

2001 DRAFTING REQUEST

Bill

Received: **03/14/2001**

Received By: **dykmapj**

Wanted: **Soon**

Identical to LRB:

For: **Terry Musser (608) 266-7461**

By/Representing: **David Lovell**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Addl. Drafters:

Subject: **Legislature - miscellaneous**

Extra Copies: **David Lovell of LCS
JTK**

Submit via email: **YES**

Requester's email: **Rep.Musser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

expenses of tribal delegates to legislature

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dykmapj 04/02/2001			_____			State
/1	dykmapj	gilfokm	haugeca	_____	lrb_docadmin		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	04/24/2001	04/24/2001	04/25/2001	_____	04/25/2001		
/2	dykmapj 06/13/2001	gilfokm 06/13/2001	pgreensl 06/13/2001	_____	lrb_docadmin 06/13/2001	lrb_docadmin 08/10/2001	

FE Sent For:

<END>

↳ At Intro.

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	<i>12-6/Kmg 13-01</i>		<i>6/13 08</i>				

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1/1	dykmapj 04/02/2001	1-4/Kmg 1-24-01	CH 1-25	CH 1-25 PB			State

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2851/1

PJD...: King

D NOTE

2001 BILL

Spur

1 AN ACT to create 13.015 of the statutes; relating to: delegates from tribal
2 governments to the legislature.

Analysis by the Legislative Reference Bureau

This bill requires each house of the legislature to permit at least one tribal delegate to be seated in the house, with the right of debate, but not of voting. The bill allows each house to determine the number of delegates that have a seat and the privileges that a delegate has under the rules of the house. It requires that delegates be selected by a process that is unanimously agreed upon by the elected governing bodies of the tribes. The delegates would represent tribal governments.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 13.015 of the statutes is created to read:

4 13.015 Tribal delegates. Each house of the legislature shall permit at least
5 one delegate of the governments of the federally recognized American Indian tribes
6 and bands in this state, who ~~are~~ selected by a process that is unanimously agreed

is

BILL

1 upon by the elected governing bodies of those tribal governments to have a seat in
2 the house, with the right of debate, but not of voting. Delegates having a seat under
3 this section have the privileges specified for them in the rules of the house in which
4 they have a seat.

5

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2851/1dn

PJD: /:...

kmq

April 24, 2001

Rep. Musser:

The language of proposed s. 13.015, stats. requiring each house of the legislature to permit at least one tribal delegate to have a seat in the house creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

The draft submitted with your request requires each house to "seat" the tribal delegates. I am uncertain of the meaning of that term in this bill. The constitution does not permit a delegate to vote on legislation or to be a member of a house for any other purpose.

Wisconsin Constitution:

Article IV, Apportionment. Section 3. At its first session after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and assembly, according to the number of inhabitants.

Article IV, Representatives to the assembly, how chosen. Section 4. The members of the assembly shall be chosen biennially, by single districts, on the Tuesday succeeding the first Monday of November in even-numbered years, by the qualified electors of the several districts, such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable.

Article IV, Senators, how chosen. Section 5. The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen; and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even-numbered districts for the term of 4 years.

United States Constitution:

(B) (1)

Indent
→

Indent
←

[Art. IV] The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE XV.[Amdt. 15-1] Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

In view of these constitutional provisions, I changed the submitted draft language to parallel the wording that provides for the delegate from the District of Columbia to the U.S. House of Representatives.

The law of Congress creating the delegate to the U.S. House of Representatives sets forth qualification requirements for the delegate. Do you want to include any of them in this proposal? They are:

(B) (I)
D.C. Code § 1-401 (2000):

§ 1-401. Delegate to the House of Representatives from the District of Columbia

(b) (1) No individual may hold the Office of Delegate to the House of Representatives from the District of Columbia unless on the date of his election:

(A) He is a qualified elector (as that term is defined in §§ 1-1302(2)) of the District of Columbia;

(B) He is at least 25 years of age;

(C) He holds no other paid public office; and

(D) He has resided in the District of Columbia continuously since the beginning of the 3-year period ending on such date.

(2) He shall forfeit his office upon failure to maintain the qualifications required by this subsection.

(B) (I)
The qualifications required for members of the legislature are:

“Wisconsin Constitution Article IV, §6 Qualifications of legislators. Section 6. No person shall be eligible to the legislature who shall not have resided one year within the state, and be a qualified elector in the district which he may be chosen to represent.

