

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; 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.

(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. (1)

1 When establishing a government-to-government relationship with tribal governments, a state agency shall:

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

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

6 (c) develop a written consultation policy in coordination with representatives of each federally
7 recognized tribe in the state that is used by the agency for issues involving specific Indian tribes. A consultation
8 policy must be created by January 1, 2026, and be updated as often as required to facilitate timely and
9 meaningful consultation, but no less than biannually.

10 (d) provide tribal governments in the state with a copy of the agency's initial consultation policy and
11 all subsequent updates to the policy;

12 (e) designate an agency employee to act as a tribal liaison who reports directly to the head of the
13 state agency; and

14 (f) ensure that a tribal liaison receives regular trainings that assist in the liaison's job functions,
15 including but not limited to the training prescribed in subsection (4).

16 (2) The position of tribal liaison within a state agency is responsible for:

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

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

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

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

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

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

27 (4)(4) At least once a year, the governor's office and a trainer selected by the tribal governments shall
28 provide training in Helena or a site mutually agreed upon to state agency managers and key employees who

1 have regular communication with tribes on the legal status of tribes, the legal rights of tribal members, and
2 social, economic, and cultural issues of concern to tribes.

3 ~~(2)(5)~~ At least annually, the governor shall convene in Helena a working meeting with representatives
4 of state agencies and tribal officials, including tribal presiding officers, to discuss:

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

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

8 (c) potential solutions to the concerns.

9 ~~(3)(6)~~ By August 15 of each year, each state agency shall submit to the governor its current written
10 consultation policy pursuant to this section, documentation of any relevant trainings completed by its tribal
11 liaison or other agency employees, and a report for the prior fiscal year describing the activities of the state
12 agency relating to tribal government and tribal populations. The report must include:

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

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

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

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

21 ~~(4)(7)~~ By September 15 of each year, the governor shall provide to each tribal government a report
22 with an overview of all state and tribal activities for the prior fiscal year, including a description of the training
23 required under subsection ~~(1)~~ (4). It is the intent of the legislature that this report be prepared within existing
24 levels of funding."

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

28 - END -