given to the Indian tribe pursuant to paragraph (b) shall be deemed a waiver of the requirement for consultation with the Indian tribe.

(f) If the Indian burial site is located on private land and:

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

~~††~~ (2) The landowner rejects the recommendation made pursuant to 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.

~~††~~ ~~(f)††~~ (g) 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.

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

~~(a)~~ (1) By a professional archeologist;  
~~(b)~~ (2) After written notification to the Administrator; and  
~~(c)~~ (3) With the prior written consent of the ~~appropriate~~ *closest culturally affiliated* Indian tribe ~~if any~~. Failure of ~~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.

~~(d)~~ (i) 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~~.

~~(i) Human~~  
 (i) *Prehistoric native Indian human* remains or funerary objects discovered at an Indian burial site:

(1) *Must not be subjected to scientific study unless the Office reasonably determines that scientific study is necessary for the limited purpose of determining which Indian tribe has the closest cultural affiliation to the prehistoric native Indian human remains or funerary objects; and*

(2) *Must not be separated when the prehistoric native Indian human remains and funerary objects are reinterred.*

~~(f)~~ (k) *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~~:

*(a) To a permit issued pursuant to section 6 of this act; or*

*(b) 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~~:

*(1) The closest culturally affiliated Indian tribe that relates to the discovery of* ~~historic, prehistoric or paleoenvironmental evidence~~ *prehistoric native Indian human remains or a funerary object; or*

*(2) A federal agency that was executed pursuant to federal law and that relates to the discovery of prehistoric native Indian human remains or a funerary object.*

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 ~~if~~ *without obtaining any required permit*, 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 ~~if~~; 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.

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

~~383.190 1. In addition to the imposition of any criminal penalty, an Indian tribe or an enrolled member of an Indian tribe may bring a civil action to secure an injunction, damages and other appropriate relief against a person who violates NRS 383.170 or 383.180. The action must be brought within 2 years after the discovery of the action by the plaintiff. The action may be filed in the district court for the county in which the cairn, grave, [artifacts or] native Indian human remains or other cultural items are located, or within which the defendant resides.~~

~~2. If the plaintiff prevails in the action:~~

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

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

~~(c) The plaintiff may recover actual damages.~~

~~3. If the defendant prevails in the action, the court may award reasonable attorney fees to the defendant. (Deleted by amendment.)~~

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

383.430 1. Upon request by any state agency or political subdivision, the Office may enter into an agreement with that state agency or political subdivision regarding any land which the state agency or political subdivision intends to acquire from an agency of the Federal Government. The agency of the Federal Government may be a party to the agreement. *If the land includes any ~~featural items,~~ prehistoric native Indian human remains or funerary objects, the Indian tribe which has the closest cultural affiliation to the ~~featural item,~~ prehistoric native Indian human remains or funerary objects may request that the Office enter into such an agreement.*

2. An agreement made pursuant to subsection 1 must:

(a) *If the agreement involves land that includes any ~~featural items,~~ prehistoric native Indian human remains or funerary objects, include the Indian tribe which has the closest cultural affiliation to the ~~featural item,~~ prehistoric*

*native Indian human remains or funerary objects, if any, as a party to the agreement;*

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

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

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

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

(a) Provide to the Office a written statement:

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

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

(3) Evaluating any historic or prehistoric sites for inclusion in the State 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.†~~ prehistoric native Indian human remains or funerary objects.*

**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.

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

2       383.500 1. The Commission for Cultural Centers and Historic Preservation  
3 is hereby created. The Commission is advisory to the Department and consists of:

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

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

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

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

12       (e) ~~A member of the Advisory Board who is an enrolled member of a~~  
13 ~~Nevada Indian tribe and who is appointed by~~ appointed by the Governor after  
14 giving consideration to any recommendation of an enrolled member of a Nevada  
15 Indian tribe which is submitted by the Nevada Indian Commission, after  
16 consultation with the Inter-Tribal Council of Nevada, Inc., or its successor  
17 organization;

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

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

22       2. The Commission shall:

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

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

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

29       3. ~~†Three†~~ ~~Four~~ members of the Commission constitute a quorum, but a  
30 majority of the members of the Commission is necessary to consider particular  
31 business before it and to exercise the power conferred on the Commission.

