

**Amendment No. 495**

Senate Amendment to Senate Bill No. 81

(BDR 33-428)

**Proposed by:** Committee on Human Resources and Education**Amendment Box:** Replaces Amendment No. 353.**Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
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Amend the bill as a whole by renumbering section 1 as sec. 2 and adding a new section designated section 1, following the enacting clause, to read as follows:

“**Section 1.** NRS 381.195 is hereby amended to read as follows:

381.195 As used in NRS 381.195 to 381.227, inclusive:

1. “Historic” means after the middle of the 18th century.
2. “Historic site” means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.
3. “Museum Director” means the Museum Director of the Nevada State Museum.
4. “Prehistoric” means before the middle of the 18th century.

JDA/JRS

Date: 4/22/2005

S.B. No. 81—Makes various changes concerning protection of certain significant historical resources.

5. "Prehistoric site" means any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, ~~or~~ burial ground ~~or~~ *or sites of religious or cultural importance to an Indian tribe.*".

Amend section 1, page 2, by deleting lines 2 through 4 and inserting:

"381.197 ~~No~~ *Except for action taken under an agreement with the Office of Historic Preservation of the Department pursuant to section 11 of this act, and except as otherwise provided in this section, a person shall not investigate.*".

Amend section 1, page 2, line 8, after "inclusive." by inserting:

*"Conduct that would otherwise constitute a violation of this section is not a violation of this section if it is also a violation of section 12 of this act."*

Amend the bill as a whole by renumbering sections 2 and 3 as sections 4 and 5 and adding a new section designated sec. 3, following section 1, to read as follows:

"**Sec. 3.** NRS 381.227 is hereby amended to read as follows:

381.227 ~~Except~~ *Unless a greater penalty is provided by a specific statute and except as otherwise provided in NRS 381.225, any person violating any of the provisions of NRS 381.195 to 381.227, inclusive, is guilty of a misdemeanor.*".

Amend sec. 2, page 2, line 10, by deleting:

"3 to 12," and inserting:

"5 to 13,".

Amend sec. 3, page 2, line 12, by deleting:

"3 to 12" and inserting:

"5 to 13,".

Amend sec. 3, page 2, line 14, by deleting:

***“4 to 8,”*** and inserting:

***“6 to 10,”***.

Amend the bill as a whole by deleting sections 4 through 6, renumbering sections 7 and 8 as sections 9 and 10 and adding new sections designated sections 6 through 8, following sec. 3, to read as follows:

***“Sec. 6. “Historic site” has the meaning ascribed to it in NRS 381.195.***

***Sec. 7. “Political subdivision” means a county, city, irrigation district or any other local government as defined in NRS 354.474.***

***Sec. 8. “Prehistoric site” has the meaning ascribed to it in NRS 381.195.”.***

Amend sec. 7, page 3, by deleting lines 8 and 9 and inserting ***“this State.”***.

Amend sec. 8, page 3, line 11, by deleting ***“agency.”*** and inserting:

***“agency or political subdivision.”.***

Amend the bill as a whole by deleting sections 9 through 11 and adding a new section designated sec. 11, following sec. 8, to read as follows:

***“Sec. 11. 1. Upon request by any state agency or political subdivision, the Office may enter into an agreement with that state agency or political subdivision regarding any land which the state agency or political subdivision intends to acquire from an agency of the Federal Government. The agency of the Federal Government may be a party to the agreement.***

***2. An agreement made pursuant to subsection 1 must:***

*(a) Include provisions that are sufficient to ensure that the land, when acquired, will receive protection for any historic or prehistoric site at a level equivalent to the protection provided if the land had remained under federal ownership;*

*(b) Require the state agency or political subdivision to submit a proposal and consult with the Office before changing the use of the land or initiating a project on any portion of the land; and*

*(c) Require that any expenses associated with carrying out the agreement are the responsibility of the state agency or political subdivision.*

*3. If a state agency or political subdivision submits a proposal to change the use of the land or initiate a project on any portion of the land pursuant to paragraph (b) of subsection 2, the state agency or political subdivision shall:*

*(a) Provide to the Office a written statement:*

*(1) Identifying any Indian tribes that may be concerned with the religious or cultural importance of the site and other interested persons for inclusion in the consultation required pursuant to paragraph (b) of subsection 2;*

