



Amy Loudenbeck

REPRESENTING WISCONSIN'S 31ST ASSEMBLY DISTRICT

REMARKS OF REPRESENTATIVE AMY LOUDENBECK, CHAIR, STUDY COMMITTEE ON THE PRESERVATION OF BURIAL SITES, BEFORE THE SENATE COMMITTEE ON NATURAL RESOURCES AND ENERGY

January 4, 2018

Thank you Chair Cowles and committee members. Thank you for holding this hearing on Assembly Bill 118, which the Study Committee on the Preservation of Burial Sites recommended for introduction by the Joint Legislative Council.

It was my pleasure to serve as chair of the Study Committee. I'd like to thank Representative Rob Brooks, who served as vice chair, and all of the other Study Committee members for their hard work as we considered the difficult issue of burial site preservation over the course of five day-long meetings last summer and fall.

The Study Committee was tasked with reviewing Wisconsin's current burial sites preservation law to determine whether it adequately balances the interests of scientists, landowners, developers, and others with an interest in a burial site, including those with a kinship interest and those with a general cultural, tribal, or religious affiliation.

Membership of the Study Committee consisted of three representatives, one senator, and nine public members. The public members included the President of the Wisconsin Historical Society's Board of Curators, two tribal representatives with preservation expertise, an anthropologist, an archaeologist, a real estate attorney, a cemetary, and two owners of construction-related companies.

The Study Committee heard testimony from state agencies, professionals, and numerous other stakeholders throughout the course of its study. All members of the Study Committee were also encouraged to offer suggested changes to the current burial sites preservation law based on the testimony provided to the committee, as well as members' own professional experience.

The committee reviewed and analyzed eight preliminary bill drafts. Each committee member's suggestions received committee attention and robust discussion. The final bill draft, which was introduced by the Joint Legislative Council and became AB 118, is a consolidated bill that includes all proposals for which the study committee reached clear majority consensus.

I am proud of the bill, and also of the level of engagement and respect demonstrated by committee members throughout the process.



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The bill's key provisions include the following:

- Creating a new disclosure provision in the real estate condition report for certain residential properties, requiring sellers to disclose to potential buyers whether the seller is aware of one or more burial sites on the property.
- Creating new evidentiary requirements for the historical society to consider when determining whether to record a burial site in a catalog of burial sites under the preservation law, as well as a new procedure for a landowner to contest decisions to record burial sites and surrounding land in the catalog.
- Creating a new statutory procedure for removing burial sites and land from the catalog, including three types of evidence that the historical society's director may rely upon to determine that there is not sufficient evidence for cataloging the land.
- Increasing the minimum width from five to 10 feet for the "sufficient contiguous land" that must be recorded in the catalog together with a burial site, as well as creating a new exception to the minimum width requirement for circumstances in which, based on the unique characteristics of the land, a shorter distance is sufficient to protect the burial site. This provision is for newly cataloged sites only.
- Modifying of the method for selecting tribal members of the Burial Sites Preservation Board to allow submissions of names from any federally-recognized tribe in the state.
- Creating a new, optional role for the Wisconsin Inter-Tribal Repatriations Committee, or its designee, in decisions regarding the disposition of tribal remains and objects removed from a burial site.
- Amending various aspects of current law to clarify statutory discrepancies or reflect current practice.

Thank you again for hearing the bill today, and I would be happy to answer any questions. Anna Henning from Legislative Council can also answer questions.



Ho-Chunk Nation

Department of Heritage Preservation

Testimony on AB 118 for the Committee on Natural Resources and Energy

Thursday, January 4, 2017

Good afternoon, Chairman Cowles and the esteemed members of the Natural Resources and Energy Committee.

I would like to take a quick moment to thank you for your leadership on this committee knowing that not everything that comes before you is, as simple as it may appear and definitely, not universally agreed upon. I sense that no matter how complex an issue is, that whenever the minds are open and there is an incredible investment of time and thought, common ground is never too far off in the distance.

My name is Jon Greendeer and I am proudly serving President Cleveland and the Ho-Chunk Nation as the Executive Director of Heritage Preservation. It's an overwhelming but extremely rewarding responsibility ensuring everything both you and I have ever heard about indigenous history and the incredible means of survival our ancestors demonstrated is passed down to our younger generations.