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

36       **Sec. 38.3.** 1. There is hereby appropriated from the State General  
37 Fund to the Office of Historic Preservation of the State Department of  
38 Conservation and Natural Resources the sum of \$1,390 for Fiscal Year 2018-  
39 2019 for the in-state travel costs for the member appointed to the Commission  
40 for Cultural Centers and Historic Preservation pursuant to paragraph (e) of  
41 subsection 1 of NRS 383.500, as amended by section 38 of this act.

42       2. Any remaining balance of the appropriation made by subsection 1  
43 must not be committed for expenditure after June 30, 2019, by the entity to  
44 which the appropriation is made or any entity to which money from the  
45 appropriation is granted or otherwise transferred in any manner, and any  
46 portion of the appropriated money remaining must not be spent for any  
47 purpose after September 20, 2019, by either the entity to which the money was  
48 appropriated or the entity to which the money was subsequently granted or  
49 transferred, and must be reverted to the State General Fund on or before  
50 September 20, 2019.

51       **Sec. 38.5.** 1. There is hereby appropriated from the State General  
52 Fund to the Division of Museums and History of the Department of Tourism  
53 and Cultural Affairs the sum of \$4,301 for Fiscal Year 2017-2018 and the sum

of \$288 for Fiscal Year 2018-2019 for expenses relating to the adoption of regulations required by the provisions of this act and in-state travel, per diem and compensation for the member appointed to the Board of Museums and History pursuant to paragraph (c) of subsection 2 of NRS 381.002, as amended by section 8 of this act.

2. Expenditure of \$5,256 by the Division of Museums and History of the Department of Tourism and Cultural Affairs from the Fund for the Promotion of Tourism created by NRS 231.250 is hereby authorized during Fiscal Year 2017-2018 for the purpose set forth in subsection 1.

3. Expenditure of \$352 by the Division of Museums and History of the Department of Tourism and Cultural Affairs from the Fund for the Promotion of Tourism created by NRS 231.250 is hereby authorized during Fiscal Year 2018-2019 for the purpose set forth in subsection 1.

4. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019, respectively.

*Sec. 38.7.* 1. There is hereby appropriated from the State General Fund to the Nevada State Museum of the Division of Museums and History of the Department of Tourism and Cultural Affairs the sum of \$25,517 for Fiscal Year 2017-2018 and the sum of \$40,118 for Fiscal Year 2018-2019 for the costs associated with a full-time position to carry out the provisions of NRS 381.195 to 381.227, inclusive, and the provisions of this act.

2. Expenditure of \$31,187 by the Nevada State Museum from the Fund for the Promotion of Tourism created by NRS 231.250 is hereby authorized during Fiscal Year 2017-2018 for the purpose set forth in subsection 1.

3. Expenditure of \$49,033 by the Nevada State Museum from the Fund for the Promotion of Tourism created by NRS 231.250 is hereby authorized during Fiscal Year 2018-2019 for the purpose set forth in subsection 1.

4. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019, respectively.

*Sec. 39.* 1. This ~~act~~ section becomes effective ~~+~~

~~1. Upon~~ upon passage and approval.

2. Sections 38.3, 38.5 and 38.7 of this act become effective on July 1, 2017.

3. Sections 1 to 38, inclusive, of this act become effective;

- 1 (a) Upon passage and approval for the purpose of adopting regulations and  
2 performing any other preparatory tasks that are necessary to carry out the  
3 provisions of this act; and  
4 ~~12.1~~ (b) On July 1, 2018, for all other purposes.