



WISCONSIN LEGISLATIVE COUNCIL STUDY COMMITTEE MEMORANDUM

TO: MEMBERS OF THE SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

FROM: Ethan Lauer and Rachel E. Snyder, Staff Attorneys

RE: Topics for Committee Discussion Relating to K-12 American Indian Studies

DATE: October 3, 2018

This memorandum provides a list of potential topics of discussion relating to American Indian studies in Wisconsin's elementary and secondary schools for the Special Committee on State-Tribal Relations. The list is compiled from issues raised by presenters and committee members during the committee's meeting on September 12, 2018. Where important for context, the memorandum provides background information and identifies issues that the committee may wish to take into consideration. This memorandum is not exhaustive; rather, it is intended to prompt discussion which may result in committee requests for legislative proposals.

BACKGROUND

In the 1989-91 biennial budget bill, 1989 Wisconsin Act 31, the Legislature enacted four provisions relating to American Indian studies and elementary and secondary education. These provisions are colloquially referred to as Act 31 and generally require the following:

- That the Department of Public Instruction (DPI), under the authority of the state superintendent, develop a curriculum for grades 4 to 12 on the Chippewa Indians' treaty-based, off-reservation rights to hunt, fish and gather. [s. 115.28 (17) (d), Stats.]
- That each school board provide an instructional program designed to give all K-12 students an understanding of human relations, particularly with regard to American Indians, Black Americans, and Hispanics. [s. 118.01 (2) (c) 8., Stats.]
- That teachers licensed by DPI receive instruction in the study of minority group relations, including instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in Wisconsin as a condition of receiving that license. [s. 118.19 (8), Stats.]

- That each school board, as part of the social studies curriculum, include instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in Wisconsin at least twice in the elementary grades and at least once in the high school grades. [s. 121.02 (1) (L) 4., Stats.]

AMERICAN INDIAN STUDIES CURRICULUM

Background

As discussed above, under current law, DPI is responsible for developing “a curriculum for grades 4 to 12 on the Chippewa Indians’ treaty-based, off-reservation rights to hunt, fish, and gather.” [s. 115.28 (17) (d), Stats.] Also under current law, each school board is required to include in the social studies curriculum “instruction in the history, culture and tribal sovereignty of the federally recognized American Indian tribes and bands [in Wisconsin] at least twice in the elementary grades and at least once in the high school grades.” [s. 121.02 (1) (L) 4., Stats.] These requirements have remained essentially unchanged since their enactment in 1989.¹ Committee members have expressed a desire to review the adequacy of these mandates.

Options for Consideration

The committee could consider requiring the following:

- That DPI expand its American Indian-related curriculum from grades 4 to 12 to grades kindergarten to 12.
- That DPI expand its curriculum on the Chippewa treaty rights to include additional topics pertaining to all federally recognized American Indian tribes and bands in Wisconsin.
- That DPI’s American Indian-related curriculum and the school boards’ social studies curricula contain specific additional elements, such as on-reservation treaty rights, trust lands, gaming compacts, Indian Child Welfare Act, water rights, effigy mounds, or race-based school mascots.
- That school boards incorporate American Indian studies into subject areas in addition to social studies.
- That school boards increase the frequency of American Indian-related instruction in the elementary and high school grades.

¹ A reference in s. 115.28 (17) (d), Stats., to the “American Indian language and culture education board” was deleted upon dissolution of that entity in 1997.

INFORMATIONAL MATERIALS REGARDING ACT 31 REQUIREMENTS

Background

Current law does not require that school board members or school administrators receive training regarding implementation of Act 31.

Options for Consideration

The committee could consider requiring the following:

- That DPI develop informational materials regarding Act 31 requirements with administrative personnel as the target audience.
- That the materials be provided to all school board members and school administrators, including newly elected or hired individuals.

ACCOUNTABILITY FOR ACT 31 COMPLIANCE

Background

Current law does not require data collection, tracking of compliance with Act 31 requirements, or evaluation of the efficacy of the Act. DPI did, however, conduct surveys of school administrators and teachers in 2000 and 2014 to gather information on the implementation of the Act.² Committee members expressed concern that there exists no ongoing mechanism to measure whether the Act is succeeding in its goals.

Options for Consideration

The committee could approach this issue in two stages: compliance and results.