It's a tall order if you think about how Westernization, boarding schools, and intergenerational trauma has affected how we, as Native people, think today. Add the fact there is this huge communication chasm between our elders and millennials which threatens the very transfer of this ancient culture based in oral tradition; the expectations of our jobs sometimes seems unattainable, but we have these incredible moments that tell us we're not only surviving, but are making progressive strides with revitalization efforts. So much of what we do [with Heritage Preservation] isn't just gathering and storing information and artifacts but more about creating environments where those *who know* can be with those who *want* to know and that's just one way.

To share a little of this way of life, when I was young, I wasn't allowed to go to any wakes or funerals when someone passed. I didn't know why but neither were any other kids. I suppose I could have asked if I knew or saw anything else done differently, but that's just the way things were. When I was old enough to go to a traditional funeral, I learned right away that we don't want to give any reason for the soul of those who had passed to not want to go onto that next chapter of life. We wished to give no reason for them to "turn around" on their journey so no matter how bad we felt, we were told not to cry or have thoughts that hold them back. In fact, we show a spirited happiness, thankfulness for their being, and that we'll be ok in their absence.

When our respects were paid, we left without even glancing back. The workers would make sure the final needs were met so they could begin their journey and that was it. From that point on, we had to, just as we do today, move on with the business of the living with no reason to attempt to gather more information or manufacture connections. This is why the Ho-Chunk Nation and most other tribes have no process or ceremony for reinterment of human remains. Once a person passes they are supposed to stay in their resting spot forever. So, if this is the only life you've ever known, you almost have to



Ho-Chunk Nation

Department of Heritage Preservation

appreciate how uncomfortable it is to have how we hold burials propelled into the lights of cameras and newspapers with twitter feeds, hashtags, and other social media vehicles.

Last year the Ho-Chunk Nation felt the very sanctity of these sacred resting places was threatened by Assembly Bill 620. The #savethemounds campaign began as a means to provide awareness to a potential threat these sites were facing and education for those who probably didn't know or have a reason to know why they should not be disturbed. It was clear that even after brief discussions about Wisconsin's mound history, AB 620 was on shaky ground and soon lost support but it was not without purpose.

Resulting from this incredible exercise of the Legislative Process, the Legislative Council Study Committee on the Preservation of Burial Sites was formed to take an in-depth look at Wisconsin's Burial Law and recommend changes that affectively balance the rights of property owners and affords basic protections and recognitions to ancient catalogued burials. Assembly Bill 118 is the final product and while no bill before our state's legislature is guaranteed to be absolute, it is certainly the result of all parts and all interests working together.

Does it fix all? Certainly not. Does it satisfy everyone? No. The Ho-Chunk Nation supports Assembly Bill 118 because it supports the protection of catalogued sites NOT because it prevents commerce or impedes development. In fact, we encourage economic growth and good partnerships to move our shared communities forward together.

Although the work behind the ink of AB 118 may not show for all who read it, it shines for those who spend their days in the field working routinely with inadvertent discoveries, landscape design, or repatriation. We are glad to know that these specialists overwhelmingly agree and we are glad that our state lawmakers who may not know the elements and practices of our traditional ways understand the universal respect we have for one another and that final resting places are sacred in every way of life.

Pinagigi,

Maasysga (Tom Greendeer)
Executive Director of Heritage Preservation

HO-CHUNK NATION



Assembly Committee on Environment and Forestry
Room 113 West
State Capitol
PO Box 8953
Madison, WI 53708


Dear Chairman Mursau & Committee Members,

Thank you for your consideration of AB-118, the legislation developed by the Legislative Council Study Committee on the Preservation of Burial Sites. We also want to thank and commend Representative Loudeneck for her tireless efforts as Chair of the Study Committee. The Ho-Chunk Nation took an active role in this Study Committee having our Tribal Historic Preservation Officer serve as a member of the Committee as well as the time and effort of a number of our tribal leaders and elders.


This legislation is the product of many hours of review, discussion, deliberation and compromise. We believe it is the best possible result for updating the Wisconsin burial site statute at this time. The Study Committee membership represented all sides of the issues involved and voted overwhelmingly in favor of these proposed changes to current law.

