2009 DRAFTING REQUEST

Bill

Received: **12/19/2008**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC 6-3137**

By/Representing: **Joyce Kiel**

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

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Education - school boards**
Education - state superintendent
Education - miscellaneous

Extra Copies: **TKK**

Submit via email: **YES**

Requester's email: **Joyce.Kiel@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Tribal school benefits

Instructions:

update 2007 AB 199 and SB 98

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?							
/P1	pgrant 12/30/2008 pgrant 01/20/2009	bkraft 01/14/2009 bkraft 01/20/2009	phenry 01/15/2009	_____ _____ _____ _____	sbasford 01/15/2009		
/1			phenry 01/21/2009	_____ _____	lparisi 01/21/2009	sbasford 03/26/2009	

for Senate per Joyce Kiel

FE Sent For: NONE

<END>

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pgrant	/P1 bjk 1/9	1/15 ph	1/15 ph	/P2		
		1 bjk 1/20					

FE Sent For:

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1/21 ph 1/21 ph 1/B

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/?							
/P1	pgrant 12/30/2008	bkraft 01/14/2009	phenry 01/15/2009	_____ _____	sbasford 01/15/2009		

FE Sent For:

<END>

MEMORANDUM

12/19/08

from JOYCE L. KIEL
Legislative Council Staff
(608) 266-3137

Peter –

This is in the LC to LRB cabinet on T2K (or whatever we call it)

Please convert this to an LRB bill draft and send it to me for review.

From 2007 AB 199 + SB 98, I updated all of the amended sections, changed the subs. # of the definition of "tribal school," added new provisions based on 2007 Acts that added more benefits to tribal schools, and expanded the pupil note.

Let me know if you have any questions.

Thanks,

Joyce

STR08: Tribal Schools

WLC: 0352/2

JLK:jal;

12/18/2008

AN ACT *to amend* 6.28 (2) (c), 7.30 (2) (am), 15.377 (4) (f), 15.57 (3), 16.971 (15), 16.972 (2) (b), 16.974 (2) and (3), 16.9785, 16.99 (2g), 20.505 (1) (is), 27.01 (7) (c) 10., 28.06 (1), 29.301 (1) (a), 30.74 (1) (a), 36.11 (36m), 38.001 (3) (a), 38.04 (27), 38.14 (3) (a) and (bm), 39.41 (1) (bm), 39.41 (1m) (a) (intro.), (b), (c) 4. and 5., (e), (em), (g) and (j), 45.09 (2), 45.20 (2) (a) 1., (c) 1. and (d) 1., 46.275 (3r) (a) 3., 48.345 (12) (c), 48.355 (2) (c), 48.396 (1), 48.65 (2) (b), 48.78 (2) (b), 49.26 (1) (g) 2., 51.45 (4) (d), 103.23 (2) (intro.) and (a), 103.25 (3m) (c) and (5), 103.27 (3), 103.275 (8), 103.67 (2) (c), 103.71 (1) (b), 115.28 (7) (b) and (e) 1. and (11) (intro.), 115.28 (53), 115.34 (2), 115.341, 115.343 (1), 115.345 (7m), 115.36 (1) and (2) (a), (b) and (d) 3., 115.365, 115.368 (1) and (2) (a) and (b), 115.42 (1) (a) 2., 115.42 (2) (a) 2., 115.52 (3) (b) 1., 115.52 (3) (b) 2., 115.52 (3) (b) 10., 115.525 (3) (b) 2., 116.01, 116.032 (1) and (3) (a) (intro.), 118.025, 118.07 (3), 118.08 (1), 118.125 (2) (n), 118.125 (4), 118.127 (2), 118.145 (3) and (4), 118.15 (1) (a), 118.15 (1) (d) 4., 118.153 (1) (b), 118.255 (2), 118.257 (1) (d), 118.29 (2) (a) (intro.) and 3. and (b) and (3), 118.291 (1g) (b), 118.295, 120.18 (1) (a) 2. and (s), 121.05 (1) (a) 7., 121.76 (1) (a), 121.76 (2) (c), 121.78 (4), 125.09 (2) (a) 2., 125.68 (3) (intro.), 252.15 (1) (ab) and (2) (a) 7. a., 255.30 (4), 301.45 (1d) (c), 301.46 (4) (a) 1., 343.06 (1) (c), 343.07 (1c), 343.16 (1) (c) 3., 447.06 (2) (a) 2., 895.48 (1m) (a) (intro.), 895.515 (2), 938.34 (7d) (c), 938.34 (14t), 938.342 (1r), 938.355 (2) (c), 938.396 (1) (b) 2., 938.396 (1) (c) 3. (intro.), a., c. and d. and 4., 938.396 (2g) (m), 938.78 (2) (b), 939.632 (1) (a) and (d) 3., 944.21 (8) (b) 2., 948.095 (1) (a), 948.11 (4) (b) 2., 948.50 (2) (a), 948.61 (1) (b), 961.49 (1m) (b) 6. and 961.495; and ***to create*** 15.377 (8) (c)

14., 16.972 (1) (cm), 38.01 (9m), 39.41 (1) (br), 45.09 (1) (d), 48.02 (18m), 48.345 (12) (a) 5., 49.26 (1) (a) 2. bm., 103.21 (7), 103.64 (6), 115.001 (15m), 118.16 (2) (em), 118.162 (1) (am) and (m), 118.29 (4m), 118.291 (2) (c), 121.78 (5), 938.02 (18e), 938.34 (7d) (a) 5. and 938.396 (1) (b) 2m. of the statutes; **relating to:** providing benefits and protections to tribal schools and tribal school pupils and staff similar to those provided to private schools and private school pupils and staff and making an appropriation.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council's Special Committee on State–Tribal Relations.

GENERAL BACKGROUND

Current Law

Private Schools

Under current law, a "private school" is defined in s. 115.001 (3r), stats., for the purposes of the K–12 education statutes (chs. 115 to 121, stats.) as an institution with a private educational program that: (1) meets all of the criteria under s. 118.165 (1), stats.; or (2) is determined to be a private school by the State Superintendent of Public Instruction (State Superintendent) under s. 118.167, stats., because evidence is presented that it meets or exceeds the criteria in s. 118.165 (1), stats. Those criteria are that the educational program: (1) has as its primary purpose providing private or religious–based education; (2) is privately controlled; (3) provides at least 875 hours of instruction in each school year; (4) has a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; (5) is not operated to avoid or circumvent the compulsory attendance laws; and (6) has its pupils return annually to their homes for at least 2 months of summer vacation or the institution is licensed as a child welfare agency.

Current law imposes certain requirements on private schools and provides certain benefits and protections to private schools and private

school pupils and staff. A tribally operated school is not a private school.

Tribally Operated Schools

Under current Wisconsin statutes, tribally operated schools are dealt with only in subch. IV, ch. 115, stats., relating to the American Indian language and culture education program. In that subchapter, an "alternative school" is defined as "any nonsectarian *private school* or *tribally operated school* in this state which complies with the requirements of 42 USC 2000d [relating to prohibiting exclusion from participation, denial of benefits, or discrimination based on race, color, or national origin] and in which at least 75% of the pupils enrolled are American Indians". [s. 115.71 (1), stats. (emphasis added).]

Subchapter IV, ch. 115, then provides that any school district enrolling American Indian pupils *or* any "alternative school" may, after developing a plan containing certain elements and appointing a parent advisory committee, establish, on a voluntary basis, an American Indian language and culture education program which may contain certain elements. These schools are required to keep certain records, and the State Superintendent is required to periodically assess the needs of the program and evaluate available resources and programs. However, the programs of alternative schools can be evaluated only with the permission of the alternative school [s. 115.74 (1) (b), stats.]; and the assessment and evaluation can be "performed on Indian reservations and in other Indian communities recognized by the federal government only in conjunction with, or with the permission of, the respective tribal governments". [s. 115.74 (3), stats.]

A tribally operated school does not need authorization from the state to create an educational program related to American Indian language and culture. Rather, subch. IV, ch. 115, including its requirements to keep records, was enacted in connection with providing state categorical aid to a school district or alternative school that provided a program that met the criteria in subch. IV, ch. 115. State aid for such programs was eliminated by 2003 Wisconsin Act 33.

