

HB0394S01 compared with HB0394

~~{deleted text}~~ shows text that was in HB0394 but was deleted in HB0394S01.

Inserted text shows text that was not in HB0394 but was inserted into HB0394S01.

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Representative Michael E. Noel proposes the following substitute bill:

NATIVE AMERICAN REMAINS REPATRIATION

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to state parks and the burial of ancient Native American remains.

Highlighted Provisions:

This bill:

- ▶ ~~{directs}~~creates the Native American ~~{Remains Review Committee to advise the Board of Parks and Recreation regarding reserving land in state parks for the burial of}~~Repatriation Restricted Account, including:
 - making appropriations from it nonlapsing; and
 - providing for grants; and
- ▶ requires a study of whether, and if so, how, to bury ancient Native American remains~~{~~

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- requires the Board of Parks and Recreation to reserve land in certain state parks for the burial of ancient Native American Remains;
- requires the Board of Parks and Recreation to report to the Native American Legislative Liaison Committee; and
- makes technical changes; in state parks.

Money Appropriated in this Bill:

~~{None}~~ This bill appropriates in fiscal year 2018:

▶ to the Native American Repatriation Restricted Account:

- from the General Fund, \$20,000.
- from the General Fund, One-time \$20,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{9-9-405}~~ 63J-1-602.1, as last amended by Laws of Utah ~~{2014}~~ 2016, ~~{Chapter 371}~~ Chapters 46, 70, 71, and 202

ENACTS:

~~{79-4-306}~~ 9-9-407, Utah Code Annotated 1953

9-9-408, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{9-9-405}~~ 9-9-407 is ~~{amended}~~ enacted to read:

~~{9-9-405}~~ 9-9-407. ~~{Review committee}~~ Native American Repatriation Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Native American ~~{Remains Review Committee}~~

~~{(2) (a) The review committee [shall be] is composed of seven members as follows:~~

~~{(i) four Tribal members shall be appointed by the director from nominations submitted by the elected officials of Indian Tribal Nations described in Subsection 9-9-104.5(2)(b); and~~

~~{(ii) three shall be appointed by the director from nominations submitted by}~~ Repatriation Restricted Account."

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(2) (a) The Native American Repatriation Restricted Account shall consist of appropriations from the Legislature.

(b) All interest earned on Native American Repatriation Restricted Account money shall be deposited into the Native American Repatriation Restricted Account.

(3) Subject to appropriation from the Legislature, the division may use the money in the Native American Repatriation Restricted Account as follows:

(a) for a grant issued in accordance with Subsection (6) to an Indian Tribe to pay the following costs of reburial of Native American remains:

(i) use of equipment;

(ii) labor for use of the equipment;

(iii) reseeding and vegetation efforts;

(iv) compliance with Section 9-8-404; and

(v) caskets; and

(b) no more than 5% of the annual expenditures from the Native American Repatriation Restricted Account may be used for training for tribal elders and councils on the processes under this part, including costs for:

(i) lodging and transportation of employees of the department; or

(ii) travel grants issued in accordance with Subsection (6) for tribal representatives of Utah's repositories.

~~{(b) A member appointed under Subsection (2)(a)(i) shall have familiarity and experience with this part.~~

~~—— (c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director, and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation.~~

~~Removal of a member who represents an Indian Tribal Nation requires the joint decision of the director and~~ (4) If the balance in the Native American Repatriation Restricted Account

exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred into the General Fund.

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

(6) To issue a grant under this section, the division shall:

(a) require that an Indian Tribe request the grant in writing and specify how the grant

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money will be expended; and

(b) enter into an agreement with the Indian {Tribal Nation.

~~—— (ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director, and if the member represents a repository, at the will of the Tribe to ensure that the grant money is expended in accordance with Subsection (3).~~

Section 2. Section 9-9-408 is enacted to read:

9-9-408. Burial of ancient Native American remains in state parks.

(1) As used in this section:

(a) "Ancient Native American remains" means ancient human remains, as defined in Section 9-8-302, that are Native American remains, as defined in Section 9-9-402.

(b) "Antiquities Section" means the Antiquities Section of the Division of State History. ~~Removal of a member who represents a repository requires the joint decision of the director.~~ created in Section 9-8-304.

(2) (a) The division, the Antiquities Section, and the Division of {State History.

