
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:

- 1 Existing law provides for the preservation of historic sites and prehistoric sites.
- 2 Pursuant to these provisions a permit is generally required to investigate, explore or
- 3 excavate a historic site or prehistoric site on federal or state lands or to remove any
- 4 object from such a site. (NRS 381.197) For the purposes of these provisions,
- 5 existing law provides that a “historic site”: (1) dates from the middle of the 18th
- 6 century until 50 years before the current year; and (2) is a site, landmark or
- 7 monument of historical significance that pertains to the history of the settlement of
- 8 Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.
- 9 Existing law further provides that a “prehistoric site”: (1) dates from before the



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10 middle of the 18th century; and (2) is any archeological or paleontological site,
11 ruin, deposit, fossilized footprints and other impressions, petroglyphs and
12 pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of
13 religious or cultural importance to an Indian tribe. (NRS 381.195)

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

19 **Sections 5 and 26** of this bill require both the Museum Director of the Nevada
20 State Museum and the Office of Historic Preservation of the State Department of
21 Conservation and Natural Resources to adopt regulations that set forth the process
22 for repatriation of native Indian human remains and other cultural items falling
23 within the purview of each state agency.

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

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

37 Existing law authorizes an Indian tribe or an enrolled member of an Indian tribe
38 to bring a civil action for an injunction, damages suffered and, under certain
39 circumstances, attorney's fees for a violation of certain provisions governing the
40 protection of Indian burial sites. (NRS 383.190) **Section 35** of this bill expands the
41 violations for which such a civil action can be brought to include violations of
42 provisions governing the preservation and protection of historic and prehistoric
43 sites.

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

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

50 **Sections 34 and 37** of this bill increase the penalties for: (1) the willful
51 defacement of a native Indian cairn or grave to \$2,000 for the first offense and
52 \$4,500 for the second or subsequent offense; and (2) the knowing and willful
53 defacement of a historic or prehistoric site or the trafficking of cultural property
54 obtained from state land without a permit to \$1,000 for a first offense and \$3,500
55 for a second or subsequent offense.

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



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

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

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

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

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

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

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

16 **Sec. 3.** *The museum director of an institution shall use the*
17 *criteria for determining cultural affiliation set forth in 43 C.F.R. §*
18 *10.14 to determine which Indian tribe has the closest cultural*
19 *affiliation, if any, with regard to a particular cultural item or site.*

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

29 **Sec. 5.** *1. The Museum Director of the Nevada State*
30 *Museum shall adopt regulations as necessary to carry out the*
31 *provisions of sections 2 to 5, inclusive, of this act and NRS*
32 *381.195 to 381.227, inclusive, and section 6 of this act, including,*
33 *without limitation, regulations which set forth the process for*
34 *repatriation of native Indian human remains and other cultural*
35 *items.*

36 **2.** *Any regulations adopted pursuant to this section must be*
37 *developed in consultation with Indian tribes and incorporate the*
38 *values, beliefs and traditions of the Indian tribes as determined*
39 *and conveyed by the members of the Indian tribes during the*
40 *consultation with the Museum Director.*



1 **Sec. 6. 1. A person shall not knowingly excavate a historic**
2 **or prehistoric site on private lands located within this State unless**
3 **the person first obtains a permit issued by the Museum Director.**

4 **2. The Museum Director shall adopt regulations governing a**
5 **permit issued pursuant to subsection 1. The regulations must,**
6 **without limitation:**

7 **(a) Set forth the process for obtaining a permit required**
8 **pursuant to subsection 1;**

9 **(b) Set forth the qualifications of an applicant for such a**
10 **permit;**

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

14 **(d) Provide for the enforcement of the provisions of this**
15 **section, including, without limitation, the examination of the**
16 **permit of a person claiming privileges pursuant to this section;**
17 **and**

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

19 **3. Any regulations adopted pursuant to this section must be**
20 **developed in consultation with Indian tribes and incorporate the**
21 **values, beliefs and traditions of the Indian tribes as determined**
22 **and conveyed by the members of the Indian tribes during the**
23 **consultation with the Museum Director.**

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

25 381.001 As used in this chapter, unless the context otherwise
26 requires:

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

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

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

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

36 5. "Department" means the Department of Tourism and
37 Cultural Affairs.