Tribally Operated Schools in Wisconsin

Currently, 3 schools in Wisconsin come under the tribally operated schools component of the "alternative school" definition in s. 115.71 (1), stats. They are the: Menominee Tribal School; Oneida Nation of Wisconsin Schools; and Lac Courte Oreilles Tribal School. These schools have contracts with and are funded, in full or in part, by the U.S. Department of Interior, Bureau of Indian Affairs (BIA). (The Bad River Band of Lake Superior Chippewa Indians previously operated the

Mashkiisiibii Tribal School, but that school no longer exists.) The Waadookodaading Charter School is, in part, supported by funds contributed by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. However, it is a public charter school, chartered by the Hayward School District. Thus, the draft does not affect it.)

Currently it appears that one school in Wisconsin meets the "nonsectarian private school...in which at least 75% of the pupils enrolled are American Indians" component of the "alternative school" definition in s. 115.71 (1), stats. It is the Indian Community School of Milwaukee, Inc. It appears that the state statutes dealing with private schools already apply to this school, and this draft does not affect it.

Authority of the State with Regard to Tribally Operated Schools

In general, state civil regulatory laws do not apply to a tribe or a member of that tribe on the tribe's reservation or off–reservation trust land unless an act of Congress, a treaty, or case law (that is, decisions by the courts) provides that the state law is applicable. Most K–12 education laws likely would be considered by the courts to be civil regulatory laws. It appears that neither an act of Congress nor any treaty has authorized the state to apply its civil regulatory education laws to a tribal school that is located on a tribe's reservation or off–reservation trust land. As for whether case law does so, court decisions suggest that, if a matter were litigated, a court would apply a balancing of interests test and hold that a state civil regulatory education law applies to a tribal school only if the state interests outweigh the tribal and federal interests. That analysis depends on the facts surrounding each individual statute; thus, there is no universal answer as to whether a state civil regulatory law applies to a tribal school.

However, in general, it appears that, with respect to most state K–12 education laws, the state does not have authority to impose such laws on tribal schools. Moreover, a tribe may choose to assert sovereign immunity if a legal action were filed against the tribal school or tribal school officials to enforce any such law.

Nonetheless, a state may choose to provide funding or other benefits to a tribal school and may condition such funding or benefits on meeting certain prerequisites.

THE DRAFT––GENERAL COMMENTS

The draft defines a "tribal school" in s. 115.001 (15m), stats., as an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to 12 and that is: (a) controlled by the elected governing body of a federally

recognized American Indian tribe or band in Wisconsin; (b) jointly controlled by the elected governing bodies of 2 or more federally recognized American Indian tribes or bands in Wisconsin; (c) controlled by the tribal educational authority established by a federally recognized American Indian tribe or band in Wisconsin; or (d) controlled by a tribal educational authority established jointly by 2 or more federally recognized American Indian tribes or bands in Wisconsin. That definition then applies in chs. 115 to 121 (statutes relating to K–12 education) under s. 115.001 (intro.), stats. The draft then uses the same definition by cross–reference in statutes outside chs. 115 to 121, stats.

Private School References–Benefits

The draft amends statutes that refer specifically to private schools, private school pupils, or private school staff and provide a benefit or protection to them, with the exception of statutes relating to: pupil transportation; special education; eligibility for bonding for certain building projects through the Wisconsin Health and Educational Facilities Authority; and statutes in ch. 119, stats., that refer to private schools (since ch. 119 relates only to the Milwaukee Public Schools). In general, the amendments add references to tribal schools, tribal school pupils, or tribal school staff in those statutes.

Private School References–Benefit Linked to Requirement

In some cases, the draft includes language relating to tribal schools that is not identical to current statutes relating to private schools. These relate to statutes in which a requirement is integrally linked to a benefit provided––for example, statutes allowing a private school to receive certain confidential records but prohibiting redisclosure of the records. For those statutes, the draft generally extends the benefit to a tribal school that chooses to comply with the required provision.

Private School References–Requirements Not Imposed on Tribal Schools

With respect to statutes that explicitly impose a requirement on private schools unrelated to a benefit, the draft does *not* add a reference to tribal schools. Such statutes include requirements to: make a report to the Department of Public Instruction (DPI) about enrollment; report to DPI charges and convictions of certain crimes and dismissals and resignations related to immoral conduct of a person licensed by DPI and employed by the school; display the flag and offer the pledge of allegiance or national anthem; have a first aid kit; conduct fire, tornado, or other hazard drills and file reports on those drills with the Department of Commerce and chief of the local fire department; distribute information about meningococcal disease; annually inform professional staff about resources available regarding suicide prevention; establish

school safety zones; prohibit the use of a pupil's Social Security number as a pupil identification number; have periodic lead inspections in kindergarten; and abide by restaurant regulations if food is brought in under contract.

Generic School References

The draft amends several statutes that refer generically to schools without explicitly referring to public schools, private schools, or tribal schools to make clear that if a benefit or protection applies to the school, school pupils, and school staff, the benefit also applies to tribal schools, tribal school pupils, and tribal school staff. The draft does not amend statutes that impose a requirement generically on schools, including private schools, to impose the requirement on tribal schools, for example, statutes relating to excluding children who have not met the immunization or waiver of immunization requirements. Whether such requirements apply to tribal schools is an issue to be resolved by the courts.

THE DRAFT--LIST OF BENEFITS AND PROTECTIONS PROVIDED TO TRIBAL SCHOOLS, TRIBAL SCHOOL PUPILS, AND TRIBAL SCHOOL STAFF

The benefits and protections provided in the draft to tribal schools, tribal school pupils, and tribal school staff are briefly listed below in each of these categories. Each listing is followed by a reference to the SECTION number in the draft. The provisions of the draft are further explained in the NOTE following each SECTION of the draft. (In some cases, a benefit or protection could have been included in more than one category because of overlapping considerations (for example, permitting disclosure to tribal schools of certain confidential police records could ultimately benefit the tribal school, tribal school pupils, and tribal school staff). However, each provision in the draft is listed in only one category below, namely, what appeared to be the most pertinent category.)

Benefits or Protections Provided to Tribal Schools

The draft provides the following benefits or protections to tribal schools:

1. Permits a tribal school to ask the municipal clerk to conduct voter registration at the high school. [SECTION 1.]

2. Permits representatives of tribal schools to serve on the DPI Council on Special Education. [SECTION 3.]

3. Permits the Governor to nominate a representative to the Educational Communications Board who may represent either a tribal school or private school. [SECTION 5.]

4. Requires the Department of Administration (DOA) to include tribal schools in the educational telecommunication access program under s. 16.997, Stats., which provides access to data lines and video links under certain conditions to certain educational agencies (including private schools) at certain costs. This program is the part of the Technology for Educational Achievement (TEACH) program that applies to private schools. The draft permits DOA to provide telecommunications services to tribal schools that DOA considers appropriate and permits DOA to charge for such services. [SECTIONS 6, 7, 8, 9, 11, and 12.]

5. Exempts a motor vehicle transporting tribal school pupils to a state park or recreational area from the requirement to display a state park admission receipt. [SECTION 13.]

6. Extends to tribal schools the requirement that the Department of Natural Resources (DNR) create boating safety courses and offer them in cooperation with, among others, schools. [SECTION 16.]

7. Requires the Board of Regents of the University of Wisconsin (UW) System to direct the UW schools of education to work with tribal schools, among others, on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research. [SECTION 17.]

8. Provides that the purposes of the Technical College System (TCS) include contracting, coordinating, and cooperating with tribal schools; requires the TCS Board to work with tribal schools on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research; and authorizes a technical college district board to contract with tribal schools, among others, to provide educational services or fiscal and management services. [SECTIONS 18, 19, 20, and 21.]

9. Requires the Department of Veterans Affairs to award a certificate of achievement and appreciation to a veteran who completes 20 hours of volunteer service in a tribal school in a school term if certain conditions are met. [SECTIONS 25 and 26.]

10. Clarifies that a tribal school is not required to obtain a day care license. [SECTION 34.]

11. Requires the Department of Health Services (DHS) to cooperate with various entities, including tribal schools, to establish alcoholism prevention and treatment programs and to prepare curriculum materials on this subject. [SECTION 38.]

12. Establishes a process by which driver education courses offered in a tribal school can be accepted by the Department of Transportation

(DOT) for purposes of obtaining a driver's license under certain circumstances. [SECTIONS 48, 96, 97, and 98.]

13. Requires the State Superintendent to make online courses available for a reasonable fee, through a statewide web academy, to tribal schools located in Wisconsin. [SECTION 49.]

14. Provides that tribal schools are eligible for the school lunch program, school breakfast program, school day milk program, and food services plan for the elderly. [SECTIONS 50, 51, 52, and 53.] (According to DPI staff, tribal schools currently receive funds for the school lunch program and school breakfast program, and no tribal schools currently offer the school day milk program or food services plan for the elderly.)