*(2) Identifying any historic or prehistoric sites in accordance with the requirements of the Office for recording and reporting for those sites;*

*(3) Evaluating any historic or prehistoric sites for inclusion in the State Register of Historic Places, including any text excavations or other research;*

*(4) Evaluating the effect of the change in use of the land or the project on a historic or prehistoric site that is eligible for inclusion in the State Register of Historic Places; and*

*(5) Evidencing the preparation and carrying out of treatment plans that comply with the requirements of the Office for those plans; and*

*(b) Any other information relating to the proposed change of use required by the Office.”.*

Amend sec. 12, page 4, by deleting lines 20 and 21 and inserting:

*“person who knowingly and willfully removes, mutilates, defaces, excavates, injures or destroys a historic or prehistoric site or resource on state land or who receives, traffics in or sells cultural property appropriated from state land without a valid permit, unless a greater penalty is provided by a specific statute:”.*

Amend sec. 12, page 4, by deleting lines 29 and 30 and inserting:

*“(a) In accordance with an agreement with the Office entered into pursuant to section 11 of this”.*

Amend sec. 12, page 4, between lines 34 and 35, by inserting:

*“3. In addition to any other penalty, a person who violates a provision of this section is liable for civil damages to the state agency or political subdivision which has jurisdiction over the state land in an amount equal to the cost or, in the discretion of the court, an amount equal to twice the cost of the restoration, stabilization and interpretation of the site plus any court costs and fees.”.*

Amend the bill as a whole by deleting sections 13 and 14 and adding a new section designated sec. 13, following sec. 12, to read as follows:

*“Sec. 13. The Office may adopt regulations to carry out the provisions of sections 5 to 13, inclusive, of this act.”.*

Amend the title of the bill to read as follows:

“AN ACT relating to historic preservation; expanding the definition of “prehistoric site” to include sites of religious or cultural importance to an Indian tribe; authorizing the Office of Historic Preservation of the Department of Cultural Affairs to enter into certain

agreements with a state agency or political subdivision concerning the preservation of historic or prehistoric sites; requiring a state agency or political subdivision to submit certain information to the Office before changing the use of or initiating a project on any portion of certain land; making it a crime to take certain actions which tend to injure or destroy historic or prehistoric sites on state land or to receive, traffic in or sell cultural property from state land without a valid permit; providing a penalty; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes concerning protection of historic and prehistoric sites.  
(BDR 33-428)”.

**If this amendment is adopted, the Legislative  
Counsel's Digest will be changed to read as follows:**

**Legislative Counsel's Digest:**

Under existing law, the Office of Historic Preservation of the Department of Cultural Affairs protects prehistoric and historic sites, including Indian burial sites. (Chapters 381 and 383 of NRS)

This bill authorizes the Office of Historic Preservation to enter into an agreement with a state agency or political subdivision concerning land that the state agency or political subdivision is going to acquire from an agency of the Federal Government. The agreement must ensure that the land will have protection of any historic or prehistoric sites that is at least equivalent to the protection it would have received if the land had remained under federal ownership. The agreement must also require the state agency or political subdivision to consult with the Office of Historic Preservation before changing the use of the land or initiating a project on the land and require the state agency or political subdivision to pay any costs associated with carrying out the agreement. The bill also requires a state agency or political subdivision to submit certain information to the Office of Historic Preservation for the purposes of the consultation before the state agency or political subdivision can change the use of the land or initiate a project on the land.

Existing law makes it a crime for a person willfully to remove, mutilate, deface, injure or destroy the cairn or grave of a native Indian. (NRS 383.180)

This bill makes it a crime for a person knowingly and willfully to engage in such conduct with respect to a historic or prehistoric site on state land. It also makes it a crime to receive, traffic in or sell cultural property appropriated from state land. A person who engages in such conduct is guilty

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of a misdemeanor for a first offense, punishable by a fine of \$500, and is guilty of a gross misdemeanor for a second or subsequent offense, punishable by imprisonment for up to a year, or a fine of not more than \$3,000, or by both a fine and imprisonment. The person is also liable for the payment of civil damages to the state agency or political subdivision which has jurisdiction over the state land. A person or entity who is following an agreement made with the Office of Historic Preservation or who is acting in accordance with a permit is not subject to these criminal penalties.