38 ~~[4]~~ 6. "Director" means the Director of the Department.

39 ~~[5]~~ 7. "Division" means the Division of Museums and History
40 of the Department.

41 ~~[6]~~ 8. "**Funerary object**" means **an object that, as a part of**
42 **the death rite or ceremony of a culture, is reasonably believed to**
43 **have been placed with individual human remains either at the time**
44 **of death or later.**



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

4 ~~[7.]~~ **10.** “*Indian tribe*” has the meaning ascribed to it in
5 **NRS 383.011.**

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

8 ~~[8.]~~ **12.** “Museum director” means the executive director of an
9 institution of the Division appointed by the Administrator pursuant
10 to NRS 381.0062.

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

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

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

17 381.002 1. The Board of Museums and History ~~[, consisting~~
18 ~~of eleven members]~~ is hereby created.

19 **2.** ~~The Board consists of 12 members~~ appointed ~~[by the~~
20 ~~Governor, is hereby created.~~
21 ~~—2.] as follows:~~

22 **(a)** The Governor shall appoint to the Board:

23 ~~[(a)]~~ **(I)** Five representatives of the general public who are
24 knowledgeable about museums.

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

29 ~~[(1)]~~ **(I)** One member who is qualified in history;

30 ~~[(2)]~~ **(II)** One member who is qualified in prehistoric
31 archeology;

32 ~~[(3)]~~ **(III)** One member who is qualified in historic
33 archeology;

34 ~~[(4)]~~ **(IV)** One member who is qualified in architectural
35 history;

36 ~~[(5)]~~ **(V)** One member who is qualified as an architect; and

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

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



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

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

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

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

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

15 5. With respect to the functions of the Division, the Board shall
16 develop, review and make policy for investments, budgets,
17 expenditures and general control of the Division's private and
18 endowed dedicated trust funds pursuant to NRS 381.003 to
19 381.0037, inclusive.

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

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

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

26 381.008 ~~{When}~~

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

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

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



- 1 (a) *Acquire the cultural item identified for sale or disposal; or*
- 2 (b) *Approve of the sale or disposal by the museum director of*
- 3 *the cultural item, if the Indian tribe does not acquire the cultural*
- 4 *item.*

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

6 381.009 1. Any property held by an institution for 3 years or
7 more, to which no person has made claim, shall be deemed to be
8 abandoned and , *except as otherwise provided in subsection 4,*
9 becomes the property of the Division if the Administrator complies
10 with the provisions of subsection 2.

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

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

17 (b) A description of the property; and

18 (c) A statement that if proof of a claim is not presented by the
19 owner to the institution and if the owner's right to receive the
20 property is not established to the Administrator's satisfaction within
21 60 days after the date of the second published notice, the property
22 will be considered abandoned and become the property of the
23 Division.

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

28 **4. *If property deemed to be abandoned pursuant to subsection***
29 ***1 is native Indian human remains or another cultural item, the***
30 ***Administrator shall:***

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

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

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

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

41 381.195 As used in NRS 381.195 to 381.227, inclusive  ,
42 ***and section 6 of this act:***

43 1. "Historic" means from the middle of the 18th century until
44 50 years before the current year.



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

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

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

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

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

14 381.197 Except for action taken under an agreement with the
15 Office of Historic Preservation of the State Department of
16 Conservation and Natural Resources pursuant to NRS 383.430, and
17 except as otherwise provided in this section, a person shall not
18 investigate, explore or excavate an historic or prehistoric site on
19 federal or state lands or remove any object therefrom unless the
20 person is the holder of a valid and current permit issued pursuant to
21 the provisions of NRS 381.195 to 381.227, inclusive ~~[]~~, and
22 *section 6 of this act*. Conduct that would otherwise constitute a
23 violation of this section is not a violation of this section if it is also a
24 violation of NRS 383.435.

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

26 381.199 1. An applicant is required to secure, from the
27 Museum Director, or an agent designated by the Museum Director,
28 a permit for the investigation, exploration or excavation of *a historic*
29 *or prehistoric site on* any state or federal lands within the
30 boundaries of the State of Nevada.

