

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

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.

- 1 2. School safety.
- 2 3. The dropout rate.
- 3 4. Attendance.
- 4 5. Parent and community involvement.
- 5 6. Educational programs that target native American pupils.
- 6 7. Financial reports.
- 7 8. The current status of federal Indian education policies and
- 8 procedures.
- 9 9. School district initiatives to decrease the number of student
- 10 dropouts and increase attendance.
- 11 10. Public school use of variable school calendars.
- 12 11. School district consultations with parent advisory committees.
- 13 G. The state board of education, in consultation with the Indian
- 14 nations in this state, may adopt rules to implement this section.
- 15 H. For the purposes of this section, "Indian nations" means an Indian
- 16 nation, tribe or pueblo located in this state.

17 Sec. 2. Heading repeal
 18 The article heading of title 41, chapter 3, article 4, Arizona Revised
 19 Statutes, is repealed.

20 Sec. 3. Repeal; transfer of monies
 21 A. Sections 41-541, 41-542 and 41-543, Arizona Revised Statutes, are
 22 repealed.

23 B. All unexpended and unencumbered monies remaining in the Indian
 24 affairs commission publications fund established by section 41-543, Arizona
 25 Revised Statutes, as repealed by subsection A of this section, are
 26 transferred to the governor's office on tribal relations on the effective
 27 date of this section.

28 Sec. 4. Title 41, Arizona Revised Statutes, is amended by adding
 29 chapter 15, to read:

30 CHAPTER 15
 31 GOVERNOR'S OFFICE ON TRIBAL RELATIONS
 32 ARTICLE 1. GENERAL PROVISIONS

33 Sec. 5. Transfer and renumber
 34 Title 41, chapter 3, article 4, Arizona Revised Statutes, is
 35 transferred and renumbered for placement in title 41, chapter 15, Arizona
 36 Revised Statutes, as added by this act, as article 1. The following sections
 37 are transferred and renumbered for placement in title 41, chapter 15,
 38 article 1:

<u>Former Sections</u>	<u>New Sections</u>
39 41-544	41-2053
40 41-545	41-2054
41	

1 Sec. 6. Section 41-844, Arizona Revised Statutes, is amended to read:
2 41-844. Duty to report discoveries; disposition of discoveries;
3 definitions

4 A. A person in charge of any survey, excavation, construction or other
5 like activity on any lands owned or controlled by this state, by any public
6 agency or institution of the state, or by any county or municipal corporation
7 within the state shall report promptly to the director of the Arizona state
8 museum the existence of any archaeological, paleontological or historical
9 site or object that is at least fifty years old and that is discovered in the
10 course of such survey, excavation, construction or other like activity and,
11 in consultation with the director, shall immediately take all reasonable
12 steps to secure and maintain its preservation. If it is necessary to move
13 the object before completion of the proceedings prescribed by this section to
14 permit the continuation of work on a construction project or similar project,
15 the director shall require that the move be accomplished in the manner that
16 will least disturb and best preserve the object.

17 B. If the objects discovered are human remains, funerary objects,
18 sacred ceremonial objects or objects of national or tribal patrimony, the
19 director of the Arizona state museum ~~shall~~, to the best of ~~his~~ **THE DIRECTOR'S**
20 ability, **SHALL** give notice of the discovery to:

21 1. All individuals ~~that~~ **WHO** may have a direct kinship relationship to
22 the human remains.

23 2. All groups that it is reasonable to believe may have a cultural or
24 religious affinity to the remains or objects.

25 3. Appropriate members of the curatorial staff of the Arizona state
26 museum.

27 4. Faculty members of the state universities who have a significant
28 scholarly interest in the remains or objects.

29 5. The state historic preservation officer.

30 C. American Indian tribal governments that wish to be notified
31 pursuant to this section shall keep on file with the director lists of the
32 cultural groups and geographical area with which they claim affinity.

33 D. If American Indian human remains, funerary objects, sacred
34 ceremonial objects or objects of cultural patrimony are involved, the
35 director, in addition to giving notice as required in subsection B **OF THIS**
36 **SECTION**, shall give notice to the tribes that occupy or have occupied the
37 land on which the discovery is made and to the ~~Arizona commission on Indian~~
38 ~~affairs~~ **GOVERNOR'S OFFICE ON TRIBAL RELATIONS** and the intertribal council of
39 Arizona.

40 E. The director shall respond to every report of a discovery in a
41 timely fashion and within six months ~~of~~ **AFTER** being notified of the
42 discovery, the director shall convene a meeting of notified persons and
43 representatives of notified groups to discuss the most appropriate
44 disposition of the discovered materials. At this meeting, the director shall

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

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

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

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

1 materials are returned to relatives or affiliated groups, the relatives or
2 groups shall accept and undertake responsibility for the protection and
3 security of the materials.

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

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

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

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

36 M. For the purposes of this section:

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

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

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

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

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

6 3. "Group" includes American Indian tribes.

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

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

11 6. "Sacred ceremonial object" means an object traditionally utilized
12 in religious observances.

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

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

16 41-2051. Governor's office on tribal relations; director;
17 responsibilities of state agencies; report

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

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

26 C. EACH STATE AGENCY SHALL:

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

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

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

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

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

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

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

4 41-2052. Governor's office on tribal relations; state and local
5 public officers and employees; powers; report

6 A. ON REQUEST, STATE AND LOCAL PUBLIC OFFICERS AND EMPLOYEES SHALL
7 FURNISH THE GOVERNOR'S OFFICE ON TRIBAL RELATIONS WITH ANY INFORMATION THAT
8 THE OFFICE MAY REQUIRE FOR ITS PURPOSES EXCEPT FOR INFORMATION THAT IS NOT
9 SUBJECT TO DISCLOSURE PURSUANT TO LAW.

