



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

Room 411 South
State Capitol
Madison, WI

October 10, 2018
10:00 a.m. – 1:30 p.m.

Call to Order and Roll Call

Chair Mursau called the meeting to order. A quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Rep. Jeffrey Mursau, Chair; Sen. Kathleen Vinehout, Vice Chair; Reps. Dave Considine and James Edming; Sens. Janet Bewley, Tim Carpenter, Jerry Petrowski (via phone), and Lena Taylor; and Public Members Dee Ann Allen, Gary Besaw, Wilfrid Cleveland, Richard Peterson, Lisa Summers, and Jason Weaver.

COMMITTEE MEMBERS EXCUSED: Public Members Ned Daniels, Jr., Michael Decorah, Shannon Holsey, and Chris McGeshick.

TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT: Michele Allness, Department of Natural Resources; Tom Bellavia, Department of Justice; Andrew Evenson, Department of Workforce Development; Kelly Jackson, Department of Transportation; Gail Nahwahquaw, Department of Health Services; and Thomas Ourada, Department of Revenue

TECHNICAL ADVISORY COMMITTEE MEMBERS EXCUSED: Stephanie Lozano, Department of Children and Families; David O'Connor, Department of Public Instruction

COUNCIL STAFF PRESENT: David Moore, Senior Staff Attorney, and Rachel Snyder and Ethan Lauer, Staff Attorneys.

Approval of the Minutes of the September 12, 2018 Meeting

Senator Carpenter moved, seconded by Public Member Dee Ann Allen, to approve the minutes of the September 12, 2018, meeting. The motion was unanimously approved by voice vote.

Presentation of Commemorative Plaque

Chair Mursau gave opening remarks in remembrance of the Peshtigo fire of October 8, 1871, and of the courageous actions of members of the Menominee Nation during that event. He presented a commemorative plaque to Public Member Besaw, who accepted it on behalf of the Menominee Nation.

Discussion of Topics for Committee Study

LRB-0388/P2, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty

Mr. Moore explained that during the 2017-18 legislative session, the Legislature enacted 2017 Wisconsin Act 172, which provides enhanced criminal penalties for intentionally causing or threatening to cause bodily harm to an officer of the court, if the harm or threat is in response to an action taken by the officer of a court in his or her official capacity in certain, specified types of court proceedings. Mr. Moore explained that LRB-0388/P2 would provide that these enhanced penalties also apply to threats or battery to officers of the court within tribal court proceedings similar to those specified by 2017 Act 172.

Mr. Moore advised the committee that an attorney for the Menominee tribe had suggested a modification of the draft bill to expand the definition of "advocate" to cover an individual representing the interests of any person, rather than only the interests of the child or the tribe. This change would be applicable in a situation where, for example, a parent in a tribal court proceeding was represented by a non-attorney advocate. The committee directed Legislative Council staff to produce a new draft reflecting that modification for consideration at the next meeting.

LC Study Committee Memorandum, "Topics for Committee Discussion Relating to K-12 American Indian Studies" (October 3, 2018)

Chair Mursau, Mr. Ethan Lauer, and Ms. Snyder lead the committee through its consideration of the seven topics for discussion contained in the October 3, 2018, Legislative Council staff memorandum. Legislative Council staff began the discussion by reminding the committee of the four provisions of 1989 Wisconsin Act 31, colloquially referred to as "Act 31," that address American Indian studies in Wisconsin schools.

American Indian Studies Curriculum

The committee discussed the curriculum that Act 31 requires the Department of Public Instruction (DPI) to develop and the course of instruction that Act 31 requires a school board to provide. Various committee members expressed interest in four of the options presented in the memorandum: (1) expanding DPI's model curriculum from grade 4 down to kindergarten; (2) expanding DPI's model curriculum from a specific focus on the Chippewa Indians to all

Wisconsin tribes and bands; (3) directing a school board to incorporate American Indian studies into subject areas beyond social studies; and (4) increasing the frequency of instruction from twice in the elementary grades to thrice, and from once in high school to annually.