31 2. If the land to be investigated, explored or excavated is
32 owned or held by the United States, the applicant is also required to
33 secure a permit from the proper authorities in accordance
34 with *federal law, including, without limitation*, the provisions of
35 16 U.S.C. §§ ~~[431 to 433, inclusive.]~~ *470aa et seq. and*
36 *54 U.S.C. § 320302.*

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

38 381.201 *1.* The Museum Director may designate any state
39 board, state department, division of a state department or state
40 institution as an agent for the purpose of issuing permits. ~~[The]~~
41 *Except as otherwise provided in subsection 4, the* agency so
42 designated may adopt regulations relating to investigations,
43 explorations or excavations carried out pursuant to any permit
44 issued by that agency.



1 2. *An agency so designated pursuant to subsection 1 shall act*
2 *in the manner in which the Museum Director is required to act*
3 *pursuant to provisions of NRS 381.195 to 381.227, inclusive, and*
4 *section 6 of this act in the instances in which the Museum*
5 *Director is required to:*

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

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

11 3. *If the Museum Director is required to agree to return any*
12 *native Indian human remains or other cultural item discovered to*
13 *the closest culturally affiliated Indian tribe in accordance with the*
14 *repatriation process adopted by the Museum Director pursuant to*
15 *section 5 of this act, an agency designated pursuant to subsection*
16 *1 shall return any such human remains or other cultural item in*
17 *accordance with the repatriation process adopted pursuant to*
18 *subsection 4, if a request for repatriation is made.*

19 4. *An agency designated pursuant to subsection 1 shall adopt*
20 *regulations which set forth the process for repatriation of native*
21 *Indian human remains and other cultural items. Any such*
22 *regulations must be developed in consultation with Indian tribes*
23 *and incorporate the values, beliefs and traditions of the Indian*
24 *tribes as determined and conveyed by the members of the Indian*
25 *tribes during the consultation with the agency.*

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

27 381.203 1. In order to qualify as the recipient of a permit, the
28 applicant must show:

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

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

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

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

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

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



- 1 2. *Before granting a permit, the Museum Director shall:*
2 (a) *Provide notice to and consult with each applicable Indian*
3 *tribe in accordance with section 2 of this act;*
4 (b) *Determine which Indian tribe has the closest cultural*
5 *affiliation to the historic or prehistoric site in accordance with*
6 *section 3 of this act; and*
7 (c) *Agree to return any native Indian human remains or other*
8 *cultural item discovered to the closest culturally affiliated Indian*
9 *tribe in accordance with the repatriation process adopted pursuant*
10 *to section 5 of this act, if a request for repatriation is made.*

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

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

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

27 2. The holder of a permit who does any such work within the
28 State under the authority and direction of the Nevada Historical
29 Society, the Nevada State Museum Las Vegas, or an institution or
30 political subdivision of the State shall give 50 percent of all articles,
31 implements and materials found or discovered *of which the holder*
32 *retained possession after completion of the process set forth in*
33 *subsection 4*, to the Society, institution or political subdivision. The
34 holder of the permit may retain the other 50 percent.

35 3. If the Nevada Historical Society, the Nevada State Museum
36 Las Vegas, or an institution or political subdivision of the State is
37 the holder of the permit, it may retain all articles, implements and
38 materials found or discovered *of which it retained possession*
39 *after completion of the process set forth in subsection 4*.

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

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



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

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

8 **5.** Whenever the Office of Historic Preservation acquires
9 articles, implements and materials under the provisions of this
10 section, they must be transferred to the Museum Director for
11 exhibition or other use within the State as determined by the
12 Museum Director.

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

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

19 381.209 **1.** The Museum Director may limit a permit as to
20 time and location. A permit may not be granted:

21 ~~1-1~~ **(a)** For a period of more than 1 year.

22 ~~2-1~~ **(b)** For investigation, exploration or excavation in a larger
23 area than the applicant can reasonably be expected to explore fully
24 and systematically within the time limit set in the permit.

25 ~~3-1~~ **(c)** For the removal of any ancient monument, structure or
26 site which can be permanently preserved under the control of the
27 State of Nevada in situ, and remain an object of interest, if desired
28 by the State, for a park, landmark or monument for the benefit of the
29 public.

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

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

34 381.211 **1.** A permit may be renewed for an additional period
35 of time upon application by the permit holder, if the work
36 contemplated by the permit has been diligently prosecuted.

