

# SENATE BILL REPORT

## SB 6519

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As of January 29, 2020

**Title:** An act relating to protection of archaeological and cultural sites by state and local governments and all recipients of state appropriations.

**Brief Description:** Requiring protection of archaeological and cultural sites by state agencies, local governments, and all recipients of state revenue.

**Sponsors:** Senators McCoy, Conway, Liias, Lovelett, Salomon, Stanford, Wilson, C. and Zeiger.

**Brief History:**

**Committee Activity:** State Government, Tribal Relations & Elections: 1/29/20.

**Brief Summary of Bill**

- Establishes a review process with Department of Archaeology and Historic Preservation and interested federally recognized tribes to determine potential impacts to archaeological and cultural sites for any project funded by state revenue that involves groundbreaking activity.
- Requires meaningful consultation with interested federally recognized tribes before allocation of state revenue for any project that involves groundbreaking activity.

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### SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

**Staff:** Melissa Van Gorkom (786-7491)

**Background:** Under the National Historic Preservation Act (NHPA), the Governor must designate a State Historic Preservation Officer (SHPO) to undertake many federal responsibilities. The director of the Department of Archaeology and Historic Preservation (DAHP) is the SHPO for Washington.

Section 106 of the NHPA requires federal agencies to consider the effects of federally funded projects on historic properties prior to the expenditure of any federal funds. Section 106 covers a broad range of federal or federally assisted projects, including construction, renovation, repair, or rehabilitation; ground disturbances; and changes to an area's visual

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characteristics. All Section 106 projects go through tribal consultation. Tribal consultation is the responsibility of the federal agency, but tribes regularly ask DAHP for assistance.

Since 2005, the capital budget directs agencies to comply with the Governor's Executive Order 05-05 concerning archeological and cultural resources. Under these provisions, state capital construction projects and land acquisitions for the purpose of capital construction projects not undergoing review under Section 106 of the NHPA are required to conduct a review with DAHP and affected tribes to determine potential impacts to cultural resources as early in the project planning process as possible. Before an agency signs an agreement with affected tribes concerning cultural resources, it must be submitted to DAHP for review and comment.

Executive Order 05-05 requires state agencies take steps insuring this type of review is incorporated into their grant and loan management process. Should either DAHP or the affected tribes identify a known or potential culturally significant site affected by the proposed project, the state agency must take reasonable action to avoid, minimize, or mitigate adverse impacts to the archeological or cultural resource.

**Summary of Bill:** Before state revenue is allocated for projects involving groundbreaking activity, all state agencies, local governments, and applications of state appropriation must:

- review the groundbreaking activity with DAHP and interested federally recognized tribes to determine potential impacts to archeological and cultural sites, if the project is not undergoing federal review under section 106 of the NHPA; and
- notify DAHP and the Governor's Office of Indian Affairs (GOIA), by certified letter, of the progress of the review within 30 days.

The review should be done as early in the project planning process as possible. The steps taken for review must:

- provide notification, in coordination with GOIA and DAHP, to the governing bodies of federally recognized tribes of the proposed groundbreaking activity;
- consult with federally recognized tribes who have responded to the notification and expressed interest before a recipient completes the project design with the goal of finding an agreed upon means to protect archaeological and cultural sites;
- work with DAHP and federally recognized tribes on an appropriate archeological survey and strategies consistent with law; and
- take reasonable action to avoid adverse impacts to the archaeological and cultural sites during the consultation process.

State agencies must ensure the review requirements are incorporated into their grant and loan management guidelines.

No project may be funded prior to meaningful consultation with interested federally recognized tribes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.