15. Includes tribal schools in DPI's programs to assist schools in developing: alcohol and other drug abuse programs; suicide prevention programs; and protective behavior programs. The draft also requires DPI to provide a model notice to the governing body of a tribal school, which can be used to inform professional staff of the tribal school about suicide prevention services that DPI has developed and how to access those services. [SECTIONS 54, 55, and 56.]

16. Includes tribal schools with those groups to which the Wisconsin Center for the Blind and Visually Impaired and the Wisconsin Educational Services Program for the Deaf and Hard of Hearing may provide technical assistance and consultation services and other specified services. [SECTIONS 59, 60, 61, and 62.]

17. Authorizes cooperative educational service agencies (CESAs) to facilitate communication and cooperation among public, private, and tribal schools, agencies, and organizations that provide services to pupils; subject to certain conditions, authorizes a CESA to contract with a tribal school. [SECTIONS 63 and 64.]

18. Specifies that tribal schools may request trees from the state forest nursery for Arbor Day observance. The draft also provides that tribal school pupils may be included in the distribution to school pupils by state forest nurseries of planting stock to celebrate Arbor Day. [SECTIONS 14 and 65.]

19. Requires DPI to provide information to tribal schools about meningococcal disease. [SECTION 66.]

20. Requires the authority in charge of a street or highway to erect school warning signs, including signs for tribal schools. [SECTION 67.]

21. Provides for the disclosure of certain confidential records to tribal schools under certain circumstances if enforceable protections are in

place to ensure that tribal school officials will not disclose the records except under the same situations that private schools may do so. This includes: police and law enforcement records in a ch. 48, Stats. (Children's Code), proceeding; public school records in certain circumstances; records of the Department of Children and Families (DCF), a county department of human services or county department of social services, a licensed child welfare agency, or a licensed day care center, or of the Department of Corrections in a ch. 938, Stats. (Juvenile Justice Code), proceeding; records of a juvenile court in a ch. 938 proceeding; and law enforcement records in a ch. 938 proceeding. [SECTIONS 33, 35, 68, 70, 108, 109, 110, 111, and 112.]

22. Adds to the county committee that advises on school districts' truancy plans: (a) a representative of each tribal school in the county; and (b) a parent of a tribal school pupil. [SECTION 76.]

23. Requires the annual school district report submitted by the school district clerk to DPI to include certain information about tribal schools and tribal school pupils, if the information is voluntarily provided to the school district by the tribal school. [SECTION 84.]

24. Requires the State Superintendent to include tribal schools in the category of entities to which information about eye safety is provided. [SECTION 93.]

25. Adds tribal schools to the list of entities that may request information about persons on the sex offender registry; also amends the definition of "student" for the purpose of the sex offender registration law to also include students at a tribal educational institution, which would include tribal colleges as well as tribal schools. [SECTIONS 94 and 95.]

26. Permits a dental hygienist to be employed at or independently contract with a tribal school. [SECTION 99.]

Benefits or Protections Provided to Tribal School Pupils

The draft provides the following benefits or protections to tribal school pupils:

1. Permits certain tribal school pupils to serve as inspectors at a polling place under certain conditions. [SECTION 2.]

2. Includes seniors at a tribal high school in the Academic Excellence Higher Education Scholarship Program. [SECTIONS 22, 23, and 24.]

3. Provides that a veteran is eligible for reimbursement for a course taken at a tribal high school under certain circumstances. [SECTION 27.]

4. Includes a tribal school in the list of schools that may serve a person relocated to the community by DHS from a state center for the developmentally disabled. [SECTION 28.]

5. Provides that in entering a child in need of protection or services (CHIPS), juvenile in need of protection or services (JIPS), or delinquency dispositional order, a court may order a child to attend a tribal school ***if*** the school district has a contract with the tribal school for such placements and also requires the court to order the supervising agency to disclose information to the tribal school necessary to assure appropriate educational services in such cases. The draft also provides that, in such cases, the educational placement at a tribal school must be paid for by the school district. [SECTIONS 29, 30, 31, 86, 87, 88, 102, 103, and 104.]

6. If a CHIPS, JIPS, delinquency, or truancy or habitual truancy municipal ordinance dispositional order includes attendance at a tribal school as a condition of the order, requires that the court order request that a tribal school notify the court within five days of a violation of the condition. [SECTIONS 32, 106, and 107.]

7. Counts attendance at a tribal school for purposes of the Learnfare Program. [SECTIONS 36 and 37.]

8. Provides that minors doing fund raising by selling for a tribal school are exempt from the statutes relating to minors working in the street trades or fund raising on the same basis as minors doing fund raising for public or private schools. [SECTIONS 39, 40, 41, 42, 43, 44, and 45.]

9. Permits a child who has completed tribal high school to be employed during school hours. [SECTION 46.]

10. Clarifies that when a pupil transfers from a public school to a tribal school, the school district is required to transfer records to the tribal school. [SECTION 69.]

11. Permits a tribal school to file with DPI information about the elementary school course of study which entitles a pupil having completed that course of study to be admitted to a public high school. [SECTION 71.]

12. Permits a tribal school pupil who has met the standards for admission to high school to take up to 2 courses each semester at a public high school in the school district in which the pupil resides if the school board determines that there is sufficient space in the classroom. [SECTION 71.]

13. Explicitly provides that attendance at a tribal school satisfies the compulsory school attendance laws and provides that a child attending tribal school is not a "dropout." The draft also requires a school attendance officer to request information about the attendance of a child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be attending a tribal school. [SECTIONS 72, 72, and 75.]

14. Permits a child's parent or the child to request that a school board provide a program or curriculum modification to attend a tribal school. ***If*** the school board approves, the draft also provides that, in such cases, the educational placement at a tribal school must be paid for by the school district. [SECTIONS 73, 85, 86, 87, and 89.]

15. Permits school boards, CESAs, and county children with disabilities education boards to provide health treatment services to tribal school pupils at tribal schools under certain circumstances. [SECTION 77.]

16. Adds tribal schools to the definition of "school" for purposes of the statute that provides that it is a Class H felony for school staff at a public or private school to have sexual contact or sexual intercourse with a child who is age 16 or 17. [SECTION 115.]

17. Adds tribal schools to the definition of "school" for purposes of the statute that provides a criminal penalty for strip searches of pupils by school employees. [SECTION 117.]

18. Adds tribal schools to the definition of "school" for purposes of the statutes that: restrict possession of alcohol beverages on school premises; generally restrict the location of premises that have a Class A or Class B liquor license from being within 300 feet from the main entrance of a school; prohibit hunting within 1,700 feet of certain facilities, including a school; prohibit a retailer from placing a vending machine that dispenses cigarettes within 500 feet of a school; provide a criminal penalty for possessing (subject to certain exceptions) certain dangerous weapons other than firearms on school premises; prohibit (subject to certain exceptions) possession of a firearm in or on the grounds of a school or within 1,000 feet of a school (school zone) and provide certain criminal penalties under certain circumstances for the discharge of a firearm in a school zone; and specify additional consequences for a delinquency disposition for firearms violation on school premises. [SECTIONS 15, 78 (cross–referenced definition of school in s. 134.66 (1) (h), Stats.), 90, 91, and 118.]

19. Provides that the criminal penalty for possession of certain controlled substances on or within 1,000 feet of the premises of a school

also applies to tribal schools and also extends the penalty enhancement to such violations. [SECTIONS 105, 119, and 120.]

20. Applies penalty enhancement for violent crimes committed in a school zone to tribal schools. [SECTION 113.]

Benefits or Protections Provided to Tribal School Staff

The draft provides the following benefits or protections to tribal school staff:

1. Permits a licensed teacher employed by a tribal school to serve on the DPI Professional Standards Council for Teachers. [SECTION 4.]

2. Includes tribal school teachers in the DOA program to facilitate the purchase of computers by school teachers. [SECTION 10.]

3. Provides that, although state law does not require that teachers in tribal schools have a state license, a state license may be issued if the applicant who teaches in a tribal school meets the state license criteria. Further provides that appropriate experience in a tribal school is counted in determining teaching experience under the state licensure law. [SECTION 48.]

4. For the alternative education program license, specifies that, like a private school, an alternative educational program does not include a tribal school. [SECTION 48.]

5. Makes teachers employed at a tribal school eligible for grants if they are certified by the National Board for Professional Teaching Standards or are licensed by DPI as a master educator and meet other criteria. [SECTIONS 57 and 58.]

