

SENATE BILL NO. 379

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CONSULTATION BETWEEN
STATE AGENCIES AND TRIBAL GOVERNMENTS; REQUIRING STATE AGENCIES TO CREATE WRITTEN
CONSULTATION POLICIES; REQUIRING STATE AGENCIES TO DESIGNATE AN EMPLOYEE AS A
TRIBAL LIAISON; REVISING AGENCY REPORTING REQUIREMENTS TO THE GOVERNOR;
ESTABLISHING REPORTING REQUIREMENTS; DEFINING "CONSULTATION"; AND AMENDING
SECTIONS 2-15-141 AND 2-15-143, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-141, MCA, is amended to read:

"2-15-141. Definitions. As used in 2-15-141 through 2-15-143, the following definitions apply:

(1) "Consultation" means a formal, direct, interactive, and timely process of engagement carried
out by state agencies to seek, discuss, and consider the views of tribal governments and, when feasible, to
seek agreement regarding state proposed actions that may affect tribal interests.

~~(1)(2) "State agency" means a department, board, or commission of the executive branch of state
government~~ A DEPARTMENT, BOARD, OR COMMISSION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT THE
DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF COMMERCE, THE
DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE DEPARTMENT OF FISH, WILDLIFE,
AND PARKS, THE DEPARTMENT OF JUSTICE, THE DEPARTMENT OF LABOR AND INDUSTRY, THE DEPARTMENT OF
LIVESTOCK, THE DEPARTMENT OF MILITARY AFFAIRS, THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION,
THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE OFFICE OF PUBLIC INSTRUCTION, THE DEPARTMENT OF
REVENUE, AND THE DEPARTMENT OF TRANSPORTATION.

(2)(3) "Tribal government" means the officially recognized government of any tribe or nation.

(3)(4) "Tribal officials" means the elected or appointed officials of a tribal government.

(4)(5) "Tribe" means an Indian tribe that is recognized by federal law or formally acknowledged by the state."

Section 2. Section 2-15-143, MCA, is amended to read:

"2-15-143. Training and consultation Consultation and training -- duties of tribal liaison --

REPORTING. (1) ~~When establishing a~~ IN THE EXERCISE OF THE government-to-government relationship with tribal governments, a state agency EMPLOYING A TRIBAL LIAISON shall:

(a) ~~collaborate with tribal governments in the development of policies, agreements, administrative rules, and program implementation that directly affect Indian tribes; AND~~

(b) ~~consult with tribal governments as often as is required to address matters that have tribal implications;~~

~~(c)(2) (A) THE EXECUTIVE BRANCH, AS DEFINED IN 2-15-102, SHALL develop a written consultation policy in coordination with representatives of each federally recognized tribe in the state that is used by the agency for issues involving specific Indian tribes. A consultation policy must be created by January JULY 1, 2026, and be updated as often as required to facilitate timely and meaningful consultation, but no less than biannually ANNUALLY.~~

~~(B) A STATE AGENCY MAY DEVELOP A WRITTEN CONSULTATION POLICY SPECIFIC TO THE AGENCY'S JURISDICTIONS AND RESPONSIBILITIES CONSISTENT WITH THIS SECTION.~~

~~(d)(C) THE GOVERNOR'S DIRECTOR OF INDIAN AFFAIRS SHALL provide tribal governments in the state with a copy of the agency's initial ANY consultation policy DEVELOPED UNDER THIS SECTION and all subsequent updates to the policy;~~

~~(e) designate an agency employee BY JULY 1, 2026, to act as a tribal liaison who reports directly to the head of the state agency; and~~

~~(f) ensure that a tribal liaison receive s regular trainings that assist in the liaison's job functions, including but not limited to the training prescribed in subsection (4);~~

(2)(3) ~~The position of tribal liaison within~~ SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS, a state

agency is responsible for MAY DESIGNATE A TRIBAL LIAISON TO:

(a) ~~assisting~~ ASSIST the state agency in developing and implementing state and agency policies that promote effective communication and collaboration between the state agency and tribal governments;

(b) ~~serving~~ SERVE as a contact person with tribal governments and maintaining communication between the state agency and affected tribal governments; and

(c) ~~coordinating~~ COORDINATE training of state agency employees in government-to-government relations that includes ~~at a minimum:~~

(i) ~~effective communication and collaboration between state agencies and Indian tribes; and~~

(ii) ~~cultural competency in providing effective services to tribal governments and tribal members.~~

(D) ~~SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS, THE GOVERNOR'S DIRECTOR OF INDIAN AFFAIRS SHALL CARRY OUT THE FUNCTIONS OF THIS SECTION FOR ANY STATE AGENCY THAT HAS NOT DESIGNATED A TRIBAL LIAISON.~~

~~(3)(4)~~ A state agency and a tribal government may agree that a formal consultation is not necessary on a given matter that has tribal implications. The agency shall keep a written record of this decision.

~~(1)(4)(5)~~ At least once a year, the governor's office and a trainer selected by the tribal governments shall provide training in Helena or a site mutually agreed upon to state agency managers and key employees who have regular communication with tribes on the legal status of tribes, the legal rights of tribal members, and social, economic, and cultural issues of concern to tribes.

~~(2)(5)(6)~~ At least annually, the governor shall convene in Helena a working meeting with representatives of state agencies and tribal officials, including tribal presiding officers, to discuss:

(a) ~~tribal concerns with rules and policies that directly impact tribal government and tribal populations;~~

(b) ~~other issues of concern to either the state or the tribes; and~~

(c) ~~potential solutions to the concerns.~~

~~(3)(6) (7)~~ By August 15 of each year, each state agency shall submit to the governor its current written consultation policy pursuant to this section, documentation of any relevant trainings completed by its tribal liaison or other agency employees, and a report for the prior fiscal year describing the activities of the state agency relating to tribal government and tribal populations. The report must include:

(a) any rule or policy changes that the state agency adopted because of discussions under subsection ~~(2)(a)~~ ~~(5)(a)~~ ~~(6)(A)~~;

(b) the process that the state agency has established to identify the activities of the state agency that affect tribes;

(c) the efforts of the state agency to promote communication and the government-to-government relationship between the state agency and the tribes; and

(d) the efforts of the state agency to ensure tribal consultation and the use of American Indian data in the development and implementation of agency programs that directly affect tribes.

~~(4)(7)(8)~~ By September 15 of each year, the governor shall provide to each tribal government a report with an overview of all state and tribal activities for the prior fiscal year, including a description of the training required under subsection ~~(1)-(4)~~ ~~(5)~~. It is the intent of the legislature that this report be prepared within existing levels of funding.

~~(8)(9)~~ IN ACCORDANCE WITH 5-11-210:

~~(A) EACH AGENCY, THE GOVERNOR'S DIRECTOR OF INDIAN AFFAIRS, IN COLLABORATION WITH ANY AGENCY TRIBAL LIAISONS DESIGNATED UNDER THIS SECTION, SHALL REPORT QUARTERLY TO THE INTERIM BUDGET COMMITTEE THAT HAS OVERSIGHT RESPONSIBILITY FOR THE AGENCY PURSUANT TO 5-12-501 ON THE IMPLEMENTATION OF [THIS ACT]; AND~~

~~(B) THE OFFICE OF BUDGET AND PROGRAM PLANNING SHALL PROVIDE TO THE LEGISLATIVE FINANCE COMMITTEE AT EACH COMMITTEE MEETING A SUMMARY REPORT ON THE IMPLEMENTATION OF [THIS ACT]."~~

NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

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