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

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

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

43 *(c) Agree to return any native Indian human remains or other*
44 *cultural item discovered to the closest culturally affiliated Indian*



1 *tribe in accordance with the repatriation process adopted pursuant*
2 *to section 5 of this act, if a request for repatriation is made.*

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

4 381.215 1. After the close of each season's work, within a
5 reasonable time designated in the permit, every permit holder shall
6 furnish to the Museum Director a report containing a detailed
7 account of the work done, material collected and other pertinent
8 data.

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

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

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

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

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

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

26 381.219 Nothing contained in NRS 381.195 to 381.227,
27 inclusive, *and section 6 of this act* shall interfere with or prevent
28 any person from collecting minerals, rocks or gems, ~~arrowheads or~~
29 ~~other Indian artifacts~~ so long as they are not part of a prehistoric
30 site, nor prevent the photographing of objects of interest.

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

32 381.221 The Division of State Parks of the State Department of
33 Conservation and Natural Resources, and personnel thereof, the
34 sheriffs in their respective counties, the Nevada Highway Patrol, and
35 all other peace officers shall be charged with the enforcement of
36 NRS 381.195 to 381.227, inclusive ~~{-}~~, *and section 6 of this act.*
37 Those persons charged with the enforcement of NRS 381.195 to
38 381.227, inclusive, *and section 6 of this act* may ~~{-at}~~:

39 1. *At* any time, examine the permit of any person claiming
40 privileges granted under NRS ~~{381.195 to 381.227, inclusive,}~~
41 *381.197* and may fully examine all work done under the permit ~~{-}~~ ;
42 *and*

43 2. *Examine the permit of a person claiming privileges under*
44 *a permit issued pursuant to section 6 of this act in the manner set*
45 *forth in the regulations 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,
3 on historic or prehistoric sites covered by NRS ~~[381.195 to 381.227,~~
4 ~~inclusive,]~~ *381.197* without a permit must be seized by the proper
5 law enforcement officers, who shall notify the Museum Director of
6 the action ~~[-The object or collection so taken must be forfeited to~~
7 ~~the State for exhibition or other use within the State as determined~~
8 ~~by the Museum Director.]~~ *and deposit the object or collection with*
9 *the Museum Director for safekeeping.* Upon receipt of any
10 ~~[forfeited]~~ item *seized* pursuant to this section the Museum Director
11 shall notify the Office of Historic Preservation. *Except as otherwise*
12 *provided in subsection 2, any object or collection so taken must be*
13 *forfeited to the State for exhibition or other use within the State as*
14 *determined by the Museum Director.*

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

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

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

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

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

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

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

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

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



1 *tribes as determined and conveyed by the members of the Indian*
2 *tribes during the consultation with the Office.*

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

4 383.011 As used in this chapter, unless the context otherwise
5 requires:

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

7 2. "Advisory Board" means the Board of Museums and
8 History.

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

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

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

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

18 ~~[5-]~~ 7. "Department" means the State Department of
19 Conservation and Natural Resources.

20 ~~[6-]~~ 8. "Director" means the Director of the Department.

21 ~~[7-]~~ 9. "Office" means the Office of Historic Preservation of
22 the Department.

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

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

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

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

33 383.021 1. The Office of Historic Preservation is hereby
34 created.

35 2. The Office shall:

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

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

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

42 ~~[(e)]~~ (d) Designate repositories for the materials that comprise
43 the inventory.

44 ~~[(d)]~~ (e) Provide staff assistance to the Commission.



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

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

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

7 383.081 1. The Administrator shall prepare and maintain a
8 comprehensive statewide historic preservation plan. The plan must
9 contain:

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

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

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

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

16 2. The plan must:

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

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

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

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

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

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

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

42 5. Authorized representatives of the Federal Government have
43 access for the purpose of audit and examination to any books,
44 documents, papers and records of the State that are pertinent to
45 financial assistance received by the State pursuant to federal law for



1 planning, acquisition or development of historic preservation
2 projects.