Compliance

The committee could consider requiring that data be collected periodically from a school regarding its implementation of Act 31. An example might be requiring DPI to determine whether a school board has incorporated the requisite American Indian studies into its curriculum twice in the elementary grades and once in the high school grades. Another example might be requiring a school board to submit its proposed curriculum to DPI for approval or for general record-keeping purposes.

The committee should keep in mind, however, that, under current law, DPI does not have the general authority to approve a school district's curriculum, except in circumstances involving a sufficient number of years of low performance. Rather, state law generally permits a school board to adopt whatever curriculum it deems appropriate, as long as the curriculum generally aligns with or provides the substantive content required by state statute.

² Results of both surveys can be found on DPI's website at: <https://dpi.wi.gov/amind/resources>.

Results

Assuming school compliance, the committee could discuss how it would like to measure the success of the Act. This would require that the committee first identify goals that implementation of the Act is meant to realize. Are there specific benchmarks of learning that the committee would like a student to have achieved by graduation? If so, what type of data collection might tend to demonstrate such achievement?

TEACHER LICENSING

Background

Under current law, public school teachers in Wisconsin must possess a license issued by DPI. To earn the license, most of those teachers must have received instruction in the “study of minority group relations, including instruction in the history, culture and tribal sovereignty of the federally recognized American Indian tribes and bands located in this state.” A teacher of social studies must have received instruction in additional areas, such as consumers’ cooperatives and the conservation of natural resources. [s. 118.19 (1), (6) and (8), Stats.]

There are exceptions, however, to the instructional requirements mentioned above. Teachers of certain subjects, or teachers possessing certain credentials, may take an alternative pathway to a teaching license or permit, which may not require American Indian-related instruction. For example, state law provides alternative educator preparation requirements for the following specific licenses and permits:

- Experience-based license for vocational education or technical education.
- License for Junior Reserve Officer Training Corps instructors.
- Professional teaching permit for music, art, foreign language, computer science, mathematics, or science.
- License based on reciprocity from another state.
- License to teach in accordance with the Montessori method.
- License to teach on the basis of possessing a bachelor’s degree and having completed an alternative teacher certification program operated by a non-profit entity.

[ss. 118.191, 118.1915, 118.192, 118.193, 118.194, and 118.197, Stats.]

Options for Consideration

Committee members expressed the following concerns about teacher licensure:

- Not all teachers are required to have received instruction in American Indian tribes and bands in Wisconsin. The committee could discuss which, if any, of the alternative pathways to licensure must include the tribal instruction required of a teacher using the traditional pathway.

- The requirement for tribal instruction focuses too heavily on the past. As described above, the licensure requirement includes instruction in history, culture, and tribal sovereignty. The committee could discuss whether this mandate is deficient in failing to account for issues of a contemporary nature, and if so, whether to modify the language. The committee may wish to identify specific contemporary issues to include in any proposed language modification.
- A teacher of social studies courses is not required to receive additional instruction in tribal issues. The committee could discuss whether a social studies teacher should be required to receive a broader scope of tribal instruction than other teachers. Consideration of such an expansion could involve communication with institutions of higher education to identify whether there would be any challenges or barriers to incorporating expanded instructional requirements into educator preparation programs.

HIGH SCHOOL GRADUATION CIVICS EXAM

Background

Under current law, a high school student in Wisconsin must pass a civics test in order to receive a diploma. A student passes the test by answering 65 of 100 questions correctly. A student may retake the test as often as necessary to achieve a passing score. Each school board makes administrative decisions regarding the test, such as its format and timing within the school year. The test is required for public, charter, and choice schools. [s. 118.33 (1m), Stats.]

The test consists of the pool of 100 questions that the federal government uses to test the civic competency of a person applying for U.S. citizenship.³ The pool includes the following two questions relating to American Indians:

- Question 59: “Who lived in America before the Europeans arrived?”
- Question 87: “Name one American Indian tribe in the United States.”

Options for Consideration

As a threshold matter, the committee could discuss whether questions 59 and 87 are sufficient in current form for purposes of Act 31.

If the committee decides that the existing questions are not sufficient, the committee could discuss whether customizing the questions for this state – such as replacing “America” in 59 and “the United States” in 87 with “Wisconsin” – would suffice.

³ The full list of questions may be accessed from the U.S. Citizenship and Immigration Services website, at: <https://www.uscis.gov/sites/default/files/USCIS/Office%20of%20Citizenship/Citizenship%20Resource%20Center%20Site/Publications/100q.pdf>.