6. Extends immunity from liability under several state laws to certain tribal school officials and others, including: for removing a pupil from school premises or from school–sponsored activities for suspicion of certain activities relating to controlled substances; for administering certain drugs to pupils under certain circumstances; for rendering emergency care; for permitting or prohibiting the use of an asthma inhaler under certain circumstances; for a good faith attempt to prevent suicide; for rendering free health care by certain health care providers at an athletic event at a tribal school; and for death or injury caused by the donation by certain individuals of commercial equipment or technology to a tribal school. [SECTIONS 78, 79, 80, 81, 82, 83, 100, and 101.]

Extending immunity under state law does not affect liability under tribal law or whatever right a person may have to raise a defense of tribal sovereign immunity if sued.

7. Includes tribal school employees and certain health care providers who provide free health care at a tribal school athletic event in the category of persons who, when significantly exposed to an individual (for example, by contact with the individual's blood) may require testing of that individual for human immunodeficiency virus (HIV) and receive the results of the test. [SECTIONS 92 and 100.]

8. Provides that an employee, member of the board of directors, or trustee of a tribal school, while in his or her capacity as such, may not be prosecuted under s. 944.21 (crimes relating to obscene materials or performance) or 948.11, Stats. (crimes relating to exposing a child to harmful material or harmful descriptions or narrations). [SECTIONS 114 and 116.]

SECTION 1. 6.28 (2) (c) of the statutes is amended to read:

6.28 **(2)** (c) The principal of any private high school ~~having~~ or of any tribal school, as defined in s. 115.001 (15m), that operates high school grades that has a substantial number of students residing in a municipality may request the municipal clerk to establish registration dates when a special registration deputy will be present in the high school, or to appoint a special school registration deputy in accordance with par. (b). The clerk shall establish registration dates or appoint a special school registration deputy in the high school if the clerk determines the school to have a substantial number of students residing in the municipality.

NOTE: Permits a tribal school with high school grades that has a substantial number of students to ask the municipal clerk to conduct voter registration at the high school.

SECTION 2. 7.30 (2) (am) of the statutes is amended to read:

7.30 **(2)** (am) Except as otherwise provided in this paragraph, a pupil who is 16 or 17 years of age and who is enrolled in grades 9 to 12 in a public or private school or in a tribal school, as defined in s. 115.001 (15m), may serve as an inspector at the polling place serving the pupil's residence, with the approval of the pupil's parent or guardian. Any pupil who has at least a 3.0 grade point average or the equivalent may serve. In addition, a school board or governing body of a private school or tribal school may establish criteria for service by a pupil

who does not have at least a 3.0 grade point average or the equivalent. A pupil may serve as an inspector at a polling place under this paragraph only if at least one election official at the polling place other than the chief inspector is a qualified elector of this state. No pupil may serve as chief inspector at a polling place under this paragraph. Before appointment by any municipality of a pupil as an inspector under this paragraph, the municipal clerk shall obtain written authorization from the pupil's parent or guardian for the pupil to serve for the election for which he or she is appointed. In addition, if a pupil does not have at least a 3.0 grade point average or the equivalent, the municipal clerk shall obtain written certification from the principal of the school where the pupil is enrolled that the pupil meets any criteria established by the school board or governing body for service as an inspector. Upon appointment of a pupil to serve as an inspector, the municipal clerk shall notify the principal of the school where the pupil is enrolled of the name of the pupil and the date of the election at which the pupil has been appointed to serve.

NOTE: Permits certain tribal school pupils to serve as inspectors at a polling place under certain conditions.

SECTION 3. 15.377 (4) (f) of the statutes is amended to read:

15.377 **(4)** (f) Representatives of private schools ~~and~~, charter schools, and tribal schools, as defined in s. 115.001 (15m).

NOTE: Provides that representatives of tribal schools may serve on the DPI Council on Special Education.

SECTION 4. 15.377 (8) (c) 14. of the statutes is created to read:

15.377 **(8)** (c) 14. One person licensed as a teacher and actively employed in a tribal school, as defined in s. 115.001 (15m), recommended by a federally recognized American Indian tribe or band in this state that has a tribal school.

NOTE: Current law permits one licensed teacher actively employed in a private school, recommended by the Wisconsin Council of Religious and Independent Schools, to serve on the DPI Professional Standards Council for Teachers. The council currently has 19 members who, with one limited exception, are appointed for 3–year terms. With 3 exceptions, a vacancy in any category is filled by having the entity that is authorized to make a recommendation in that category provide 3 names to the State Superintendent, who then makes the selection for that category.

The draft increases the number of members to 20 by adding a provision for a licensed teacher employed by a tribal school. The State Superintendent must select this teacher based on the recommendation of a tribe that has a tribal school.

SECTION 5. 15.57 (3) of the statutes is amended to read:

15.57 **(3)** One representative of public schools and one representative of private schools or of tribal schools, as defined in s. 115.001 (15m), appointed for 4–year terms.

NOTE: The Educational Communications Board has 16 members who, with limited exceptions not applicable to this provision, are nominated by the Governor and confirmed by the Senate. This provision permits the Governor to nominate a representative who may represent either a tribal school or private school.

SECTION 6. 16.971 (15) of the statutes is amended to read:

16.971 **(15)** Provide private schools and tribal schools, as defined in s. 115.001 (15m), with telecommunications access under s. 16.997 and contract with telecommunications providers to provide that access.

NOTE: Requires the DOA to include tribal schools in the educational telecommunication access program under s. 16.997, stats., which provides access to data lines and video links under certain conditions to certain educational agencies (including private schools) at certain costs. This program is the part of the TEACH program that applies to private schools.

SECTION 7. 16.972 (1) (cm) of the statutes is created to read:

16.972 **(1)** (cm) "Qualified tribal school" means a tribal school as defined in s. 115.001 (15m).

SECTION 8. 16.972 (2) (b) of the statutes is amended to read:

16.972 **(2)** (b) Except as provided in par. (a), provide such computer services and telecommunications services to local governmental units and the broadcasting corporation and provide such telecommunications services to qualified private schools, tribal schools, postsecondary institutions, museums, and zoos, as the department considers to be appropriate and as the department can efficiently and economically provide. The department may exercise this power only if in doing so it maintains the services it provides at least at the same levels that it provides prior to exercising this power and it does not increase the rates chargeable to users served prior to exercise of this power as a result of exercising this power. The department may charge local governmental units, the broadcasting corporation, and qualified private schools, tribal schools, postsecondary institutions, museums, and zoos, for services provided to them under this paragraph in accordance with a methodology determined by the department. Use of telecommunications services by a qualified private school, tribal school, or postsecondary institution shall be subject to the same terms and conditions that apply to a municipality using the same services. The department shall prescribe eligibility requirements for qualified museums and zoos to receive telecommunications services under this paragraph.

SECTION 9. 16.974 (2) and (3) of the statutes are amended to read:

16.974 **(2)** Subject to s. 16.972 (2) (b), enter into and enforce an agreement with any agency, any authority, any unit of the federal government, any local governmental unit, ~~or~~ any entity in the private sector, or any tribal school, as defined in s. 115.001 (15m), to provide services authorized to be provided by the department to that agency, authority, unit, ~~or~~ entity, or tribal school at a cost specified in the agreement.

(3) Develop or operate and maintain any system or device facilitating Internet or telephone access to information about programs of agencies, authorities, local governmental

units, ~~or~~ entities in the private sector, or any tribal schools, as defined in s. 115.001 (15m), or otherwise permitting the transaction of business by agencies, authorities, local governmental units, ~~or~~ entities in the private sector, or tribal schools by means of electronic communication. The department may assess executive branch agencies, other than the board of regents of the University of Wisconsin System, for the costs of systems or devices relating to information technology or telecommunications that are developed, operated, or maintained under this subsection in accordance with a methodology determined by the department. The department may also charge any agency, authority, local governmental unit, ~~or~~ entity in the private sector, or tribal school for such costs as a component of any services provided by the department to that agency, authority, local governmental unit, ~~or~~ entity, or tribal school.

NOTE: SECTIONS 7 to 9 permit DOA to provide telecommunications services to tribal schools that DOA considers appropriate and charge for such services. Also see the treatment of s. 20.505 (1) (is), stats., below.

SECTION 10. 16.9785 of the statutes is amended to read:

16.9785 Purchases of computers by teachers. The department shall negotiate with private vendors to facilitate the purchase of computers and other educational technology, as defined in s. 24.60 (1r), by public ~~and~~, private, and tribal elementary and secondary school teachers for their private use. The department shall attempt to make available types of computers and other educational technology under this section that will encourage and assist teachers in becoming knowledgeable about the technology and its uses and potential uses in education.

