

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 150
SENATE BILL 1237

AN ACT

AMENDING SECTION 15-244, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-541, 41-542 AND 41-543, ARIZONA REVISED STATUTES; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 41-844, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 15, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-2051 AND 41-2052; AMENDING SECTIONS 41-2053 AND 41-2054, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; REPEALING SECTION 41-3016.31, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3024.09; APPROPRIATING MONIES; RELATING TO THE GOVERNOR'S OFFICE ON TRIBAL RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-244, Arizona Revised Statutes, is amended to
3 read:

4 15-244. Office of Indian education; definition

5 A. The office of Indian education is established in the department of
6 education. The superintendent of public instruction shall hire appropriate
7 personnel for the office.

8 B. The office of Indian education shall:

9 1. In collaboration with Indian nations, provide technical assistance
10 to schools and Indian nations to meet the educational needs of native
11 American pupils.

12 2. Provide technical assistance to schools and Indian nations in the
13 planning, development, implementation and evaluation of curricula that are
14 culturally relevant and aligned to state standards.

15 3. Provide technical assistance to schools and Indian nations to
16 develop culturally appropriate curricula and instructional materials.

17 4. Establish an Indian education advisory council in the department of
18 education that shall include at least parents who are not certificated
19 teachers.

20 5. Encourage and foster parental involvement in the education of
21 native American pupils.

22 C. At least once each year, representatives from all Indian nations,
23 members of the state board, the governor's office, the ~~Arizona commission of~~
24 ~~Indian affairs~~ GOVERNOR'S OFFICE ON TRIBAL RELATIONS, the intertribal council
25 of Arizona, the legislature, the superintendent of public instruction and the
26 Indian education advisory council shall meet to assist in evaluating,
27 consolidating and coordinating all activities relating to the education of
28 native American pupils.

29 D. Based on data submitted pursuant to subsection E OF THIS SECTION,
30 the office of Indian education, in collaboration with entities that serve
31 native American pupils, shall submit an annual statewide native American
32 education status report to all Indian nations in this state. The division
33 shall provide a copy of this report to the secretary of state ~~and the~~
34 ~~director of the Arizona state library, archives and public records~~.

35 E. A school district with tribal lands located within its boundaries
36 shall provide a district-wide native American education status report to all
37 Indian nations represented within the school district boundaries and to the
38 department of education.

39 F. The status reports prescribed in subsections D and E OF THIS
40 SECTION shall be written in a brief format and shall include the following
41 information, through which public school performance is measured and reported
42 to the Indian nations:

43 1. Student achievement as measured by a statewide test approved by the
44 state board, with results disaggregated by ethnicity.

45 2. School safety.

1 disposition and treatment of the materials. An agreement may include a
2 decision to curate or rebury materials subject to conditions or limitations,
3 a decision to engage in scientific analysis before repatriation or reburial
4 or any other appropriate disposition. If an agreement is reached, it shall
5 determine the disposition and treatment of the materials and the director
6 shall oversee its implementation.

7 F. If no agreement is reached within six months ~~of~~ AFTER the meeting
8 required by subsection E OF THIS SECTION, the human remains or funerary
9 objects shall be disposed and treated in accordance with the wishes of the
10 nearest relative with a direct kinship relationship, or with the wishes of
11 the governing body of the group with cultural or religious affinity to the
12 remains or objects if no relative exists. If sacred ceremonial objects or
13 objects of national or tribal patrimony are concerned, disposition and
14 treatment shall be in accordance with the wishes of the governing body of the
15 group with cultural or religious affinity to the objects. The authority to
16 determine the disposition and treatment of remains or objects pursuant to
17 this subsection shall not be exercised in a manner that would prevent timely
18 completion of a construction project or other project.

19 G. If there is no person with a direct kinship relationship or a group
20 with a cultural or religious affinity to human remains or funerary objects
21 and the remains have no scientific value, the remains or funerary objects
22 shall remain undisturbed. If it is necessary to move them in order to permit
23 completion of a construction or similar project, the remains or funerary
24 objects shall be reburied under the supervision of the director in a place as
25 similar and close as possible to their original burial site. If the remains
26 or funerary objects have scientific value, they may be curated by the Arizona
27 state museum or other authorized repository for a period of one year, after
28 which they shall be reinterred. If remains of American Indians are involved,
29 reburial pursuant to this subsection shall be undertaken with the cooperation
30 of the Indian tribe located nearest to the place where the remains were
31 discovered. Reburial ~~may~~, with that tribe's consent, MAY take place on that
32 tribe's reservation. The one-year period for scientific curation may be
33 extended with that tribe's consent. If there is no group with a cultural or
34 religious affinity to sacred ceremonial objects or objects of national or
35 tribal patrimony, the director shall decide on the most appropriate
36 disposition and treatment. Where American Indian materials are involved, the
37 determination shall be made in consultation with appropriate tribal
38 representatives.

