

# STATE OF NEW YORK

8351

## IN SENATE

January 19, 2024

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to establishing a Native nation consultation policy

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new article 15-D  
2 to read as follows:

### ARTICLE 15-D

#### NATIVE NATIONS CONSULTATION POLICY

5 Section 328-d. Native nations consultation policy.

6 § 328-d. Native nations consultation policy. 1. As used in this  
7 section, the following terms shall have the following meanings:

8 (a) "Native nation" shall mean one of the following New York state  
9 sovereign Indian nations or tribes: Cayuga Nation, Oneida Nation of New  
10 York, Onondaga Nation, Poospatuck or Unkechauge Nation, Saint Regis  
11 Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation, Tona-  
12 wanda Band of Seneca and Tuscarora Nation.

13 (b) "State agency" shall mean (i) any state department, or (ii) any  
14 division, board, commission or bureau of any state department, or (iii)  
15 the state university of New York and the city university of New York,  
16 including all their constituent units except community colleges and the  
17 independent institutions operating statutory or contract colleges on  
18 behalf of the state, (iv) a board, a majority of whose members are  
19 appointed by the governor or who serve by virtue of being state officers  
20 or employees as defined in subparagraph (i), (ii) or (iii) of paragraph  
21 (i) of subdivision one of section seventy-three of the public officers  
22 law, or (v) a state authority, as defined in subdivision one of section  
23 two of the public authorities law.

24 2. The secretary of state shall promulgate a Native nation consulta-  
25 tion policy to be used by state agencies in instances where a proposal  
26 by such agency that would affect indigenous communities is under consid-  
27 eration.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 3. Such Native nation consultation policy shall at a minimum include:

2 (a) Meaningful consultation sessions which allow for discussion  
3 between members of the directly affected Native nation and state agency  
4 personnel;

5 (b) Notice to the affected Native nation provided at least thirty days  
6 in advance of the first scheduled consultation session, containing  
7 sufficient detail of the topic to allow Nation leaders an opportunity to  
8 fully engage in the consultation;

9 (c) A requirement that the key state agency personnel applicable to  
10 such proposal participate in the consultation sessions;

11 (d) Recording of the proceedings of consultation sessions, which may  
12 include, but are not limited to, transcripts or meeting notes; and

13 (e) A final response from the state agency regarding how input was  
14 incorporated into the final decision of the agency following the conclu-  
15 sion of the consultation sessions.

16 4. The Native nation consultation policy promulgated pursuant to this  
17 section shall be utilized when any state agency action would have  
18 substantial direct effects on:

19 (a) One or more Native nation;

20 (b) Indigenous communities living outside of a Nation's territory;

21 (c) The relationship between state government and Native nations; or

22 (d) The distribution of power and responsibilities between state  
23 government and Native nations.

24 § 2. This act shall take effect immediately.