

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. [BILL NUMBER]

Archaeological human burial sites.

Sponsored by: Senator(s) Boner

A BILL

for

1 AN ACT relating to criminal procedure; requiring notification
2 of the coroner when human remains are discovered; providing
3 for exhumation and reinterment of human remains on state and
4 private lands; providing for notification of the state
5 archaeologist and others of archaeological human burials;
6 making conforming amendments; providing an appropriation; and
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 7-4-106 is created to read:

12

13 **7-4-106. Archaeological human burial sites.**

1

2 (a) The county coroner shall have jurisdiction over all
3 archaeological human burials discovered in the county on
4 state or private lands.

5

6 (b) When human remains are discovered, the person who
7 discovers the remains shall cease the activity that caused
8 the discovery of the remains and immediately notify the county
9 coroner.

10

11 (c) When the coroner is notified that human remains
12 have been found within the limits of the county, the coroner
13 shall determine the approximate age of the burial site. If
14 the human remains constitute an archaeological human burial:

15

16 (i) On private land, the coroner shall notify the
17 state archaeologist and the landowner;

18

19 (ii) On state land, the coroner shall notify the
20 state archaeologist and the office of state lands and
21 investments;

22

1 (iii) The state archaeologist's investigation
2 shall be:

3

4 (A) Commenced within two (2) business days to
5 protect the integrity of the remains;

6

7 (B) Limited to the discovered human burial
8 site.

9

10 (d) An archaeological human burial shall only be exhumed
11 under the direction and supervision of the state
12 archaeologist in coordination with the county coroner, and
13 provided:

14

15 (i) The coroner shall notify the landowner of
16 exhumation;

17

18 (ii) If the remains are determined by the state
19 archeologist to be Native American, the Eastern Shoshone and
20 Northern Arapaho Tribes shall be consulted before exhumation;

21

1 (iii) Absent extraordinary circumstances,
2 exhumation shall occur within five (5) business days to
3 protect the safety and integrity of the remains;

4

5 (iv) If there are no identifiable descendants of
6 the person whose remains were exhumed, remains may be
7 reinterred on state lands.

8

9 (e) Subject to the notifications and procedures in this
10 section, nothing in this section precludes a landowner from
11 working with descendants or Native American tribes to reinter
12 or to leave in situ human remains on private lands with the
13 landowner's consent.

14

15 (f) Human remains shall be treated with respect, dignity
16 and with consideration of religious, spiritual and ethnic
17 evidence present at the burial site.

18

19 (g) When the state archaeologist determines that any
20 archaeological human burial is Native American, after
21 archaeological human remains are exhumed, the state
22 archaeologist and coroner shall notify and consult with
23 culturally affiliated Native American tribes. The state

1 historic preservation office shall work with the Eastern
2 Shoshone and Northern Arapaho tribes to develop a protocol
3 for consultation, repatriation and reinterment or other
4 disposition of culturally identifiable and unidentifiable
5 Native American human remains.

6
7 (h) For purposes of this section, "archaeological human
8 burial" includes human remains and funerary objects that, as
9 part of the death rite or ceremony of a culture, are
10 reasonably believed to have been placed with individual human
11 remains at the time of death or later but does not include
12 remains found in known or marked graves or in established
13 cemeteries.

14
15 (j) A person who knowingly violates this section is
16 guilty of a misdemeanor punishable by imprisonment for not
17 more than six (6) months, a fine of not more than seven
18 hundred fifty dollars (\$750.00), or both.

19
20 **Section 2.** W.S. 6-4-501 and 36-4-106(d)(vi) are amended
21 to read:

1 **6-4-501. Opening graves and removing bodies; penalty;**
2 **exception.**

3
4 (a) A person who opens a grave or tomb and removes a
5 body or remains of a deceased person for any purpose without
6 the knowledge and consent of near relations of the deceased
7 commits a misdemeanor punishable by a fine of not more than
8 seven hundred fifty dollars (\$750.00).

9
10 (b) This section does not prohibit exhumation if
11 ordered by a court of competent jurisdiction or if performed
12 according to W.S. 7-4-106.

13
14 **36-4-106. Plan for acquisition and development of**
15 **resources; authority of department; coordination of**
16 **activities; exceptions; agreements with United States; state**
17 **archaeologist.**

18
19 (d) There shall be appointed within the department of
20 state parks and cultural resources a state archaeologist, who
21 shall be a member of the department of anthropology of the
22 University of Wyoming. The state archaeologist shall receive
23 an annual salary to be determined by the Wyoming human

resources division, which shall be in addition to any compensation received from the university. The state archaeologist may:

(vi) Cooperate with all agencies to the extent of capacity in the protection from vandalism, natural and other kinds of destruction of all objects of archaeological significance, to investigate, exhume and consult regarding archaeological human burials pursuant to to W.S. 7-4-106 and to render aid in the enforcement of the Wyoming Antiquities Act;

Section 3. There is appropriated thirty thousand dollars (\$30,000.00) from the general fund to the department of state parks and cultural resources. This appropriation shall be for the period beginning with the effective date of this act and ending June 30, 2020. This appropriation shall only be expended for the purpose of providing for state archaeologist assistance with the exhumation of archaeological human remains as provided in section 1 of this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining

1 from this appropriation shall revert as provided by law on
2 June 30, 2020. This appropriation shall not be included in
3 the department's 2021-2022 standard biennial budget request.

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6 STAFF COMMENT

7 The amount and duration of the appropriation in Section 3
8 is subject to change following committee discussion. The
9 amount of thirty thousand dollars was the amount in a bill
10 draft from 2009.

11 *****

12

13 Section 4. This act is effective July 1, 2019.

14

15 (END)