NOTE: Includes tribal school teachers in the DOA program to facilitate the purchase of computers by school teachers.

SECTION 11. 16.99 (2g) of the statutes is amended to read:

16.99 **(2g)** "Educational agency" means a school district, charter school sponsor, juvenile correctional facility, private school, tribal school, as defined in s. 115.001 (15m), cooperative educational service agency, technical college district, private college, public library system, public library board, public museum, the Wisconsin Center for the Blind and Visually Impaired, or the Wisconsin Educational Services Program for the Deaf and Hard of Hearing.

NOTE: Includes tribal schools under the educational telecommunications access program which is part of the TEACH program. See s. 16.971 (15), stats., above.

SECTION 12. 20.505 (1) (is) of the statutes is amended to read:

20.505 **(1)** (is) *Information technology and communications services; nonstate entities.* From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3), and 16.997 (2) (d), to provide computer, telecommunications, electronic communications, and supercomputer services to state authorities, units of the federal government, local governmental units, tribal schools, and entities in the private sector, the amounts in the schedule.

NOTE: Amends the appropriation to DOA for technology and communications services provided to tribal schools to reflect the amendment to ss. 16.972 (2) (b) and 16.974 (2) and (3), stats., above.

SECTION 13. 27.01 (7) (c) 10. of the statutes is amended to read:

27.01 **(7)** (c) 10. Any motor vehicle operated for the purpose of transporting pupils to or from curricular or extracurricular activities of a public or private school ~~or~~, a tribal school as defined in s. 115.001 (15m), or a home–based private educational program under s. 118.15 (4) or for the purpose of transporting students to or from an outdoor academic class given by an accredited college or university in this state. The operator of a motor vehicle transporting pupils or students under this subdivision shall possess and exhibit for inspection a written authorization from an administrator of the school, home–based private educational program,

or college or university indicating that admission to the vehicle admission area is part of an official school, home–based private educational program, or college or university function and indicating the date for which the authorization is applicable. A separate authorization is required for each date on which the motor vehicle is admitted to the vehicle admission area under this subdivision.

NOTE: Exempts a motor vehicle transporting tribal school pupils to a state park or recreational area from the requirement to display a state park admission receipt.

SECTION 14. 28.06 (1) of the statutes is amended to read:

28.06 **(1)** LIMITATION. Only planting stock of species and sizes suitable for forest and woodlot planting and for planting by school pupils, including pupils at a tribal school, as defined in s. 115.001 (15m), to celebrate arbor day under s. 118.025 shall be produced in state forest nurseries. The department may employ labor at prevailing local wages for nursery operation or reforestation.

NOTE: Current law provides that the state forest nurseries may plant stock suitable for planting by school pupils to celebrate Arbor Day and authorizes distribution of the stock for Arbor Day plantings by school pupils. The draft specifies that tribal school pupils are included.

SECTION 15. 29.301 (1) (a) of the statutes is amended to read:

29.301 **(1)** (a) In this subsection, "school" means a public or private elementary or secondary school, including a charter school, a tribal school, as defined in s. 115.001 (15m), or a technical college.

NOTE: Adds tribal school to the definition of "school" that is used in s. 29.301 (1) (b), stats., which prohibits hunting within 1,700 feet of certain facilities, including a school.

SECTION 16. 30.74 (1) (a) of the statutes is amended to read:

30.74 **(1)** (a) The department shall create comprehensive courses on boating safety and operation. These courses shall be offered in cooperation with schools, including tribal

schools, as defined in s. 115.001 (15m), private clubs and organizations, and may be offered by the department in areas where requested and where other sponsorship is unavailable. The department shall issue certificates to persons 10 years of age or older successfully completing such courses. The department shall prescribe the course content and the form of the certificate.

NOTE: Requires the DNR to create boating safety courses and offer them in cooperation with, among others, schools, including tribal schools.

SECTION 17. 36.11 (36m) of the statutes is amended to read:

36.11 **(36m)** SCHOOL SAFETY RESEARCH. The board shall direct the schools of education and other appropriate research–oriented departments within the system, to work with the technical college system board under s. 38.04 (27), school districts, private schools, tribal schools, as defined in s. 115.001 (15m), and the department of public instruction to present to school districts ~~and~~, private schools, and tribal schools the results of research on models for and approaches to improving school safety and reducing discipline problems in schools and at school activities.

NOTE: Requires the Board of Regents of the UW System to direct the UW schools of education to work with tribal schools, among others, on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

SECTION 18. 38.001 (3) (a) of the statutes is amended to read:

38.001 **(3)** (a) 1. Contract with secondary schools, including tribal schools, to provide educational opportunities for high school age students in order to enhance their potential for benefiting from postsecondary education and for obtaining employment.

2. Coordinate and cooperate with secondary schools, including tribal schools, to facilitate the transition of secondary school students into postsecondary technical college education through curriculum articulation and collaboration.

NOTE: Provides that the purposes of the technical college system include contracting, coordinating, and cooperating with tribal schools.

SECTION 19. 38.01 (9m) of the statutes is created to read:

38.01 **(9m)** "Tribal school" has the meaning given in s. 115.001 (15m).

SECTION 20. 38.04 (27) of the statutes is amended to read:

38.04 **(27)** SCHOOL SAFETY. The board shall work with schools of education and other departments of the University of Wisconsin System under s. 36.11 (36m), school districts, private schools, tribal schools, and the department of public instruction to present to school districts ~~and~~, private schools, and tribal schools the results of research on models for and approaches to improving school safety and reducing discipline problems in schools and at school activities.

NOTE: Requires the Technical College System Board to additionally work with tribal schools on researching improving school safety and reducing school discipline problems and to share with tribal schools the results of such research.

SECTION 21. 38.14 (3) (a) and (bm) of the statutes are amended to read:

38.14 **(3)** (a) The district board may enter into contracts to provide educational services to public and private educational institutions, tribal schools, federal and state agencies, local governmental bodies, industries, and businesses.

(bm) The district board may enter into contracts to provide fiscal and management services to public and private educational institutions, tribal schools, federal and state agencies, and local governmental units.

NOTE: Authorizes a technical college district board to contract with tribal schools, among others, to provide educational services or fiscal and management services.

SECTION 22. 39.41 (1) (bm) of the statutes is amended to read:

39.41 **(1)** (bm) "Senior" means a pupil enrolled in the 12th grade in a public or private high school, a tribal school, the school operated by the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, or the school operated by the Wisconsin Center for the Blind and Visually Impaired.

SECTION 23. 39.41 (1) (br) of the statutes is created to read:

39.41 **(1)** (br) "Tribal school" has the meaning given in s. 115.001 (15m).

SECTION 24. 39.41 (1m) (a) (intro.), (b), (c) 4. and 5., (e), (em), (g) and (j) of the statutes are amended to read:

39.41 **(1m)** (a) (intro.) Subject to par. (d), by February 15 of each school year, the school board of each school district operating one or more high schools and the governing body of each private high school and of each tribal high school shall:

(b) By February 15 of each school year, the school board of each school district operating one or more high schools and the governing body of each private high school and of each tribal high school may, for each high school with an enrollment of less than 80 pupils, nominate the senior with the highest grade point average in all subjects who may be designated as a scholar by the executive secretary under par. (c) 3.

(c) 4. For each public ~~or~~, private, or tribal high school with an enrollment of at least 80 pupils, notify the school board of the school district operating the public high school or the governing body of the private or tribal high school of the number of scholars to be designated under par. (a).

5. For each public ~~or~~, private, or tribal high school with an enrollment of less than 80 pupils, notify the school board of the school district operating the public high school or the governing body of the private or tribal high school that the school board or governing body

may nominate a senior under par. (b) who may be designated as a scholar by the executive secretary.

(e) Except as provided under par. (em), if 2 or more seniors from the same high school of less than 80 pupils have the same grade point average and, except for the limitation of one nominated senior, are otherwise eligible for nomination under par. (b), the faculty of the high school shall select the senior who may be nominated by the school board of the school district operating the public high school or the governing body of the private or tribal high school for designation under par. (b) as a scholar by the executive secretary. If that senior is designated as a scholar by the executive secretary and does not qualify for a higher education scholarship under sub. (2) (a) or (3) (a), faculty of the high school shall select one or more of the remaining seniors with the same grade point average for certification as a scholar and the school board of the school district operating the high school or the governing body of the private or tribal high school shall certify to the board one or more of these seniors as eligible for a higher education scholarship as a scholar under sub. (2) (a) or (3) (a) until the scholarship may be awarded by the board.