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

4 383.121 1. All departments, commissions, boards and other
5 agencies of the State and its political subdivisions shall cooperate
6 with the Office in order to salvage or preserve historic, prehistoric
7 or paleoenvironmental evidence located on property owned or
8 controlled by the United States, the State of Nevada or its political
9 subdivisions. *The Office shall consult and cooperate with Indian*
10 *tribes in order to salvage or preserve such historic, prehistoric or*
11 *paleoenvironmental evidence.*

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

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

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

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

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

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

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



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

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

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

9 7. *The requirements set forth in NRS 383.150 to 383.180,*
10 *inclusive, apply if an Indian burial site, as defined in NRS*
11 *383.150, is disturbed.*

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

13 383.150 As used in NRS 383.150 to 383.190, inclusive, unless
14 the context otherwise requires:

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

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

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

20 ~~[3-]~~ 4. "Indian burial site" means the area including and
21 immediately surrounding the cairn or grave of a native Indian.

22 ~~[4. "Indian tribe" means a Nevada Indian tribe recognized by~~
23 ~~the Secretary of the Interior.]~~

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

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

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

31 383.160 The Office shall:

32 1. Upon application by:

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

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



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

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

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

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

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

14 383.170 1. A person who disturbs the cairn or grave of a
15 native Indian through inadvertence while engaged in a lawful
16 activity such as construction, mining, logging or farming or any
17 other person who discovers the cairn or grave of a native Indian that
18 has not been previously reported to the Office shall immediately
19 report the discovery and the location of the Indian burial site to the
20 Office. ~~[The]~~

21 *2. Upon receiving a report pursuant to subsection 1, the*
22 *Office shall immediately* ~~[consult with the Nevada Indian~~
23 ~~Commission and notify the appropriate]~~ *notify, in writing, and*
24 *initiate consultation with any Indian tribe* ~~[]~~ :

25 (a) *Who is or is likely to be culturally affiliated with the Indian*
26 *burial site;*

27 (b) *On whose aboriginal lands the Indian burial site was*
28 *discovered; and*

29 (c) *Who is reasonably known to have a direct cultural*
30 *relationship to the Indian burial site.*

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

33 *4. Within 10 days after the notice is given by the Office, the*
34 *landowner shall consult with the Indian tribe which has the*
35 *closest cultural affiliation to the Indian burial site, as determined*
36 *by the Office, concerning the treatment and disposition of the site*
37 *and all artifacts and human remains associated with the site.* The
38 Indian tribe may, with the permission of the landowner, inspect the
39 site and recommend an appropriate means for the treatment and
40 disposition of the site and all artifacts and human remains associated
41 with the site.

42 ~~[2-]~~ *Those recommendations may include, without limitation,*
43 *that any human remains or artifacts associated with the site are:*

44 (a) *Preserved in place;*



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

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

8 5. If the Indian burial site is located on private land and:

9 (a) The *Office fails to identify the closest culturally affiliated*
10 *Indian tribe or the closest culturally affiliated Indian tribe* fails to
11 ~~make a recommendation within 48 hours~~ *consult with the*
12 *landowner* after it receives notification pursuant to subsection ~~1;~~
13 *2;* or

14 (b) The landowner rejects the recommendation *made pursuant*
15 *to subsection 4* and mediation conducted pursuant to NRS 383.160
16 fails to provide measures acceptable to the landowner,

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

20 ~~3.~~ 6. If the Indian burial site is located on public land and
21 action is necessary to protect the burial site from immediate
22 destruction, the Office may cause a professional archeologist to
23 excavate the site and remove all artifacts and human remains
24 associated with the site for subsequent reinterment, ~~following~~
25 ~~scientific study,~~ under the supervision of the *closest culturally*
26 *affiliated* Indian tribe ~~;~~
27 ~~4., if any.~~

28 7. Any other excavation of an Indian burial site may be
29 conducted only:

30 (a) By a professional archeologist;

31 (b) After written notification to the Administrator; and

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

37 ➔ All artifacts and human remains removed during such an
38 excavation must ~~following scientific study,~~ be reinterred under
39 the supervision of the *closest culturally affiliated* Indian tribe, *if*
40 *any*, except that the Indian tribe may, by explicit written consent,
41 authorize the public display of a particular artifact ~~;~~ *if the public*
42 *display is respectful, as determined in consultation with the Indian*
43 *tribe.* The archeologist, *closest culturally affiliated* Indian tribe, *if*
44 *any*, and landowner shall negotiate an agreement to determine who
45 will pay the expenses related to the interment.