If the committee wishes to consider entirely different questions to measure a student's understanding of the history, culture, and tribal sovereignty of Wisconsin tribes and bands, factors the committee may want to discuss include:

- Whether a state entity⁴ would formulate statewide questions.
- Whether each school board would formulate customized questions unique to the geographic location of the school.
- Whether a tribe or tribal educational entity would create a pool of questions from which a school board could choose.
- Whether to replace existing questions or whether to add new questions.
- If new questions are added, whether to raise the passing score from 65.
- Whether to leave the current civics test unchanged and instead create a separate "tribal civics test" that must be passed prior to high school graduation.

APPLICABILITY OF ACT 31 TO PRIVATE SCHOOL CHOICE PROGRAMS AND INDEPENDENT CHARTER SCHOOLS

Background

As discussed above, the provisions of Act 31 generally require action on the part of DPI and public school boards. Specifically, with certain exceptions, DPI may not issue a teaching license to an individual unless he or she has received certain American Indian-related instruction. School boards are required to provide an instructional program that is designed to give students an understanding of human relations, particularly with regard to American Indians and other specifically identified groups of people. School boards are also required to include instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in Wisconsin in the social studies curriculum at least twice in the elementary grades and at least once in the high school grades.

Private schools that participate in one or more of the private school choice programs ("choice schools") agree to comply with a variety of statutory requirements in exchange for state-funded tuition vouchers for each eligible student. Current law does not explicitly state that choice schools must comply with the provisions of Act 31; therefore, choice schools are not required to provide the American Indian-related instruction that state law requires school boards to provide in public schools.

Current law does require that choice schools employ teachers who are either licensed through DPI or who, at a minimum, possess a bachelor's degree. Thus, many teachers employed by choice schools may have complied with the American Indian-related educator preparation

⁴ DPI presently has no role in formulating, grading, or tracking results of the high school civics test.

requirement of Act 31 by obtaining a teaching license, but they are not required to do so under state law in order to teach in a choice school. [ss. 118.19 (8) and 118.60 (2) (a) 6. a., Stats.]

Independent charter schools are public schools operated under a contract between an authorizing entity and an operator, neither of which is a public school board. [s. 118.40 (2r) and (2x), Stats.] All individuals seeking to teach in a public school, including an independent charter school, must obtain a DPI license or permit. [s. 118.19 (1), Stats.] Therefore, with limited exception, teachers employed to work in an independent charter school must comply with the American Indian-related educator preparation requirement of Act 31.⁵ However, because neither the authorizing entity nor the operator of an independent charter school is a school board, independent charter schools are not required to provide the American Indian-related instruction that state law requires school boards to provide in other public schools.

Options for Consideration

The committee could discuss expanding the scope of schools to which Act 31 requirements apply. Options for expansion include:

- Requiring choice schools to comply with either the American Indian-related educator preparation requirement or the American Indian-related classroom instruction requirements, or both.
- Requiring the operators of independent charter schools to provide American Indian-related instruction in the same way as is required of public school boards.

ONLINE RESOURCES PROVIDED BY DPI

Background

DPI currently curates an online database of American Indian studies education resources. DPI posts a variety of material, including suggested bibliographies for classroom reading, notification of upcoming conferences and workshops for educators' professional development, links to the official website of each Wisconsin tribe and band, lesson planning resources, an e-mail listserve to facilitate communication between DPI and educators, and exemplary videos of teachers incorporating Act 31 concepts into their classrooms.⁶

Options for Consideration

In testimony before the committee, DPI indicated that it collaborates with the tribes regarding material on the website and that teachers are not required to use the material. The following discussion points are based on the committee's reactions to DPI's testimony.

⁵ As discussed under the teacher licensing section above, certain alternative pathways to obtaining a teaching license do not explicitly require American Indian-related instruction as a component of educator preparation. Further, individuals teaching under a permit rather than a license are not required to receive American Indian-related instruction as a condition of obtaining the permit.

⁶ The database can be accessed at <https://wisconsinfirstnations.org/>.

- The committee could consider requiring that all material on the website be vetted and approved by the tribes or a tribal educational association. Alternatively, the committee could consider whether the website should identify with a “seal of approval” any material that has been vetted without necessarily requiring that all material be vetted.
- The committee could consider requiring teachers to use DPI’s material in their classrooms.

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