10 B. THE OFFICE MAY:

11 1. APPLY FOR, ACCEPT, RECEIVE AND SPEND PUBLIC AND PRIVATE GIFTS OR
12 GRANTS OF MONIES AND PROPERTY ON THE TERMS AND CONDITIONS AS MAY BE IMPOSED
13 BY THE DONOR AND FOR THE IMPLEMENTATION OF INTERNAL OPERATIONS AND FORUMS FOR
14 AMERICAN INDIAN PEOPLE TO IMPART THEIR KNOWLEDGE ON STATEWIDE ISSUES.

15 2. ACCEPT, RECEIVE AND SPEND FEES COLLECTED AT THE ARIZONA INDIAN TOWN
16 HALL TO DEFER EXPENSES FOR THE ARIZONA INDIAN TOWN HALL.

17 3. ASSIST IN EVALUATING, CONSOLIDATING AND COORDINATING ACTIVITIES
18 RELATING TO THE EDUCATION OF AMERICAN INDIAN STUDENTS.

19 4. SERVE AS AN INFORMATIONAL CLEARINGHOUSE AND PROVIDE TRAINING ON
20 CROSS-CULTURAL SITUATIONS.

21 5. RECEIVE ANNUAL NOTICE FROM THE DIRECTOR OF THE STATE MUSEUM ON THE
22 DISCOVERY OF AMERICAN INDIAN HUMAN REMAINS, FUNERARY OBJECTS, SACRED
23 CEREMONIAL OBJECTS OR OBJECTS OF CULTURAL PATRIMONY.

24 6. PROMOTE INCREASED PARTICIPATION BY AMERICAN INDIANS IN LOCAL AND
25 STATE AFFAIRS.

26 7. WORK IN CONJUNCTION WITH STATE AGENCIES INVOLVED IN ECONOMIC
27 DEVELOPMENT TO DESIGN AND INITIATE PROGRAMS TO STIMULATE ECONOMIC GROWTH OF
28 THE AMERICAN INDIAN POPULATION, INCLUDING MINORITY-OWNED AND WOMEN-OWNED
29 BUSINESSES.

30 8. ESTABLISH AN EXECUTIVE COMMITTEE OR OTHER COMMITTEES, AS NECESSARY.

31 C. THE OFFICE SHALL PREPARE A REPORT THAT SUMMARIZES EACH STATE
32 AGENCY'S ANNUAL PROGRESS REPORT SUBMITTED PURSUANT TO SECTION 41-2051,
33 SUBSECTION C THAT DETAILS THE PROGRESS AND CHALLENGES THAT THE STATE AGENCIES
34 HAVE EXPERIENCED IN IMPLEMENTING TRIBAL CONSULTATION POLICIES AND SHALL
35 SUBMIT THE REPORT TO THE LEGISLATURE DURING A JOINT SESSION HELD ON INDIAN
36 NATIONS AND TRIBES LEGISLATIVE DAY.

37 Sec. 8. Section 41-2053, Arizona Revised Statutes, as transferred and
38 renumbered, is amended to read:

39 41-2053. Indian nations and tribes legislative day

40 A. The ~~Arizona commission of Indian affairs~~ GOVERNOR'S OFFICE ON
41 TRIBAL RELATIONS, in cooperation with representatives from ~~the~~ THIS state's
42 Indian nations, shall annually facilitate an Indian nations and tribes
43 legislative day on ~~Tuesday~~ WEDNESDAY of the ~~second~~ FIRST week of each regular
44 legislative session. THE OFFICE SHALL COORDINATE THE PLANNING AND

1 PREPARATION OF THE LEGISLATIVE DAY WITH THE PRESIDENT OF THE SENATE, THE
2 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND LEGISLATORS WHO ARE NATIVE
3 AMERICAN. THE SENATE SHALL HOST THE LEGISLATIVE DAY IN ODD-NUMBERED YEARS
4 AND THE HOUSE OF REPRESENTATIVES SHALL HOST THE LEGISLATIVE DAY IN
5 EVEN-NUMBERED YEARS. THE HOSTING CHAMBER SHALL HOLD A JOINT SESSION OF THE
6 LEGISLATURE. The ~~commission~~ OFFICE shall invite the legislature, ~~governor~~
7 and other elected officials to pay tribute to the history and culture of the
8 American Indian peoples and their contributions to the prosperity and
9 cultural diversity of the United States. The ~~commission~~ OFFICE shall
10 schedule activities and discussions between state and Indian nations and
11 tribal leaders on issues in which the state and Indian nations and tribes
12 share a common interest or jurisdiction.

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

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

16 41-2054. Indian town hall fund

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

23 Sec. 10. Repeal

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

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

27 41-3024.09. Governor's office on tribal relations; termination
28 July 1, 2024

29 A. THE GOVERNOR'S OFFICE ON TRIBAL RELATIONS TERMINATES ON JULY 1,
30 2024.

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

32 Sec. 12. Purpose

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

38 Sec. 13. Succession

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

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

1 C. All equipment, records, furnishings and other property, all data
2 and obligations and all appropriated monies that remain unspent and
3 unencumbered on the effective date of this act of the Arizona commission of
4 Indian affairs are transferred to the governor's office on tribal relations.
5 Sec. 14. Retroactivity
6 Sections 10, 11 and 13 of this act are effective retroactively to
7 July 1, 2016.