1 8. *The Office shall determine which Indian tribe has the*
2 *closest cultural affiliation to an Indian burial site and all artifacts*
3 *and human remains associated with the site in accordance with*
4 *section 25 of this act.*

5 9. *Human remains or funerary objects discovered at an*
6 *Indian burial site:*

7 (a) *Must not be subjected to scientific study; and*

8 (b) *Must not be separated when the human remains and*
9 *funerary objects are reinterred.*

10 10. *Nondestructive analysis on any other artifacts removed*
11 *from an Indian burial site may be conducted only with the explicit*
12 *written consent of the closest culturally affiliated Indian tribe, if*
13 *any.*

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

15 383.180 1. Except as otherwise provided in NRS 383.170, a
16 person who willfully removes, mutilates, defaces, injures or destroys
17 the cairn or grave of a native Indian is guilty of a gross
18 misdemeanor and shall be ~~punished~~:

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

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

26 2. A person who fails to notify the Office of the discovery and
27 location of an Indian burial site in violation of NRS 383.170 is
28 guilty of a gross misdemeanor and shall be punished by a fine of
29 \$500 for the first offense, or by a fine of not more than \$1,500 for a
30 second or subsequent offense, and may be further punished by
31 imprisonment in the county jail for not more than 364 days.

32 3. A person who:

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

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

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

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

42 4. This section does not apply to:

43 (a) The possession or sale of an artifact:

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



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

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

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

6 383.190 1. In addition to the imposition of any criminal
7 penalty, an Indian tribe or an enrolled member of an Indian tribe
8 may bring a civil action to secure an injunction, damages and other
9 appropriate relief against a person who violates NRS ~~383.170 or~~
10 ~~383.180.~~ *381.008, 381.009, 381.195 to 381.227, inclusive, and*
11 *section 6 of this act, 383.021, 383.081, 383.121 or 383.150 to*
12 *383.440, inclusive, or section 25 or 26 of this act.* The action must
13 be brought within 2 years after the discovery of the action by the
14 plaintiff. The action may be filed in the district court for the county
15 in which the cairn, grave, ~~artifacts or~~ *native Indian human*
16 *remains or other cultural items* are located, or within which the
17 defendant resides.

18 2. If the plaintiff prevails in the action:

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

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

28 (c) The plaintiff may recover actual damages.

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

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

32 383.430 1. Upon request by any state agency or political
33 subdivision, the Office may enter into an agreement with that state
34 agency or political subdivision regarding any land which the state
35 agency or political subdivision intends to acquire from an agency of
36 the Federal Government. The agency of the Federal Government
37 may be a party to the agreement. *If the land includes any cultural*
38 *items, the Indian tribe which has the closest cultural affiliation to*
39 *the cultural item may request that the Office enter into such an*
40 *agreement.*

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

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



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

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

8 ~~[(e)]~~ (d) Require that any expenses associated with carrying out
9 the agreement are the responsibility of the state agency or political
10 subdivision.

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

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

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

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

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

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

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

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

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

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

38 383.435 1. Except as otherwise provided in this section, a
39 person who knowingly and willfully removes, mutilates, defaces,
40 excavates, injures or destroys a historic or prehistoric site or
41 resource on state land or who receives, traffics in or sells cultural
42 property appropriated from state land without a valid permit, unless
43 a greater penalty is provided by a specific statute:

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



1 (b) For a second or subsequent offense, is guilty of a gross
2 misdemeanor and shall be punished by imprisonment in the county
3 jail for not more than 364 days or by a fine of not more than
4 ~~[\$3000,]~~ **\$3,500**, or by both fine and imprisonment.

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

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

8 (b) In accordance with the provisions of NRS 381.195 to
9 381.227, inclusive, **and section 6 of this act** by the holder of a
10 permit issued pursuant to those sections.

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

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

18 383.500 1. The Commission for Cultural Centers and
19 Historic Preservation is hereby created. The Commission is advisory
20 to the Department and consists of:

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

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

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

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

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

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

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

41 2. The Commission shall:

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



1 (b) Prescribe rules for its own management and government.
2 (c) Meet biannually, or at more frequent times if it deems
3 necessary, and may, within the limitations of its budget, hold special
4 meetings at the call of the Chair.

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

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

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

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

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