“Article IV, §13 Ineligibility of federal officers. Section 13. No person being a member of congress, or holding any military or civil office under the United States, shall be eligible to a seat in the legislature; and if any person shall, after his election as a member of the legislature, be elected to congress, or be appointed to any office, civil or

military, under the government of the United States, his acceptance thereof shall vacate his seat. This restriction shall not prohibit a legislator from accepting short periods of active duty as a member of the reserve or from serving in the armed forces during any emergency declared by the executive.

“Article IV, §28 Oath of office. Section 28. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of the state of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.”

If the delegates were considered “members” for statutory purposes, this ^{draft} ~~proposal~~ could have several fiscal effects in addition to those related to providing a seat for the delegates. For example, delegates would be entitled to reimbursement of expenses under s. 13.123, stats.

This bill does not include the delegates in any statutory provision applying to representatives and senators. Do you wish to provide expenses or otherwise amend the statutes to ^{to} provide the delegates the same or similiar privileges and restrictions as provided members? While I believe that the statutes could provide the same statutory privileges and restrictions, other than voting, the house rules cannot.

Atty. Peter J. Dykman
General Counsel
Phone: (608) 266-7098
E-mail: peter.dykman@legis.state.wi.us

Indent

Indent

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are

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2851/1dn
PJD:kmg:ch

April 25, 2001

Rep. Musser:

The language of proposed s. 13.015, stats., requiring each house of the legislature to permit at least one tribal delegate to have a seat in the house creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

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*revised
new*

2001 BILL

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5 one delegate of the governments of the federally recognized American Indian tribes
6 and bands in this state, who is selected by a process that is unanimously agreed upon

BILL

1 by the elected governing bodies of those tribal governments, to have a seat in the
2 house, ~~with the right of debate, but not of voting~~ Delegates having a seat under this
3 section have the privileges specified for them in the rules of the house in which they
4 have a seat.

5 (END)

or or in the joint ^{ru} rules or both



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

April 25, 2001

MEMORANDUM

To: Representative Musser

From: Attorney Peter J. Dykman, General Counsel

Re: ^{2851/2}LRB-2851/~~1~~ expenses of tribal delegates to legislature

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

~~X~~ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7098 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

September 6, 2001

To: Representative Musser

From: Mike Barman
LRB Legal Section – Front Office

Subject: Fiscal Estimate
Bill Number: 2001 AB-478
LRB Number: 01-2851/2

Agency/Prepared By: SEN (Senate Chief Clerk)

The attached "original" fiscal estimate (Dated: 09/05/2001) by SEN was received by the LRB on September 6, 2001. Kathie of your office brought to our attention a error in the fiscal estimate. We contacted Donald Schneider in the Senate Chief Clerk's Office and he agreed to prepare a new "Corrected" fiscal estimate.

In order cut back on confusion, the "Original" fiscal estimate was not released, however a copy of of the "Original" fiscal estimate by SEN will be included in the drafting file for AB-478.

If you have any questions you can contact me at 266-3561.



STEPHEN H. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

September 6, 2001

The following "original" Fiscal Estimate for AB-478 (LRB 01-2851/2) from the Senate Chief Clerk's Office (SEN) dated 09/05/2001 was never released or sent out for printing.

**Please do not discard !!!
(please keep in file)**

A new "corrected" Fiscal Estimate from SEN will take its place.

LRB
 ~

Fiscal Estimate - 2001 Session

Original Updated Corrected Supplemental

LRB Number 01-2851/2	Introduction Number AB-478
Subject Expenses of tribal delegates to legislature	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriations	
<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Affected Ch. 20 Appropriations	
Agency/Prepared By	Authorized Signature
SEN/ Donald Schneider (608) 266-2517	Donald Schneider (608) 266-2517
	Date
	9/5/01

✓

Fiscal Estimate Narratives

SEN 9/6/01

LRB Number 01-2851/2	Introduction Number AB-478	Estimate Type Original
Subject Expenses of tribal delegates to legislature		

Assumptions Used in Arriving at Fiscal Estimate

The bill deletes the authority of the State Senate to employ party caucus staffs. The State Senate currently has 24 FTE assigned to the party caucus staffs. The annual estimated cost of these positions, including fringe benefits is \$1,539,300.

The estimated cost for supplies and services is \$148,000 per year.

The annual reduction in expenditures is estimated to be \$1,687,300 per year.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-2851/2		Introduction Number AB-478	
Subject			
Expenses of tribal delegates to legislature			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$		-148,000
(FTE Position Changes)			(-24.0 FTE)
State Operations - Other Costs			-148,000
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$		-\$1,687,300
B. State Costs by Source of Funds			
GPR			-1,687,300
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$		\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$-1,687,300	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	Date
SEN/ Donald Schneider (608) 266-2517		Donald Schneider (608) 266-2517	9/5/01