

105TH CONGRESS  
1ST SESSION

# S. 110

To amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. INOUE (for himself and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

## A BILL

To amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. AMENDMENTS TO THE NATIVE AMERICAN**  
4                       **GRAVES PROTECTION AND REPATRIATION**  
5                       **ACT.**

6           (a) WRITTEN CONSENT REQUIRED IF NATIVE AMER-  
7       ICAN REMAINS ARE EXCAVATED OR REMOVED FOR PUR-  
8       POSES OF STUDY.—Section 3(c) of the Native American  
9       Graves Protection and Repatriation Act (25 U.S.C.  
10       3002(c)) is amended—

1 (1) in paragraph (3), by striking “and” at the  
2 end of the paragraph;

3 (2) in paragraph (4), by striking the period and  
4 inserting “; and”; and

5 (3) by adding at the end the following:

6 “(5) in the case of any intentional excavation or  
7 removal of Native American human remains for pur-  
8 poses of study, such remains are excavated or re-  
9 moved after written consent is obtained from—

10 “(A) lineal descendants, if known or read-  
11 ily ascertainable; or

12 “(B) each appropriate Indian tribe or Na-  
13 tive Hawaiian organization.

14 The requirement under paragraph (1) shall not be inter-  
15 preted as allowing or requiring, in the absence of the con-  
16 sent of each appropriate Indian tribe or Native Hawaiian  
17 organization, any recordation or analysis that is in addi-  
18 tion to any recordation or analysis that is otherwise al-  
19 lowed or required under this Act.”.

20 (b) REQUIREMENTS FOR INADVERTENT DISCOV-  
21 ERIES.—Section 3(d) of the Native American Graves Pro-  
22 tection and Repatriation Act (25 U.S.C. 3002(d)) is  
23 amended—

24 (1) in paragraph (1)—

1 (A) in the first sentence, by striking “with  
2 respect to Federal lands” and inserting “with  
3 respect to those Federal lands”;

4 (B) by inserting after the first sentence  
5 the following: “In any case in which a Federal  
6 agency or instrumentality receives notice of a  
7 discovery of Native American cultural items on  
8 lands with respect to which the Federal agency  
9 or instrumentality has management authority,  
10 the appropriate official of the Federal agency or  
11 instrumentality shall notify each appropriate  
12 Indian tribe or Native Hawaiian organization.  
13 The notification required under the preceding  
14 sentence shall be provided not later than 3 busi-  
15 ness days after the date on which the Federal  
16 agency or instrumentality receives notification  
17 of the discovery.”; and

18 (C) in the last sentence, by inserting “,  
19 and, in the case of Federal lands, the appro-  
20 priate official of the Federal agency or instru-  
21 mentality with management authority over  
22 those lands notified each appropriate Indian  
23 tribe or Native Hawaiian organization by the  
24 date specified in this paragraph,” after “that  
25 notification has been received,”; and

1           (2) in paragraph (2), by adding at the end the  
 2           following new sentence: “Any person or entity that  
 3           disposes of, or controls, a cultural item referred to  
 4           in the preceding sentence shall comply with the ap-  
 5           plicable requirements of subsection (c).”.

6           (c) REVIEW COMMITTEE.—Section 8(c)(5) of the Na-  
 7           tive American Graves Protection and Repatriation Act (25  
 8           U.S.C. 3006(c)(5)) is amended—

9           (1) by inserting “and associated funerary ob-  
 10          jects” after “culturally unidentifiable human re-  
 11          mains”; and

12          (2) by striking “for developing a process for  
 13          disposition of such remains” and inserting “for de-  
 14          veloping a process for the disposition of the remains  
 15          and associated funerary objects”.

16          (c) ENFORCEMENT.—Section 9 of the Native Amer-  
 17          ican Graves Protection and Repatriation Act (25 U.S.C.  
 18          3007) is amended by adding at the end the following:

19          “(e) ENFORCEMENT.—

20                 “(1) IN GENERAL.—Subject to paragraph (2),  
 21          the amounts collected by the Secretary as penalties  
 22          under this section shall be used to supplement the  
 23          amounts made available by appropriations for con-  
 24          ducting enforcement activities related to this section.

1           “(2) AUTHORITY OF SECRETARY.—In carrying  
2           out enforcement activities related to this section, the  
3           Secretary may—

4                   “(A) pay any person who furnishes infor-  
5                   mation that leads to the assessment of a civil  
6                   penalty under this section (other than an officer  
7                   or employee of the Federal Government or a  
8                   State or local government (including a tribal  
9                   government) who furnishes or who renders serv-  
10                  ice in the performance of official duties) the  
11                  lesser of—

12                           “(i) half of the amount of the civil  
13                           penalty; or

14                           “(ii) \$1,000; and

15                   “(B) reduce the amount of a civil penalty  
16                   that would otherwise be assessed under this sec-  
17                   tion if the violator against whom the civil pen-  
18                   alty is assessed agrees to pay to the aggrieved  
19                   parties involved an aggregate amount of restitu-  
20                   tion not to exceed the amount of the reduc-  
21                   tion.”.

○