Committee members raised DPI's model academic standards as an additional area of discussion related to this topic. The committee directed Legislative Council staff to determine where American Indian issues were included in the standards currently. The committee also directed Legislative Council staff to produce draft legislation directing DPI to develop a new model academic standard for American Indian studies and requiring that school boards provide instruction in American Indian studies at least three times in elementary school and annually in high school in social studies and other subjects.

Informational Materials Regarding Act 31 Requirements

The committee discussed whether school board members and school administrators should be given informational materials regarding Act 31. The committee directed Legislative Council staff to produce draft legislation requiring DPI to develop materials for school board members and school administrators to inform them of the American Indian-related instructional requirements of Act 31.

Accountability for Act 31 Compliance

The committee discussed whether to require data collection on school compliance with Act 31 responsibilities, and, more fundamentally, whether to develop a mechanism for determining if Act 31 was succeeding in its goals. On the latter point, the committee concluded that discussion of the issue was premature and that it could be revisited if and when DPI revised the model academic standards in response to the second topic discussed above. Committee members suggested that DPI could potentially be asked to develop a compliance metric, but did not direct Legislative Council staff to produce draft legislation requiring DPI to do so.

Teacher Licensing

The committee discussed whether to broaden the existing requirement that individuals obtaining a teaching license in the traditional manner have received instruction in the history, culture, and tribal sovereignty of Wisconsin tribes and bands. As noted in the memorandum, alternative pathways to licensure do not include that requirement, and not all teachers in Wisconsin are licensed. The committee was generally opposed to making broad changes in this area, but did direct Legislative Council staff to produce draft legislation expanding the instruction that must be included in the traditional licensure pathway to include contemporary tribal issues and significant events, in addition to the existing requirement for instruction in the history, culture, and tribal sovereignty of the Wisconsin-based tribes and bands.

High School Graduation Civics Exam

The committee discussed whether to change the civics exam that public, charter, and private school choice students must pass before receiving a high school diploma. The test questions are uniform across the state, but each school district may determine the manner of administration. The committee noted that the purpose of the test was to measure basic civic

competency and was therefore not a good fit for determining Act 31 proficiency. The committee generally opposed making any changes to the test.

Applicability of Act 31 to Private School Choice Programs and Independent Charter Schools

The committee discussed whether to apply Act 31 requirements to private schools that participate in one or more of the private school choice programs (“choice schools”) or independent charter schools. The committee favored requiring choice schools and independent charter schools to provide instruction in the history, culture, and tribal sovereignty of Wisconsin tribes and bands, as public schools are required to do, and directed Legislative Council staff to produce draft legislation to accomplish this goal.

Online Resources Provided by DPI

The committee discussed whether to require greater tribal vetting of the Act 31 teaching resources that DPI makes available on its website. Many of these materials are produced in concert with the “Act 31 Coalition,” which includes DPI, the Wisconsin Indian Education Association (WIEA), Wisconsin Public Television, the Wisconsin Historical Society, and others. The committee suggested that Legislative Council staff check with the WIEA to see whether that entity was satisfied with the current extent of tribal collaboration on the online resources.

Other Discussion

Committee members raised the following issues for possible discussion at future meetings:

- Discourage continued use of the term “Act 31” by creating a meaningful title for the provisions of Act 31 and any subsequent related legislation.
- Replace “Chippewa” with “Ojibwe” in s. 115.28 (17) (d), Stats., the current statute requiring DPI to produce specific American Indian-related curriculum.
- Include implementation deadlines in any legislation approved by the committee.

Other Business

Chair Mursau announced that he would invite presenters to the next meeting to respond to committee inquiries. Invitations may be extended to DPI, the WIEA, or to the National Conference of State Legislatures.

Finally, Chair Mursau introduced to the committee Sasanehsaeh Pyawasay, recently hired as the Native American Student Success Coordinator for the University of Wisconsin System. Ms. Pyawasay offered to assist the committee and its members with their work.

Plans for Future Meetings

Chair Mursau noted the committee’s future meeting dates:

- November 15, 2018.
- December 13, 2018.

Adjournment

The meeting adjourned at 1:30 p.m.

DM:RES:EL:jal

[The preceding is a summary of the October 10, 2018 meeting of the Special Committee on State-Tribal Relations, which was recorded by WisconsinEye. The video recording is available in the WisconsinEye archives at <http://www.wiseye.org/Video-Archive>.]