

RESOLUTION OF THE
NAABIK'İYATI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23RD Navajo Nation Council - Third Year, 2017.

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING AND RECOMMENDING THE
PASSAGE OF HOUSE BILL 394 - STATE OF UTAH

WHEREAS:

- A. Statements of policy are written statements submitted to federal, state or local governments by a Navajo Nation official stating the official position of the Navajo Nation on proposed legislation or other action by that government. See 2 N.N.C. § 100 (W).
- B. The House Bill 394 (H.B. 394) titled Native American Remains Repatriation - sponsored by Micheal E. Noel was introduced to the Utah State Legislature - State of Utah - 2017 General Session, attached hereto as **Exhibit A**.
- C. The H.B. 394 was introduced to modify provisions related to state parks and the burial of ancient Native American remains. See **Exhibit A**.
- D. The H.B. 394 directs the Native American Remains Review Committee to advise the Board of Parks and Recreation regarding reserving land in state parks for the burial of ancient Native American remains. *Id.*
- E. The H.B. 394 requires the Board of Parks and Recreation to reserve land in certain state parks for the burial of ancient Native American remains. *Id.*
- F. The H.B. 394 requires the Board of Parks and Recreation to report to the Native American Legislative Liaison Committee and makes technical changes. *Id.*
- G. It is within the best interest of the Navajo Nation to support the passage of H.B. 394.

NOW THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation supports and recommends the passage of H.B. 394.
- B. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation Speaker, the Navajo Nation Chief Justice and their designees, to advocate for the passage of H.B. 394.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in favor and 0 oppose, this 6th day of April, 2017.

A handwritten signature in black ink, appearing to read 'Lorenzo C. Bates', written over a light blue circular stamp.

Honorable Lorenzo C. Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Herman M. Daniels
Second: Honorable Nathaniel Brown

23rd Navajo Nation Council
Naabik'iyati' Committee

DATE: April 6, 2017

Legislation 0083-17 (Main Motion)

Motion: Herman Daniels

Second: Nathaniel

ALL DELEGATES:

	Yea	Nay
BATES, LoRenzo		
BEGAY, Kee Allen Jr.		
BEGAY, Norman M.		
BEGAYE, Nelson	✓	
BENNETT, Benjamin L.	✓	
BROWN, Nathaniel	✓	
CHEE, Tom T.	✓	
CROTTY, Amber K.	✓	
DAMON, Seth	✓	
DANIELS, Herman	✓	
FILFRED, Davis		
HALE, Jonathan L.	✓	
JACK, Lee Sr.		
PERRY, Jonathan	✓	
PETE, Leonard H.		
PHELPS, Walter	✓	
SHEPHERD, Alton Joe		
SLIM, Tuchoney Jr.	✓	
SMITH, Raymond Jr.		
TSO, Otto		
TSOSIE, Leonard	✓	
WITHERSPOON, Dwight	✓	
YAZZIE, Edmund	✓	
YAZZIE, Peterson	✓	

BY COMMITTEE:

	Yea	Nay	TOTAL
BFC:			
CHEE, Tom T.			
DAMON, Seth			
JACK, Lee Sr.			
SLIM, Tuchoney Jr.			
WITHERSPOON, Dwight			
TSOSIE, Leonard			
HEHSC:			
BEGAY, Norman M.			
BEGAYE, Nelson			
BROWN, Nathaniel			
CROTTY, Amber K.			
HALE, Jonathan L.			
YAZZIE, Peterson			
LOC:			
BEGAY, Kee Allen Jr.			
DANIELS, Herman			
SMITH, Raymond Jr.			
TSO, Otto			
YAZZIE, Edmund			
RDC:			
BENNETT, Benjamin L.			
FILFRED, Davis			
PERRY, Jonathan			
PETE, Leonard H.			
PHELPS, Walter			
SHEPHERD, Alton Joe			
SPEAKER:			
BATES, LoRenzo			
<i>(Votes only in a tie)</i>			

GRAND TOTAL

15 | 0

CERTIFICATION:



Honorable LoRenzo Bates
Speaker



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 the Native American Remains Review Committee to advise the Board of Parks and Recreation regarding reserving land in state parks for the burial of ancient Native American remains;

- 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-9-405, as last amended by Laws of Utah 2014, Chapter 371

H.B. 394



28 ENACTS:

29 79-4-306, Utah Code Annotated 1953

30

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

32 Section 1. Section 9-9-405 is amended to read:

33 **9-9-405. Review committee.**

34 (1) There is created a Native American Remains Review Committee.

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

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

38 (ii) three shall be appointed by the director from nominations submitted by
39 representatives of Utah's repositories.

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

42 (c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director,
43 and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation.
44 Removal of a member who represents an Indian Tribal Nation requires the joint decision of the
45 director and the Indian Tribal Nation.

46 (ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director,
47 and if the member represents a repository, at the will of the Division of State History. Removal
48 of a member who represents a repository requires the joint decision of the director and the
49 Division of State History.

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

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

54 (i) Section 63A-3-106;

55 (ii) Section 63A-3-107; and

56 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
57 63A-3-107.

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

- 59 (3) The review committee shall:
- 60 (a) monitor the identification process conducted under Section 9-9-403 to ensure a fair
- 61 and objective consideration and assessment of all available relevant information and evidence;
- 62 (b) review a finding relating to the following, subject to the rules made by the division
- 63 under Subsection 9-9-403(6):
- 64 (i) the identity or cultural affiliation of Native American remains; or
- 65 (ii) the return of Native American remains;
- 66 (c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal
- 67 descendants and state agencies relating to the return of Native American remains, including
- 68 convening the parties to the dispute if considered desirable;
- 69 (d) consult with Indian Tribal Nations on matters within the scope of the work of the
- 70 review committee affecting these Indian Tribal Nations;
- 71 (e) consult with the division in the development of rules to carry out this part;
- 72 (f) perform other related functions as the division may assign to the review committee;
- 73 [and]
- 74 (g) make recommendations, if appropriate, regarding care of Native American remains
- 75 that are to be repatriated[-]; and
- 76 (h) in accordance with Section 79-4-306, advise the Board of Parks and Recreation,
- 77 created in Section 79-4-301, regarding the Board of Parks and Recreation reserving land in
- 78 state parks for the burial of ancient Native American remains.
- 79 (4) A record or finding made by the review committee relating to the identity of or
- 80 cultural affiliation of Native American remains and the return of Native American remains may
- 81 be admissible in any action brought under this part.
- 82 (5) The appropriate state agency having primary authority over the lands as provided in
- 83 Chapter 8, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:
- 84 (a) Native American remains under review; and
- 85 (b) associated scientific and historical documents.
- 86 (6) The division shall provide reasonable administrative and staff support necessary for
- 87 the deliberations of the review committee.
- 88 (7) The department shall include in the annual written report described in Section
- 89 9-1-208, a description of the progress made, and any barriers encountered, by the review

90 committee in implementing this section during the previous year.

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

92 **79-4-306. Burial of ancient Native American remains in state parks.**

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

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

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

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

102 (b) The Native American Remains Review Committee, created under Section 9-9-405,
103 shall advise the board regarding the appropriateness of land on state parks for the burial of
104 ancient Native American remains and the cultural requirements for the burial of ancient Native
105 American remains.

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

Legislative Review Note
Office of Legislative Research and General Counsel