(em) If the high school weights different courses differently to determine a pupil's grade point average, and the senior designated as a scholar by the executive secretary under par. (e) does not qualify for a higher education scholarship under sub. (2) (a) or (3) (a), the faculty of the high school shall select one senior with the same grade point average for certification as a scholar, or, if there is no senior with the same grade point average, one senior with the next highest grade point average for certification as a scholar, and the school board of the school district operating the high school or the governing body of the private or tribal high school shall certify to the board the selected senior as eligible for a higher education scholarship as a scholar under sub. (2) (a) or (3) (a) until the scholarship may be awarded by the board.

(g) Notwithstanding par. (a), if a high school of at least 80 pupils closes or merges in the 1991–92 school year or in any school year thereafter, the school board of the school district operating the high school or the governing body of the private or tribal high school shall, subject to par. (d), for each of the 2 school years following the closure or merger, designate the same number of scholars from among the pupils enrolled in the high school at the time of closure or merger as the number of scholars designated for that high school in the school year the high school closed or merged. Any seniors designated under this paragraph shall be eligible for an original scholarship under this section.

(j) In the event that 2 or more seniors from the same high school of at least 80 pupils have the same grade point average and are otherwise eligible for designation under par. (a), the school board of the school district operating the high school or the governing body of the private or tribal high school shall make the designation of the faculty of the high school for purposes of par. (d) or (i).

NOTE: SECTIONS 22 to 24 include seniors at a tribal high school in the Academic Excellence Higher Education Scholarship Program that provides certain seniors with academic scholarships at the UW, technical college, or participating private institutions of higher education.

SECTION 25. 45.09 (1) (d) of the statutes is created to read:

45.09 **(1)** (d) "Tribal school" has the meaning given in s. 115.001 (15m).

SECTION 26. 45.09 (2) of the statutes is amended to read:

45.09 **(2)** Subject to sub. (3), the department shall award a certificate of achievement and appreciation to any veteran who completes 20 hours of volunteer service in a public ~~or~~, private, or tribal school during a school term.

NOTE: Current law provides that the Department of Veterans Affairs must award a certificate of achievement and appreciation to any veteran who completes 20 hours of volunteer service in a public or private

school during a school term if certain conditions are met. The draft also includes such volunteer service in a tribal school.

SECTION 27. 45.20 (2) (a) 1., (c) 1. and (d) 1. of the statutes are amended to read:

45.20 **(2)** (a) 1. The department shall administer a tuition reimbursement program for eligible veterans enrolling as undergraduates in any institution of higher education in this state, enrolling in a school that is approved under s. 45.03 (11), enrolling in a proprietary school that is approved under s. 38.50, enrolling in a public or private high school, enrolling in a tribal school, as defined in s. 115.011 (15m), that operates high school grades, or receiving a waiver of nonresident tuition under s. 39.47.

(c) 1. A veteran who meets the eligibility requirements under par. (b) 1. may be reimbursed upon satisfactory completion of an undergraduate semester in any institution of higher education in this state, or upon satisfactory completion of a course at any school that is approved under s. 45.03 (11), any proprietary school that is approved under s. 38.50, any public or private high school, any tribal school, as defined in s. 115.001 (15m), that operates high school grades, or any institution from which the veteran receives a waiver of nonresident tuition under s. 39.47. Except as provided in par. (e), the amount of reimbursement may not exceed the total cost of the veteran's tuition minus any grants or scholarships that the veteran receives specifically for the payment of the tuition, or, if the tuition is for an undergraduate semester in any institution of higher education, the standard cost of tuition for a state resident for an equivalent undergraduate semester at the University of Wisconsin–Madison, whichever is less.

(d) 1. A veteran's eligibility for reimbursement under this subsection at any institution of higher education in this state, at a school that is approved under s. 45.03 (11), at a proprietary school that is approved under s. 38.50, at a public or private high school, at a tribal school, as

defined in s. 115.001 (15m), that operates high school grades, or at an institution where he or she is receiving a waiver of nonresident tuition under s. 39.47 is limited to the following:

NOTE: Provides that a veteran is eligible for reimbursement for a course taken at a tribal high school under certain circumstances.

SECTION 28. 46.275 (3r) (a) 3. of the statutes is amended to read:

46.275 **(3r)** (a) 3. The person will be relocated into the home of the person's parent or guardian and will be receiving state monitoring of the relocation and services provided by a public or private school or a tribal school, as defined in s. 115.001 (15m).

NOTE: Current law permits DHS to relocate a resident of a state center for the developmentally disabled to the community without county participation under certain circumstances, including the circumstance in s. 46.275 (3r) (a) 3., stats., which is amended to include a tribal school.

SECTION 29. 48.02 (18m) of the statutes is created to read:

48.02 **(18m)** "Tribal school" has the meaning given in s. 115.001 (15m).

SECTION 30. 48.345 (12) (a) 5. of the statutes is created to read:

48.345 **(12)** (a) 5. Pursuant to a contractual agreement with the school district in which the child resides, an educational program provided by a tribal school.

SECTION 31. 48.345 (12) (c) of the statutes is amended to read:

48.345 **(12)** (c) The judge shall order the county department, department, in a county having a population of 500,000 or more, or licensed child welfare agency responsible for supervising the child to disclose to the school board, technical college district board, tribal school, or private, nonprofit, nonsectarian agency which is providing an educational program under par. (a) 3. records or information about the child, as necessary to assure the provision of appropriate educational services under par. (a).

NOTE: Under current law, a CHIPS dispositional order may include an order that a child attend an educational program provided by the school

district or one of several programs under contract with the school district. Current law does not include a tribal school.

Section 48.345 (12) (a) 5., stats., specifies that the court is permitted to order a child to attend a tribal school if the school district has a contract with the tribal school for such placements. Section 48.345 (12) (c), stats., is amended to require the court to order the supervising agency to disclose information to the tribal school necessary to assure appropriate educational services in such cases. Also see the treatment of ss. 121.78 (4) and 938.34 (7d) (a) 5. and (c), stats., below.

SECTION 32. 48.355 (2) (c) of the statutes is amended to read:

48.355 **(2)** (c) If school attendance is a condition of an order under par. (b) 7., the order shall specify what constitutes a violation of the condition and shall direct the school board of the school district, or the governing body of the private school, in which the child is enrolled, or shall request the governing body of the tribal school in which the child is enrolled, to notify the county department that is responsible for supervising the child or, in a county having a population of 500,000 or more, the department within 5 days after any violation of the condition by the child.

NOTE: Under s. 48.355 (2) (b) 7., stats., a CHIPS dispositional order may state the conditions with which the child must comply. If school attendance is a condition, current law requires that the order direct the school board or the governing body of a private school to notify the court within 5 days of a violation of the condition. The draft requires that the court order request that a tribal school do so.

SECTION 33. 48.396 (1) of the statutes is amended to read:

48.396 **(1)** Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of the adult expectant mothers of unborn children shall be kept separate from records of other adults. Law enforcement officers' records of children and the adult expectant mothers of unborn children shall not be open to inspection or their contents disclosed except under sub. (1b), (1d), (5), or (6) or s. 48.293 or by order of the court. This subsection does not apply to the representatives of newspapers or

other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child or adult expectant mother involved, to the confidential exchange of information between the police and officials of the public or private school attended by the child or other law enforcement or social welfare agencies, or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125, and a private school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. 118.125. This subsection does not apply to the confidential exchange of information between the police and officials of the tribal school attended by the child if the police determine that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

NOTE: Current law provides that the subsection that specifies that, subject to certain exceptions, law enforcement records relating to children under ch. 48 (the children's code) are confidential does not apply to the confidential exchange of information between the police and school officials. Current law further requires that public school officials who obtain information under this provision keep the information confidential as required in s. 118.125, stats. (relating to the confidentiality of pupil records). Current law also requires that private school officials who obtain information under this provision keep the information confidential in the same manner as is required of a public school official. The draft permits the police to confidentially exchange information with tribal school officials if the police determine that a

tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials.

SECTION 34. 48.65 (2) (b) of the statutes is amended to read:

48.65 **(2)** (b) A public or parochial school or a tribal school.

NOTE: The day care license statute requires that, with certain exceptions, a facility that provides care for 4 or more children under the age of 7 must obtain a day care center license. Because the day care license statute is a state civil regulatory law, it is not clear that this statute applies to a facility operated by a tribe or tribal member on a reservation or off–reservation trust land, although a tribe or tribal member may choose to obtain a license. In the event a court interprets the day care license statute as applying to a tribe or tribal member, the draft makes clear that a tribal school is not subject to this statute.