It is with this understanding that we urge you to vote in favor of AB-118 and send it to the Assembly floor for further deliberation.

Sincerely,



Wilfred Cleveland, President
Ho-Chunk Nation



Douglas Greengrass, Vice-President
Ho-Chunk Nation

Executive Offices

W981'4 Airport Road P.O. Box 667 Black River Falls, WI 54615
(715) 284-9343 Fax (715) 284-3127 (800) 294-9343



WISCONSIN
HISTORICAL
SOCIETY

TO: The Senate Committee on Natural Resources and Energy

FROM: Dr. Ellsworth Brown, Director

RE: Testimony on AB 118

DATE: January 4, 2018

Thank you Chair Cowles and Committee members for holding a hearing on AB118. I also want to thank the hard work of the Study Committee on the Preservation of Burial Sites, especially the Chair, Representative Amy Loudbeck. As stewards of the Burial Sites Preservation law and pursuant to the Wisconsin Historical Society's mission to preserve Wisconsin's heritage, the Society has formed enduring and productive partnerships with landowners, businesses, non-profit organizations, Native American Tribes and Nations, and individual Tribal members throughout Wisconsin to protect and preserve human burial sites of all kinds.

For over 30 years, Wisconsin Historical Society Directors have been tasked with and have responded in kind to meet the requirements of Burial Sites Preservation statues while successfully preserving Wisconsin's heritage, balancing economic development, and protecting the rights of property owners. Current law and Administrative Code establish rigorous criteria and are subject to the Wisconsin Historical Society Director's advance review of requests to disturb burial sites.

That being said, I feel this timely review of burial statues and the final product of the Study Committee, AB 118, identifies areas of the law where changes improve processes, provide training and streamline regulations to help the Society continue its mission as stewards of burial laws.



Forest County Potawatomi Community

P.O. BOX 340 • Crandon, WI 54520

January 1, 2018

Senator Robert Cowles
Chair, Senate Committee on Natural Resources and Energy
Room 118 South
State Capitol
P.O. Box 7882
Madison, WI 53707

Senator Cowles and Committee Members,

The Forest County Potawatomi (FCP) would like to thank you and the committee for the work you've done on Assembly Bill 118, relating to burial sites. We would also like to express our support in this bill.

The FCP believe strongly in defending ancestral burials and other culturally significant sites from disinterment or desecration. We feel that AB118 takes an important step towards ensuring that tribal remains are treated with the dignity and respect they deserve.

Miigwetch,

Harold 'Gus' Frank
Chairman-Forest County Potawatomi

Stockbridge-Munsee Community

BAND OF MOHICAN INDIANS
TRIBAL COUNCIL OFFICES

October 6, 2017

Representative Amy Loudenberg
Chair, Legislative Council Study Committee on the Preservation of Burial Sites
Room 306 East
State Capitol
P.O. Box 8952
Madison, WI 53708
Rep.Loudenberg@legis.wisconsin.gov

RE: Assembly Bill 118- Wisconsin State Burial Law

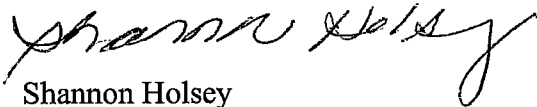
Dear Representative Loudenberg:

On behalf of Stockbridge-Munsee Community I am writing to express our support of Assembly Bill 118 in its entirety, without modification, currently under review by the Assembly Committee on Environment and Forestry. We recognize that Assembly Bill 118 modifies the Wisconsin State Burial Sites Preservation Law 157.70.

We look forward to continuing our role, including through our participation in Wisconsin Inter-Tribal Repatriation Committee (WITRC), in the disposition of Native American remains under these new provisions.

We thank the Committee for their consideration to this most significant matter.