~~—— (d) When a vacancy occurs in the membership for any reason, the director shall appoint a replacement in the same manner as the original appointment under Subsection (2)(a).~~

~~—— (e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~—— (i) Section 63A-3-106;~~

~~—— (ii) Section 63A-3-107; and~~

~~—— (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~

~~—— (f) The review committee shall designate one of its members as chair.~~

~~—— (3) The review committee shall:~~

~~—— (a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;~~

~~—— (b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):~~

~~—— (i) the identity or cultural affiliation of Native American remains; or~~

~~—— (ii) the return of Native American remains;~~

~~—— (c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal~~

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~~descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;~~

~~—— (d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;~~

~~—— (e) consult with the division in the development of rules to carry out this part;~~

~~—— (f) perform other related functions as the division may assign to the review committee; [and]~~

~~—— (g) make recommendations, if appropriate, regarding care of; Parks and Recreation shall cooperate in a study of the feasibility of burying ancient Native American remains ~~{that are to be repatriated[.]; and~~~~

~~—— (h) in accordance with Section 79-4-306, advise the Board of Parks and Recreation, created in Section 79-4-301, regarding the Board of Parks and Recreation reserving land in state parks} in state parks.~~

(b) The study shall include:

(i) the process and criteria for determining which state parks would have land sufficient and appropriate to reserve a portion of the land for the burial of ancient Native American remains{.};

~~{(4) A record or finding made by the review committee relating to the identity of or cultural affiliation of};~~ (ii) the process for burying the ancient Native American remains on the lands within state parks, including the responsibilities of state agencies and the assurance of cultural sensitivity;

(iii) how to keep a record of the locations in which specific ancient Native American remains {and the return of} are buried;

(iv) how to account for the costs of:

(A) burying the ancient Native American remains {may be admissible in any action brought under this part.

~~—— (5) The appropriate state agency having primary authority over the lands as provided in Chapter 8, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:~~

~~—— (a) } on lands found within state parks; and~~

(B) securing and maintaining burial sites in state parks; and

(v) any issues related to burying ancient Native American remains {under review; and

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~~(b) associated scientific and historical documents.~~

~~(6) The division shall provide reasonable administrative and staff support necessary for the deliberations of the review committee.~~

~~(7) The department shall include in the annual written report described in Section 9-1-208, a description of the progress made, and any barriers encountered, by the review committee in implementing this section during the previous year.~~ in state parks.

(3) The division, the Antiquities Section, and the Division of Parks and Recreation shall report to the Native American Legislative Liaison Committee by no later than November 1, 2017, regarding the study required by Subsection (2).

Section 3. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Native American Repatriation Restricted Account created in Section 9-9-407.

~~(3)~~ (4) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

~~(4)~~ (5) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

~~(5)~~ (6) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

~~(6)~~ (7) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

~~(7)~~ (8) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

~~(8)~~ (9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~(9)~~ (10) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~(10)~~ (11) The primary care grant program created in Section 26-10b-102.

~~(11)~~ (12) The Prostate Cancer Support Restricted Account created in Section

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26-21a-303.

~~[(12)]~~ [(13)] The Children with Cancer Support Restricted Account created in Section 26-21a-304.

~~[(13)]~~ [(14)] State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(14)]~~ [(15)] The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(15)]~~ [(16)] The Rural Physician Loan Repayment Program created in Section 26-46a-103.

~~[(16)]~~ [(17)] The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

~~[(17)]~~ [(18)] The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

Section ~~{2. Section 79-4-306 is enacted to read:~~

~~———— 79-4-306. Burial of ancient Native American remains in state parks.~~

~~———— (1) As used in this section, "ancient Native American remains" means ancient human remains, as defined in Section 9-8-302, that are Native American remains, as defined in Section 9-9-402.~~

~~———— (2) (a) By no later than July 1, 2018, the board shall reserve land for the burial of ancient Native American remains in each state park for which the board finds:~~

~~———— (i) burial of ancient Native American remains is permissible under the purposes of the state park, after working with federal agencies when necessary; and~~

~~———— (ii) the state park has land sufficient and appropriate to reserve a portion of the land for the burial of ancient Native American remains.~~

~~———— (b) The } 4. Appropriation.~~

~~The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.~~

~~To GFR - Native American {Remains Review Committee, created under Section 9-9-405, shall advise the board regarding the appropriateness of land on state parks for the~~

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~~burial of ancient~~ Repatriation Restricted Account

From General Fund, One-time \$20,000

From General Fund \$20,000

Schedule of Programs:

GFR - Native American ~~remains and the cultural requirements for the~~
~~burial of ancient Native American remains.~~

~~—— (3) The board shall report in writing, in accordance with Section 68-3-14, to the Native
American Legislative Liaison Committee by November 1, 2017, regarding the implementation
of this section.~~

Legislative Review Note

Office of Legislative Research and General Counsel Repatriation

Restricted Account \$40,000