39 H. A repository charged with the care or custody of human remains,
40 funerary objects, sacred ceremonial objects or objects of national or tribal
41 patrimony pursuant to this section shall maintain them with appropriate
42 dignity and respect and with consideration for the specific applicable
43 cultural or religious traditions applicable to the remains or objects. When
44 materials are returned to relatives or affiliated groups, the relatives or

1 groups shall accept and undertake responsibility for the protection and
2 security of the materials.

3 I. The expense of any curation or reburial pursuant to this section
4 that is required as the result of a construction project or similar project
5 shall be borne by that project. Reburials made in order to satisfy the
6 wishes of a relative or affinal group shall be by and at the expense of the
7 relative or group.

8 J. If a person believes that the provisions of this section have not
9 been properly applied ~~he~~ THE PERSON shall give written notice of this claim
10 to all other parties entitled to notice under subsections B and C OF THIS
11 SECTION. The parties shall meet within fifteen days ~~of~~ AFTER receiving the
12 notice and attempt to agree on the designation of a third party to assist in
13 the resolution of the dispute. If the parties cannot agree within fifteen
14 days on a third party, the state historic preservation officer shall serve in
15 that capacity. The adverse parties shall attempt to reach a resolution with
16 the assistance of the third party. If a resolution cannot be reached within
17 ninety days ~~of~~ AFTER the designation of the third party, the third party
18 shall resolve the dispute. Either party may appeal a decision within thirty
19 days to the superior court in the county in which the subject of the dispute
20 is located.

21 K. If a written request for the reburial or repatriation of human
22 remains, funerary objects, sacred ceremonial objects or objects of national
23 or tribal patrimony in the possession and ownership or control of an agency
24 of this state, as of ~~the effective date of this section~~ SEPTEMBER 27, 1990,
25 is made by the government of an American Indian tribe, the requirements of
26 this section apply as if the remains or objects had been discovered after ~~the~~
27 ~~effective date of this section~~ SEPTEMBER 27, 1990.

28 L. Whenever two or more groups or tribes have affinity to the same
29 human remains, funerary object, sacred ceremonial object or object of
30 national or tribal patrimony and they do not agree on the disposition or
31 treatment of such remains or object, the question of which group or tribe
32 shall be deemed to have affinity shall be resolved pursuant to subsection J
33 OF THIS SECTION. In making the determination, consideration shall be given
34 to all the relevant evidence of affinity.

35 M. For the purposes of this section:

36 1. "Funerary object" means an object discovered in proximity to human
37 remains and intentionally buried or interred with the remains.

38 2. "Group with a cultural or religious affinity" means any of the
39 following:

40 (a) In the case of human remains or funerary objects, any tribe that
41 has submitted a written claim of affinity pursuant to subsection C OF THIS
42 SECTION or any other group or tribe that has cultural affinity in light of
43 all the relevant evidence.

44 (b) In the case of a sacred ceremonial object, a group whose religious
45 observances traditionally have utilized such object.

1 (c) In the case of an object of national or tribal patrimony, a group
2 whose past or present government or traditional cultural organization was or
3 is associated with the object.

4 3. "Group" includes American Indian tribes.

5 4. "Human remains" means any remains of a human being who died more
6 than fifty years before the remains are discovered.

7 5. "Objects of national or tribal patrimony" means inalienable items
8 of historical or cultural significance to tribal groups.

9 6. "Sacred ceremonial object" means an object traditionally utilized
10 in religious observances.

11 7. "Tribe" means any federally recognized tribal government.

12 Sec. 7. Title 41, chapter 15, article 1, Arizona Revised Statutes, is
13 amended by adding sections 41-2051 and 41-2052, to read:

14 41-2051. Governor's office on tribal relations; director;
15 responsibilities of state agencies; report

16 A. THE GOVERNOR'S OFFICE ON TRIBAL RELATIONS IS ESTABLISHED. THE
17 OFFICE SHALL ASSIST STATE AGENCIES IN IMPLEMENTING TRIBAL CONSULTATION AND
18 OUTREACH ACTIVITIES.

19 B. THE GOVERNOR SHALL APPOINT THE DIRECTOR PURSUANT TO SECTION
20 38-211. THE DIRECTOR IS ENTITLED TO RECEIVE COMPENSATION PURSUANT TO SECTION
21 38-611. THE OFFICE MAY EMPLOY CLERICAL, PROFESSIONAL AND TECHNICAL PERSONNEL
22 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE AND SHALL PRESCRIBE THEIR
23 DUTIES AND DETERMINE THEIR COMPENSATION PURSUANT TO SECTION 38-611.

24 C. EACH STATE AGENCY SHALL:

25 1. DEVELOP AND IMPLEMENT TRIBAL CONSULTATION POLICIES TO GUIDE THE
26 AGENCY'S WORK AND INTERACTION WITH THE TRIBAL NATIONS OF THIS STATE.