Respectfully,



Shannon Holsey
President

William Quackenbush
President

Melinda Young
Vice-President

Corina Williams
Treasurer

Adam VanZile
Secretary

September 28th, 2017

Representative Amy Loudbeck
Chair, Legislative Council Study Committee on the Preservation of Burial
Sites
Room 306 East
State Capitol
P.O. Box 8952
Madison, WI 53708

The mission of the Wisconsin Inter-Tribal Repatriation Committee (WITRC), a subcommittee of the Great Lakes Inter-Tribal Council (GLITC), is, as a unified voice, to repatriate and re-inter unidentified ancestral remains. We shall also defend all ancestral burials and traditional cultural properties from disinterment or desecration. We, as a unified group, are uniquely qualified to address historic issues and consult on matters pertaining to the National Historic Preservation Act of 1966 (NHPA) as amended and its regulations 36 CFR 800. As such, we shall incorporate those efforts within the WITRC to enhance our individual tribal responsibilities.

The Wisconsin Inter-Tribal Repatriation Committee are in support of Assembly Bill 118 in its entirety, without modification, currently under review by the Assembly Committee on Environment and Forestry. We recognize that Assembly Bill 118 modifies the Wisconsin State Burial Sites Preservation Law 157.70.

WITRC acknowledges and looks forward to its new role in the disposition of Native American remains under these new provisions.

We thank the Committee for their consideration of these comments.

Respectfully,

Wisconsin Inter-Tribal Repatriation Committee

**Wisconsin Inter-Tribal
Repatriation
Committee**

3051 Sand Lake Road
Crandon, WI 54520
Phone: (715) 478-6435
Fax: (715) 478-5275

Herkert, Toni

From: Sen.Cowles
Sent: Thursday, January 04, 2018 11:27 AM
To: Herkert, Toni
Subject: FW: AB 118 support letter, please have read into record as I cannot attend hearing
Attachments: AB 118 support letter to State Senator Cowles and Committee- Howell 1-4-18.pdf

Heather Moore Legislative Assistant | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Ryan Howell [mailto:ryan.jayhowell@yahoo.com]
Sent: Thursday, January 04, 2018 9:04 AM
To: Sen.Cowles <Sen.Cowles@legis.wisconsin.gov>; Sen.Olsen <Sen.Olsen@legis.wisconsin.gov>; Sen.Miller <Sen.Miller@legis.wisconsin.gov>; Sen.Hansen <Sen.Hansen@legis.wisconsin.gov>
Cc: Kurt Sampson <kurtsampson68@gmail.com>; Kurt Sampson <ksampson2@wi.rr.com>
Subject: AB 118 support letter, please have read into record as I cannot attend hearing

Senators Cowles, Olson, Hansen and Miller,

I cannot attend your 12:05 hearing today for the Natural Resources and Energy Committee as I am actively working in the field on work related to the proposed bill.

However, I would request that you read the attached letter into the record as my testimony before the committee.

If necessary, I give my proxy to Kurt Sampson, a fellow archaeologist and colleague.

Thank you,

Ryan

Ryan J. Howell, MA, RPA.
Middleton, WI 53562
608-347-9160

January 4th,2018

Senator Robert L. Cowles
Chair, Senate Committee on Natural Resources and Energy
Wisconsin State Legislature
Room 118 South
State Capitol
Madison, WI 53707-7882

Senator Cowles and Committee Members,

I write today in support of bill AB 118, today before your committee. This bill, as currently written, will aid in the protection of Burial Sites, both Native American and non-Native in the state and will strengthen the laws and regulations that protect the same.

I cannot appear before the committee today to voice my support, as ironically Sen. Cowles, I am in your home district today monitoring construction that threatens a burial site along the Wolf River near Nicholls, Wisconsin. Where some might see coincidence, I see a convergence of purpose. While I stand in the snow and cold near bulldozers to protect one burial mound, you-in your role as law-maker-stand at your post in a position to aid in the protection of all such sites in our great state.

Before you today at the committee hearing you will likely hear testimony from Native American leaders and Nations, Native traditional cultural bearers, State Officials charged with the protection of our states rich cultural history and heritage, and several archaeologists like myself.

You should know that these disparate groups have seldom seen eye-to-eye on much in the 175-some odd years that burial grounds and sites have been rampantly destroyed in Wisconsin. The fact that these groups now stand shoulder to shoulder in support of AB118, both demonstrates its importance across cultural, scientific and legal divides and also offers hope that the destruction of the past can at least be halted if not repaired.