SECTION 35. 48.78 (2) (b) of the statutes is amended to read:

48.78 **(2)** (b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396 (1) and 938.396 (1) (a). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125, and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125. Paragraph (a) does not apply to the confidential exchange of information between an agency and officials of a tribal school regarding an individual in the care or legal custody of the agency if the agency determines that enforceable protections are provided by a tribal school policy or tribal law that

requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125.

NOTE: Section 48.78 (2) (a), stats., provides that, subject to certain exceptions, DCF, a county department of human services or county department of social services, a licensed child welfare agency, or a licensed day care center (collectively referred to as agency) must keep its records relating to children under ch. 48, stats., confidential. Section 48.78 (2) (b), stats., provides an exception and permits the confidential exchange of information with a public or private school which is then required to keep the information confidential if required to do so under the pupil records statute. The draft permits an agency to confidentially exchange information with tribal school officials if the agency determines that a tribal school policy or tribal law provides enforceable protections that require tribal school officials to keep the information confidential in a manner at least as stringent as is required of public and private school officials.

SECTION 36. 49.26 (1) (a) 2. bm. of the statutes is created to read:

49.26 **(1)** (a) 2. bm. A tribal school, as defined in s. 115.001 (15m).

NOTE: Includes a tribal school in the definition of a "school" under the Learnfare Program, which requires certain individuals to attend school under certain circumstances as a condition of eligibility under the Wisconsin Works Program.

SECTION 37. 49.26 (1) (g) 2. of the statutes is amended to read:

49.26 **(1)** (g) 2. The individual has not graduated from a public ~~or~~, private, or tribal high school or obtained a declaration of equivalency of high school graduation under s. 115.29 (4).

NOTE: Provides an exception for the school attendance requirement under the Learnfare Program if an individual has graduated from a tribal high school.

SECTION 38. 51.45 (4) (d) of the statutes is amended to read:

51.45 **(4)** (d) Cooperate with the department of public instruction, local boards of education, schools, including tribal schools, as defined in s. 115.001 (15m), police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and

intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education.

NOTE: Requires DHS to cooperate with various entities, including tribal schools, to establish alcoholism prevention and treatment programs and to prepare curriculum materials.

SECTION 39. 103.21 (7) of the statutes is created to read:

103.21 **(7)** "Tribal school" has the meaning given in s. 115.001 (15m).

SECTION 40. 103.23 (2) (intro.) and (a) of the statutes are amended to read:

103.23 **(2)** (intro.) A minor under 12 years of age may work in a fund–raising sale for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school under the following conditions:

(a) Each minor must give the nonprofit organization, public school ~~or~~, private school, or tribal school written approval from the minor's parent or guardian.

SECTION 41. 103.25 (3m) (c) and (5) of the statutes are amended to read:

103.25 **(3m)** (c) This subsection does not apply to employment of a minor by a newspaper publisher or in a fund–raising sale for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

(5) This section does not apply to employment of a minor in a fund–raising sale for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

SECTION 42. 103.27 (3) of the statutes is amended to read:

103.27 **(3)** This section does not apply to employment of a minor in a fund–raising sale for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

SECTION 43. 103.275 (8) of the statutes is amended to read:

103.275 **(8)** EXCEPTION. This section does not apply to the employment of a minor by a newspaper publisher or in a fund–raising sale for a nonprofit organization, a public school ~~or~~, a private school, or a tribal school.

NOTE: SECTION 39 creates a definition of "tribal school" for purposes of the statutes relating to minors working in the street trades or fund raising. In general, minors doing fund raising by selling for a public or private school are exempt from these statutes. The courts have not made clear if these statutes may be applied on reservations or on off–reservation trust land to minors who are engaged in such activities for a tribal school. While a court may be less likely to apply the statute to American Indian minors who are fund raising on their own reservation or off–reservation trust land, it is possible that a court would apply the statute to non–Indian minors who are fund raising for a tribal school.

SECTIONS 40 to 43 specify that the statutes do not apply if a minor is engaged in fund–raising activities for a tribal school.

SECTION 44. 103.64 (6) of the statutes is created to read:

103.64 **(6)** "Tribal school" has the meaning given in s. 115.001 (15m).

NOTE: Defines tribal school as used in ss. 103.67 (2) (c) and 103.71 (1) (b), below.

SECTION 45. 103.67 (2) (c) of the statutes is amended to read:

103.67 **(2)** (c) Minors 12 years of age or older may be employed in street trades, and any minor may work in fund–raising sales for nonprofit organizations, public schools ~~or~~, private schools, or tribal schools, as provided in ss. 103.21 to 103.31.

NOTE: Relates to SECTIONS 39 and 43, above.

SECTION 46. 103.71 (1) (b) of the statutes is amended to read:

103.71 **(1)** (b) A diploma or certificate to this effect issued by the superintendent of the parochial school system or by the principal of the parochial or private school or tribal school last attended by such minor. Such superintendent, principal, or clerk shall issue such diploma or certificate upon receipt of any application in behalf of any minor entitled thereto. As used

in this paragraph the term "school district" shall apply to all regularly constituted school districts, including union free high school districts.

NOTE: Permits a child who has completed high school, including a tribal high school, to be employed during school hours.

SECTION 47. 115.001 (15m) of the statutes is created to read:

115.001 **(15m)** "Tribal school" means an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to 12 and that is one of the following:

(a) Controlled by the elected governing body of a federally recognized American Indian tribe or band in Wisconsin.

(b) Jointly controlled by the elected governing bodies of 2 or more federally recognized American Indian tribes or bands in Wisconsin.

(c) Controlled by a tribal educational authority established by a federally recognized American Indian tribe or band in Wisconsin.

(d) Controlled by a tribal educational authority established jointly by 2 or more federally recognized American Indian tribes or bands in Wisconsin.

NOTE: Defines tribal school for purposes of chs. 115 to 121, stats., which relate to K–12 education. This definition is also cross–referenced in statutes outside these chapters that are being amended by this draft to refer to tribal schools.

SECTION 48. 115.28 (7) (b) and (e) 1. and (11) (intro.) of the statutes are amended to read:

115.28 **(7)** (b) Subject to the same rules and laws concerning qualifications of applicants and granting and revocation of licenses or certificates under par. (a), the state superintendent shall grant certificates and licenses to teachers in private schools and tribal schools, except that teaching experience requirements for such certificates and licenses may be fulfilled by

teaching experience in ~~either~~ public ~~or~~, private, or tribal schools. An applicant is not eligible for a license or certificate unless the state superintendent finds that the private school or tribal school in which the applicant taught offered an adequate educational program during the period of the applicant's teaching therein. Private schools are not obligated to employ only licensed or certified teachers.

NOTE: Provides that, although state law does not require that teachers in tribal schools have a state license, a state license may be issued if the applicant who teaches in a tribal school meets the state license criteria. Further provides that appropriate experience in a tribal school is counted in determining teaching experience under the state licensure law.

Whether a tribal school is obligated to employ only state licensed or certified teachers is determined by tribal law (or by federal law if the tribal school receives funding from the BIA). Because the issue is not determined by state law, the draft does not include language regarding the matter.

(e) 1. In this paragraph, "alternative education program" means an instructional program, approved by the school board, that utilizes successful alternative or adaptive school structures and teaching techniques and that is incorporated into existing, traditional classrooms or regularly scheduled curricular programs or that is offered in place of regularly scheduled curricular programs. "Alternative educational program" does not include a private school, a tribal school, or a home–based private educational program.

NOTE: For the alternative education program license, specifies that, like a private school, an alternative educational program does not include a tribal school.

(11) DRIVER EDUCATION COURSES. (intro.) Approve driver education courses offered by school districts, county children with disabilities education boards, and technical college districts for the purposes of s. 343.16 (1) (c) 1. and establish minimum standards for driver education courses offered in private schools and tribal schools for the purposes of s. 343.16

(1) (c) 3. All driver education courses approved or for which standards are established under this subsection shall do all of the following:

> **NOTE:** Requires the State Superintendent to establish minimum standards for driver education courses offered in tribal schools so that the courses can be accepted by the DOT under ss. 343.06 (1) (c) and 343.16, stats., which relate to qualifications for a driver's license and examining applicants for a driver's license.
>
> If the tribal school does not comply with the requirements for the driver education course, the consequence would be that DOT cannot accept the tribal school course for purposes of the driver's license statute.

SECTION 49. 115.28 (53) of the statutes is amended to read:

115.28 **(53)** ONLINE COURSES. Make online courses available for a reasonable fee, through a statewide web academy, to school districts, cooperative educational service agencies, and charter schools ~~and~~, private schools, and tribal schools located in this state.

