



SOCIETY FOR CALIFORNIA ARCHAEOLOGY
P.O. Box 2582
Granite Bay, CA 95746

September 8, 2023

Senate Committee on Education:

Re: Assembly Bill 389 Native American repatriation: California Native American Graves Protection and Repatriation Act of 2001: California State University

On behalf of the Society for California Archaeology (SCA), we are writing to express our opposition to AB 389 *as currently written*. To be clear, we do not oppose the California Native American Graves Protection and Repatriation Act of 2001 (CALNAGRPA); the procedural uncertainty in this bill however has the potential to interfere with the successful implementation of it and will likely lead to unintended consequences.

The SCA is a nonprofit scientific and educational organization that was formed in 1966. Our organization has a current membership of over 1,000 archaeologists who are dedicated to our purpose of researching, understanding, interpreting, and conserving the heritage of California and the regions that surround and pertain to it. The SCA promotes and seeks to increase public appreciation and support for archaeology in California by representing the concerns of California archaeologists before government commissions and agencies, and on legislation while encouraging respect, appreciation, and a better understanding of California's diverse cultural heritage.

The SCA appreciates the importance of completing the commitments required under CALNAGPRA. We further agree with the urgency to improve current procedures and practices at California State University (CSU) so this work can be completed successfully. With that in mind, the SCA wishes to bring to your attention some language in the current draft of AB389 that will reduce procedural clarity and potentially delay successful completion of CALNAGPRA. It may also cause other unintended problems in fulfilling the legal requirements to properly consider California's archaeology under the California Environmental Quality Act (CEQA).

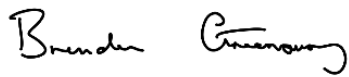
Given the extraordinary and unique heritage of California, we urge you to consider providing a definition of what comprises a "cultural item" in section 89417 of AB389. The definition of this term is of utmost importance, if "cultural item" is defined too broadly and research cannot be conducted, then the rights of many groups to understand their cultural heritage could be taken away. As currently proposed this term in AB389 refers to a definition in CALNAGPRA housed in California Health Safety Code Section 8102 (g) which, in part, refers to the definition of "cultural item" from Section 3001 of Title 25 of the United States Code (as it read on January 1, 2020). Section 3001 of Title 25 is the Federal Native American Graves Protection and Repatriation Act (NAGPRA). NAGPRA has explicit definitions of what comprises a cultural item. To be clear the SCA has no objection to the use of the NAGPRA definition for the current bill but for clarity and clear implementation it is requested that the definition be added verbatim to AB389.

We urge you to reconsider the language in AB389 that in part prohibits the use of "any cultural items for purposes of teaching or research at the CSU". Given the ambiguity in the definition of "cultural items" under CALNAGPRA and AB389, this may be interpreted to mean no archaeological material of any kind may be studied or used for teaching. We note the stated mission of the CSU system is "to prepare significant numbers of educated responsible people to contribute to California's schools, economy, culture, and future." Many SCA members have learned their profession by taking classes at CSU and UC campuses and are now working as private sector consultants helping Lead Agencies and project proponents comply with historical resources requirements of the California Environmental Quality Act (CEQA). In 2014 CEQA was amended to require consultation with California Tribes (AB52, Gatto 2014). We understand this bill limits teaching or research only in the CSU system, but there is a potential that this strict wording will be interpreted by CEQA Lead Agencies to remove their responsibility to consult pursuant Public Resources Code § 21080.3.1 to incorporate the Tribe's comments and concerns into project planning. This would be a significant shift in approach and should be a robust point of consultation with California Tribes because opinions vary.

In conclusion and to reiterate, the SCA does not oppose CALNAGPRA but we do oppose AB389 as currently written. We thank you for consideration of our comments and offer to engage with you to offer our professional expertise as this bill undergoes additional amendments.

Please contact SCA President Brendon Greenaway at brendon@scahome.org should you have any questions.

Best regards,

A handwritten signature in blue ink that reads "Brendon Greenaway". The signature is written in a cursive style with a large initial 'B'.

Brendon Greenaway
President, Society for California Archaeology

A handwritten signature in blue ink that reads "Tony Overly". The signature is written in a cursive style with a large initial 'T'.

Tony Overly
Incoming President, Society for California Archaeology

A handwritten signature in blue ink that reads "Anmarie Medin". The signature is written in a cursive style with a large initial 'A'.

Anmarie Medin
Immediate Past President, Society for California Archaeology

Cc: John Ramos, Assemblymember