We estimate that as many as 10,000 or more Native American burial mounds were once extant and venerated by the ancestors of and by the modern tribal nations of Wisconsin before European colonization. We further estimate that we now have as few as 5% of these burial markers left intact in the state, while the vast majority have fallen before the plow, urban development and, yes, grave looting, by everyone from treasure hunters, to 1850's church groups, Boy Scouts, and to scientific archaeologists who until recently cared little for the concerns of a "vanishing native people".

I would also like to remind the chair and the committee members that AB118 will protect the graves and burials of all Wisconsin citizens and their ancestors regardless of race or ethnicity.

In my 20 years of working as an archaeologist in Wisconsin, I have protected burials of all types in all of the districts represented by you committee members today. Whether it was French fur trader graves near Portage in Senator Olson's district, or Native American burials around the 4-Lakes (Dejope) region represented by Senator Miller, or this year protecting an abandoned 1850 logger's cemetery near Pestigo in Senator Hansen's district.

This work, done by Native Tribal Historic Preservation Officers, the Wisconsin Historical Society and individuals like myself goes on quietly and carefully behind the scenes weekly in your districts with little notice or fanfare.

The ratification of AB118 will help all of us who seek to protect all of the ancestors of Wisconsin's citizens to continue to do our work and better protect the often lost or abandoned graves of your own great-grandfathers and great-grandmothers and those of all your constituents.

I would therefore appeal to you, in your role as our political leaders and law-makers to add your voices and votes to the support of this honorable and necessary work by supporting AB118.

Sincerely,

Ryan J. Howell
Archaeologist

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Herkert, Toni

From: Sen.Cowles
Sent: Thursday, January 04, 2018 11:28 AM
To: Herkert, Toni
Subject: FW: please support AB118

Heather Moore Legislative Assistant | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Laurel Fletcher [mailto:laurel.fletcher@yahoo.com]
Sent: Thursday, January 04, 2018 1:19 AM
To: Sen.Cowles <Sen.Cowles@legis.wisconsin.gov>; Sen.Olsen <Sen.Olsen@legis.wisconsin.gov>; Sen.Miller <Sen.Miller@legis.wisconsin.gov>; Sen.Hansen <Sen.Hansen@legis.wisconsin.gov>
Subject: please support AB118

Dear members of the Natural Resources and Energy Committee:

Thank you for taking up AB118, a bill that helps preserve Wisconsin's prehistoric Native American mounds, which are one of the Midwest's most unique, meaningful, and beloved landmarks. While burial and platform mounds exist in other states, Wisconsin has the distinction of possessing the largest concentration of effigy mounds of any state in the country. It is said that two centuries back, every high point in the land was covered in effigy mounds, built to hold the bodies of the dead. Those that remain are a unique and deeply important part of our state's culture and landscape, one of the things that we share as Wisconsinites, whether we live in cities or rural areas.

There is a special wonder in being able to stand near these earthworks and look out at the view of hills, lakes, and bluffs, and know that the people who stood here centuries before saw these same things. Early town planners who preserved mounds by building neighborhood parks around them and curving roads to avoid them, have enriched the lives of everyone who has lived in these communities in the years since, and will continue to benefit generations to come. Moreover, respect for our state's ancient history, and for the descendants whose ancestors are buried inside the mounds, helps us to build respect and a sense of shared community in the present and connect us to the land that we live on.

Thank you, and I hope that you will support AB118,

Laurel Fletcher

Herkert, Toni

From: Sen.Cowles
Sent: Thursday, January 04, 2018 11:27 AM
To: Herkert, Toni
Subject: FW: SUPPORT AB 118

Heather Moore Legislative Assistant | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Mary Jo Walters [mailto:waltersmaryjo@gmail.com]
Sent: Thursday, January 04, 2018 8:48 AM
To: Sen.Olsen <Sen.Olsen@legis.wisconsin.gov>; Sen.Cowles <Sen.Cowles@legis.wisconsin.gov>
Subject: SUPPORT AB 118

Happy New Year.

I support AB118 and hope that the public hearing today shows more of why the bill will help the mounds throughout Wisconsin.

Thank You.

Mary Jo Walters