> **NOTE:** Requires the State Superintendent to make online courses available for a reasonable fee, through a statewide web academy, to tribal schools located in Wisconsin.

SECTION 50. 115.34 (2) of the statutes is amended to read:

115.34 **(2)** The state superintendent shall make payments to school districts, private schools, charter schools under s. 118.40 (2r), tribal schools, the program under s. 115.52, and the center under s. 115.525 for school lunches served to children in the prior year as determined by the state superintendent from the appropriation under s. 20.255 (2) (cn). Payments shall equal the state's matching obligation under 42 USC 1751 et seq. Payments in the current year shall be determined by prorating the state's matching obligation based on the number of school lunches served to children in the prior year. In this subsection, "private school" means any school defined in s. 115.001 (3r) which complies with the requirements of 42 USC 2000d.

> **NOTE:** Adds tribal schools to the school lunch program. (According to DPI staff, tribal schools currently receive funds for the school lunch program.)

SECTION 51. 115.341 of the statutes is amended to read:

115.341 School breakfast program. (1) From the appropriation under s. 20.255 (2) (cm), the state superintendent shall reimburse each school board 15 cents for each breakfast served at a school that meets the requirements of 7 CFR 220.8 or 220.8a, whichever is applicable, and shall reimburse each governing body of a private school or tribal school 15 cents for each breakfast served at the private school or tribal school that meets the requirements of 7 CFR 220.8 or 220.8a, whichever is applicable.

(2) If the appropriation under s. 20.255 (2) (cm) in any fiscal year is insufficient to pay the full amount of aid under this section, the state superintendent shall prorate state aid payments among the school boards and governing bodies of private schools and tribal schools entitled to the aid.

NOTE: Adds tribal schools to the school breakfast program. (According to DPI staff, tribal schools currently receive funds for the school breakfast program.)

SECTION 52. 115.343 (1) of the statutes is amended to read:

115.343 **(1)** The department shall establish a school day milk program. A public, private, or tribal school participating in the program shall offer each eligible child one half–pint of Wisconsin–produced whole milk, 2% milk, 1.5% milk, one percent milk, 0.5% milk, skim milk or chocolate milk on each day in which school is in session. If a child is allergic to milk or has metabolic disorders or other conditions which prohibit him or her from drinking milk, the child shall be offered juice as a substitute. Any school that participates in the program is encouraged to consider bids from local milk suppliers. The school shall keep all information related to the identity of the pupils who receive a beverage under the program confidential. In this subsection, "Wisconsin–produced" means that all or part of the raw milk used by the milk processor was produced in this state.

NOTE: Current law provides aid for the school day milk program. The draft clearly specifies that tribal schools may be participating schools.

SECTION 53. 115.345 (7m) of the statutes is amended to read:

115.345 **(7m)** A private school or tribal school may establish a food services plan for elderly persons. If the plan meets all of the requirements of this section and is approved by the state superintendent, the private school or tribal school is eligible for reimbursement in the same manner as school districts under sub. (5).

NOTE: Adds tribal schools as eligible for reimbursement for a food services plan for the elderly.

SECTION 54. 115.36 (1) and (2) (a), (b) and (d) 3. of the statutes are amended to read:

115.36 **(1)** The purpose of this section is to enable and encourage public ~~and~~, private, and tribal schools to develop comprehensive programs to prevent or ameliorate alcohol and other drug abuse among minors.

(2) (a) Develop and conduct training programs for the professional staff of public ~~and~~, private, and tribal schools in alcohol and other drug abuse prevention, intervention, and instruction programs.

(b) Provide consultation and technical assistance to public ~~and~~, private, and tribal schools for the development and implementation of alcohol and other drug abuse prevention, intervention, and instruction programs.

(d) 3. The systematic dissemination of information concerning available resources to appropriate public ~~and~~, private, and tribal school staff.

NOTE: Includes tribal schools in DPI's program to assist schools in developing alcohol and other drug abuse programs.

SECTION 55. 115.365 of the statutes is amended to read:

115.365 Assistance to schools for suicide prevention programs. (1) The purpose of this section is to enable and encourage public ~~and,~~ private schools, and tribal schools to develop programs designed to prevent suicide among minors.

(2) The department, in conjunction with the department of health services and the department of children and families, shall:

(a) Develop and conduct training programs in suicide prevention for the professional staff of public ~~and,~~ private, and tribal schools and county departments under ss. 46.215, 46.22, and 51.42. The programs shall include information on how to assist minors in the positive emotional development which will help prevent suicidal tendencies; the detection, by minors, school staff, and parents, of conditions which indicate suicidal tendencies; the proper action to take when there is reason to believe that a minor has suicidal tendencies or is contemplating suicide; and the coordination of school suicide prevention programs and activities with the suicide prevention and intervention programs and activities of other state and local agencies. Persons other than the professional staff of public ~~and,~~ private, and tribal schools and county departments under ss. 46.215, 46.22, and 51.42 may attend the training programs. The department may charge such persons a fee sufficient to cover the increased costs to the department of their participation in the programs.

(b) Provide consultation and technical assistance to public ~~and,~~ private, and tribal schools for the development and implementation of suicide prevention programs and the coordination of those programs with the suicide prevention and intervention programs of other state and local agencies.

(3) Each school board and the governing body of each private school annually shall inform their professional staff of the resources available from the department and other sources regarding suicide prevention. The department annually shall provide school boards

and the governing bodies of private and tribal schools with a model notice, describing the suicide prevention services that it has developed and how staff may access those services, that school boards and governing bodies of private and tribal schools may use to inform their professional staff.

NOTE: Includes tribal schools in DPI's program to assist schools in developing suicide prevention programs. Requires that DPI provide a model notice to the governing body of a tribal school, which can be used to inform tribal school professional staff about suicide prevention services that DPI has developed and how to access those services. However, in contrast to requirements imposed on public, private, and charter schools, the draft does not require that tribal schools annually inform professional staff about resources available regarding suicide prevention.

SECTION 56. 115.368 (1) and (2) (a) and (b) of the statutes are amended to read:

115.368 **(1)** The purpose of this section is to enable and encourage public ~~and~~, private, and tribal schools to develop protective behaviors programs and anti–offender behavior programs designed to assist minors and their parents or guardians in recognizing, avoiding, preventing, and halting physically or psychologically intrusive or abusive situations that may be harmful to minors.

(2) (a) Develop and conduct protective behaviors training programs for the professional staff of public ~~and~~, private, and tribal schools and counties under ss. 46.034, 46.215, 46.22, 46.23, 51.42, and 51.437. The training programs shall include information on how to assist a minor and his or her parent or guardian in recognizing, avoiding, preventing, and halting physically or psychologically intrusive or abusive situations that may be harmful to the minor, including child abuse, sexual abuse, and child enticement. The training programs shall emphasize how to help minors to develop positive psychological, emotional, and problem–solving responses to such situations, and to avoid relying on negative, fearful, or solely reactive methods of dealing with such situations. The training programs shall also

include information on the detection, by other minors, their parents or guardians, and school staff, of conditions that indicate that a minor is being or has been subjected to such situations; the proper action to take when there is reason to believe that a minor is being or has been subjected to such situations; and the coordination of school protective behaviors programs and activities with programs and activities of other state and local agencies. Persons other than the professional staff of public ~~and,~~ private, and tribal schools and counties under ss. 46.034, 46.215, 46.22, 46.23, 51.42, and 51.437 may attend the training programs. The department may charge such persons a fee sufficient to cover the increased costs of materials, but not personnel cost, to the department of their participation in the programs. The department may not deny any resident of Wisconsin the opportunity to participate in a program if the person is unable to pay any fee.

(b) Provide consultation and technical assistance to public ~~and,~~ private, and tribal schools for the development and implementation of protective behaviors programs and the coordination of those programs with programs of other state and local agencies.

NOTE: Includes tribal schools in DPI's program to assist schools in developing protective behavior programs.

SECTION 57. 115.42 (1) (a) 2. of the statutes is amended to read:

115.42 **(1)** (a) 2. The person is licensed as a teacher by the state superintendent or employed as a teacher in a private school or tribal school located in this state.

SECTION 58. 115.42 (2) (a) 2. of the statutes is amended to read:

115.42 **(2)** (a) 2. The person maintains his or her license as a teacher issued by the state superintendent or remains employed in a private school or tribal school located in this state.

NOTE: Includes teachers employed at a tribal school as those eligible for grants if they are certified by the National Board for Professional Teaching Standards or are licensed by DPI as a master educator and meet other criteria.