27 2. TO THE EXTENT PRACTICABLE AND PERMITTED BY LAW, SEEK INPUT FROM
28 APPROPRIATE ELECTED OR APPOINTED TRIBAL OFFICIALS BEFORE UNDERTAKING ANY
29 ACTION OR POLICY THAT WILL, OR IS REASONABLY BELIEVED TO, HAVE THE POTENTIAL
30 TO AFFECT A TRIBAL COMMUNITY OR ITS MEMBERS.

31 3. TO THE FULLEST EXTENT POSSIBLE AND TO THE BEST OF THE AGENCY'S
32 ABILITY, INTEGRATE THE INPUT GENERATED FROM TRIBAL CONSULTATION INTO THE
33 AGENCY'S DECISION-MAKING PROCESSES TO ACHIEVE MUTUALLY ACCEPTABLE SOLUTIONS.

34 4. DESIGNATE A STATE MEMBER TO ASSUME RESPONSIBILITY FOR THE AGENCY'S
35 IMPLEMENTATION OF THE TRIBAL CONSULTATION POLICIES AND TO ACT AS THE
36 PRINCIPAL POINT OF CONTACT FOR TRIBAL AFFAIRS.

37 5. ON OR BEFORE OCTOBER 1 OF EACH YEAR, REVIEW THE AGENCY'S TRIBAL
38 CONSULTATION POLICIES AND SUBMIT AN ELECTRONIC PROGRESS REPORT WITH
39 PERFORMANCE MEASURES TO THE OFFICE. THE OFFICE SHALL MAKE THE REPORTS
40 AVAILABLE TO TRIBAL LEADERS AND LEGISLATORS.

41 D. THE OFFICE MAY INITIATE OR ASSIST PROGRAMS ON TRIBAL LAND ONLY ON
42 THE REQUEST OR WITH THE APPROVAL OF THE TRIBAL NATION.

43 E. AT LEAST ONCE A YEAR, THE GOVERNOR SHALL MEET WITH THE TRIBAL
44 LEADERS OF THE TWENTY-TWO TRIBAL NATIONS AND COMMUNITIES IN A STATE-TRIBAL
45 SUMMIT TO ADDRESS ISSUES OF MUTUAL CONCERN.

1 EVEN-NUMBERED YEARS. THE HOSTING CHAMBER SHALL HOLD A JOINT SESSION OF THE
2 LEGISLATURE. The ~~commission~~ OFFICE shall invite the legislature, ~~governor~~
3 and other elected officials to pay tribute to the history and culture of the
4 American Indian peoples and their contributions to the prosperity and
5 cultural diversity of the United States. The ~~commission~~ OFFICE shall
6 schedule activities and discussions between state and Indian nations and
7 tribal leaders on issues in which the state and Indian nations and tribes
8 share a common interest or jurisdiction.

9 B. Indian nations and tribes legislative day is not a legal holiday.

10 Sec. 9. Section 41-2054, Arizona Revised Statutes, as transferred and
11 renumbered, is amended to read:

12 41-2054. Indian town hall fund

13 ~~AN~~ THE Arizona Indian town hall fund is established that consists of
14 monies collected or received at Indian town halls as fees that are intended
15 to defray administrative costs related to these town halls pursuant to
16 section ~~41-541~~ 41-2052. The ~~commission~~ GOVERNOR'S OFFICE ON TRIBAL RELATIONS
17 shall deposit, pursuant to sections 35-146 and 35-147, all fees collected
18 from this activity in this fund.

19 Sec. 10. Repeal

20 Section ~~41-3016.31~~, Arizona Revised Statutes, is repealed.

21 Sec. 11. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
22 amended by adding section 41-3024.09, to read:

23 41-3024.09. Governor's office on tribal relations; termination
24 July 1, 2024

25 A. THE GOVERNOR'S OFFICE ON TRIBAL RELATIONS TERMINATES ON JULY 1,
26 2024.

27 B. TITLE 41, CHAPTER 15 IS REPEALED ON JANUARY 1, 2025.

28 Sec. 12. Purpose

29 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
30 the legislature establishes the governor's office on tribal relations in
31 order to assist and support tribal nations and communities in this state and
32 to enhance government-to-government relations between the twenty-two tribal
33 nations within the boundaries of this state.

34 Sec. 13. Succession

35 A. As provided by this act, the governor's office on tribal relations
36 succeeds to the authority, powers, duties and responsibilities of the Arizona
37 commission of Indian affairs.

38 B. This act does not alter the effect of any actions that were taken
39 or impair the valid obligations of the Arizona commission of Indian affairs
40 in existence on the effective date of this act.

41 C. All equipment, records, furnishings and other property, all data
42 and obligations and all appropriated monies that remain unspent and
43 unencumbered on the effective date of this act of the Arizona commission of
44 Indian affairs are transferred to the governor's office on tribal relations.

1 Sec. 14. Retroactivity
2 Sections 10, 11 and 13 of this act are effective retroactively to
3 July 1, 2016.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.