

PROPOSED
SENATE AMENDMENTS TO S.C.R. 1024
(Reference to printed bill)

1 Strike everything after the resolving clause and insert:

2 "Article II, Section 36, Constitution of Arizona, is proposed to be
3 amended as follows if approved by the voters and on proclamation of the
4 Governor:

5 1. Preferential treatment or discrimination prohibited; exceptions;
6 definition

7 A. This state shall not grant preferential treatment to or
8 discriminate against any individual or group on the basis of race, sex,
9 color, ethnicity or national origin in the operation of public employment,
10 public education or public contracting.

11 B. THIS STATE MAY NOT COMPEL AN APPLICANT, EMPLOYEE OR CONTRACTOR TO
12 ENDORSE GIVING PREFERENTIAL TREATMENT TO OR DISCRIMINATING AGAINST ANY
13 INDIVIDUAL ON THE BASIS OF RACE OR ETHNICITY, AS A CONDITION OF ANY HIRING,
14 PROMOTION OR CONTRACTING DECISION.

15 ~~BC~~. This section does not:

16 1. Prohibit bona fide qualifications based on sex that are reasonably
17 necessary to the normal operation of public employment, public education or
18 public contracting.

19 2. Prohibit action that must be taken to establish or maintain
20 eligibility for any federal program, if ineligibility would result in a
21 loss of federal monies to this state~~;~~, SUBJECT TO THE FOLLOWING:

22 (a) THIS STATE MAY NOT UNDER ANY CIRCUMSTANCE DISADVANTAGE OR
23 TREAT DIFFERENTLY ON THE BASIS OF RACE OR ETHNICITY ANY INDIVIDUAL FROM
24 AMONG ANY POOL OF APPLICANTS, STUDENTS, EMPLOYEES OR CONTRACT RECIPIENTS
25 WHEN MAKING A HIRING, CONTRACTING, PROMOTION OR ADMISSION DECISION. ANY

1 ACTION THAT WOULD OTHERWISE BE PROHIBITED, INCLUDING IMPLEMENTING AN
2 AFFIRMATIVE ACTION POLICY, AND THAT IS TAKEN IN ACCORDANCE WITH FEDERAL
3 REQUIREMENTS PURSUANT TO THIS PARAGRAPH SHALL BE LIMITED TO OUTREACH,
4 ADVERTISING OR COMMUNICATION EFFORTS THAT DO NOT MODIFY ANY FORMAL
5 APPLICATION CRITERIA OR EVALUATION.

6 (b) THIS STATE MAY NOT IMPLEMENT ANY DISCIPLINARY POLICY OR
7 DISCIPLINARY ACTION THAT TREATS AN INDIVIDUAL STUDENT OR GROUP OF STUDENTS
8 DIFFERENTLY ON ACCOUNT OF RACE OR ETHNICITY.

9 (c) ACCESS TO SERVICES, FACILITIES OR GROUNDS OF THIS STATE MAY NOT
10 BE CONDITIONED ON THE RACE OR ETHNICITY OF ANY INDIVIDUAL OR GROUP OF
11 INDIVIDUALS.

12 (d) TO UPHOLD THE CONSTITUTION OF THE UNITED STATES AS THE SUPREME
13 LAW OF THE LAND, THIS STATE DEEMS ANY REQUIREMENT THAT THIS STATE PRACTICE
14 RACIAL DISCRIMINATION OTHER THAN AS PRESCRIBED IN SUBDIVISION (A) OF THIS
15 PARAGRAPH TO BE INCONSISTENT WITH THE FOURTEENTH AMENDMENT OF THE
16 CONSTITUTION OF THE UNITED STATES AND SUBJECT TO THE PROHIBITIONS
17 ESTABLISHED UNDER SECTION 3, SUBSECTION C OF THIS ARTICLE.

18 3. Invalidate any court order or consent decree that is in force as
19 of the effective date of this section ~~;~~ NOR PROHIBIT QUALIFICATIONS BASED ON
20 TRIBAL MEMBERSHIP AS PART OF A PROGRAM ESTABLISHED TO SERVE MEMBERS OF
21 INDIAN TRIBES.

22 ~~D~~D. The remedies available for a violation of this section are the
23 same, regardless of the injured party's race, sex, color, ethnicity or
24 national origin, as are otherwise available for a violation of the existing
25 antidiscrimination laws of this state.

26 ~~D~~E. This section applies only to actions that are taken after the
27 effective date of this section.

28 ~~E~~F. This section is self-executing.

29 G. FOR THE PURPOSES OF SUBSECTION B, COMPELLING AN APPLICANT,
30 EMPLOYEE OR CONTRACTOR TO ENDORSE GIVING PREFERENTIAL TREATMENT OR
31 DISCRIMINATING ON THE BASIS OF RACE OR ETHNICITY INCLUDES:

32 1. REQUIRING OR SOLICITING A WRITTEN OR ORAL STATEMENT IN SUPPORT OF:

1 (a) ANY THEORY OR PRACTICE THAT ADVOCATES FOR THE DIFFERENTIAL
2 TREATMENT OF ANY INDIVIDUAL OR GROUPS OF INDIVIDUALS BASED ON RACE OR
3 ETHNICITY.

4 (b) ANY FORMULATION OF DIVERSITY, EQUITY, INCLUSION, OR
5 INTERSECTIONALITY, BEYOND UPHOLDING THE EQUAL PROTECTION OF THE LAWS
6 GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

7 2. REQUIRING OR SOLICITING AN INDIVIDUAL TO CONFESS RACE-BASED
8 PRIVILEGE OR DISCUSS HIS OR HER RACE OR ETHNICITY OR VIEWS ON OR EXPERIENCE
9 WITH THE RACE OR ETHNICITY OF OTHERS.

10 3. GIVING PREFERABLE CONSIDERATION TO AN INDIVIDUAL FOR OPINIONS
11 EXPRESSED OR ACTIONS TAKEN IN SUPPORT OF ANOTHER INDIVIDUAL OR A GROUP OF
12 INDIVIDUALS, IN WHICH THE INSTITUTION'S CONSIDERATION IS BASED ON THE RACE
13 OR ETHNICITY OF THOSE OTHER INDIVIDUALS.

14 H. NOTHING IN THIS SECTION SHALL PREVENT THE STATE FROM REQUIRING
15 APPLICANTS, EMPLOYEES OR CONTRACTORS:

16 1. TO DISCLOSE OR DISCUSS THE CONTENT OF THEIR SCHOLARLY RESEARCH OR
17 CREATIVE WORKS.

18 2. TO CERTIFY COMPLIANCE WITH STATE AND FEDERAL ANTI-DISCRIMINATION
19 LAW.

20 3. TO DISCUSS SERVICES, PEDAGOGICAL APPROACHES OR EXPERIENCE WITH
21 STUDENTS OR INDIVIDUALS WITH MENTAL OR PHYSICAL DISABILITIES.

22 I. NOTHING IN THIS SECTION SHALL PREVENT AN APPLICANT OR EMPLOYEE
23 FROM PROVIDING, OF HIS OR HER OWN INITIATIVE, ANY INFORMATION DESCRIBED IN
24 THIS SECTION.

25 **FJ.** For the purposes of this section, "state" includes this state, a
26 city, town or county, a public university, including the university of
27 Arizona, Arizona state university and northern Arizona university, a
28 community college district, a school district, a special district or any
29 other political subdivision in this state."

30 Reletter to conform

31 Amend title to conform

JAKE HOFFMAN

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