



STATE OF WISCONSIN  
**JOINT LEGISLATIVE COUNCIL**

# MEETING MINUTES

## SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

Virtual

October 19, 2020  
10:00 a.m. – 1:00 p.m.

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### CALL TO ORDER AND ROLL CALL

Chair Mursau called the meeting to order and a quorum was determined present.

**COMMITTEE MEMBERS PRESENT:** Rep. Jeffrey Mursau, Chair; Sen. Janet Bewley, Vice Chair; Sens. André Jacque and Jeff Smith; Reps. David Considine and James Edming; and Public Members Dee Ann Allen, Gary Besaw, Michael Decorah, Lorraine Gouge, Conroy Greendeer, Jr., Shannon Holsey, Lisa Liggins, Carmen McGeshick, and Richard Peterson.

**COMMITTEE MEMBERS EXCUSED:** Public Member Ned Daniels, Jr.

**TECHNICAL ADVISORY COMMITTEE MEMBER PRESENT:** Michelle Allness, Department of Natural Resources; Pam McGillivray, Department of Workforce Development; Sandy Stankevich, Department of Transportation; Stephanie Lozano, Department of Children and Families; Gail Nahwahquaw, Department of Health Services; David O'Connor, Department of Public Instruction; and Holly Wilmer, Department of Revenue.

**TECHNICAL ADVISORY COMMITTEE MEMBERS EXCUSED:** Tom Bellavia, Department of Justice.

**COUNCIL STAFF PRESENT:** Anne Sappenfield, Director; Steve McCarthy, Senior Staff Attorney; Parker Conover, Staff Attorney; and Julie Learned, Administrative Assistant.

## **OPENING REMARKS**

Anne Sappenfield, Director of the Legislative Council staff, welcomed committee members and thanked them for their service. She remarked upon the history of the Legislative Council and the procedures followed throughout the study committee process.

## **INTRODUCTION OF COMMITTEE MEMBERS**

Chair Mursau introduced himself and welcomed the committee members. At the invitation of the chair, committee members introduced themselves and provided brief explanations of their backgrounds and interest in the committee's topic.

## **DISCUSSION OF TOPICS FOR COMMITTEE STUDY**

### **LC Study Committee Memo No. 1, "Topics for Committee Discussion," October 12, 2020**

Steve McCarthy, Legislative Council Senior Staff Attorney, provided an overview of information provided in LC Study Committee Memo No. 1. Specifically, Mr. McCarthy noted that the memo describes four bill drafts prepared by Chair Mursau, provides relevant background information, and identifies issues that the committee may wish to take into consideration when discussing the bill drafts.

Mr. McCarthy explained that Chair Mursau put the bill drafts before the committee to prompt discussion to determine where there is committee consensus and if the committee would like to request modifications or additional information on any or all of the bill drafts.

At the beginning of the discussion of each of the four bill drafts, Mr. McCarthy provided relevant background material and described the bill drafts.

### **LRB-0213/P1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty**

Mr. McCarthy explained that 2019 Assembly Bill 104, which was recommended by the committee last session and is identical to LRB-0213/P1, could still be taken up by the Senate before the end of the year. However, the committee could renew its recommendation of the bill draft for consideration by the Legislature next session if it is the case that the Senate takes no further action this year.

Vice-Chair Bewley asked about the history of LRB-0213/P1, and Chair Mursau responded that the bill draft expands to a tribal court proceeding the enhanced criminal penalties that apply to a state court proceeding with regard to intentionally causing or threatening to cause bodily harm to an officer of the court, or a member of that officer's family.

Mr. Besaw, Chair Mursau, and others voiced support for renewing the committee's recommendation of the bill draft, and members agreed to vote on recommending the bill draft at the committee's next meeting.

### **LRB-0216/P1, relating to the membership of the Higher Educational Aids Board**

Mr. McCarthy noted that LRB-0216/P1 is identical to 2019 Senate Bill 905, which was introduced by Vice-Chair Bewley on March 26, 2020. However, the Legislature took no action on that bill.

Vice-Chair Bewley noted that the bill draft's proposed expansion of the membership of the Higher Educational Aids Board so that three new board members would represent the interests of the state's tribal colleges closely mirrors current board membership that represents other interests.

Mr. Besaw and Ms. Gouge expressed support for the bill, noting that the board currently has nonvoting members that represent the interests of the state's tribal colleges.

Chair Mursau and Senator Smith raised concerns that the bill draft would lead to an even number of board members, and asked whether state law addresses how the board must manage a situation with a tie vote. Mr. McCarthy responded that, as a general matter of legislative procedure, a tie vote is a failed vote. Senator Jacque, who has previously been a board member, noted that the board is able to request legislation and could request a change to the law if the board is unable to resolve issues that may arise with an even-numbered board membership. Per the committee's request, Mr. McCarthy will follow up with the board to ask whether an even-numbered board membership would in any way inhibit the board's ability to conduct its business. The committee agreed to keep the bill draft in its current form pending receipt of more information, and the Chair may decide to schedule the bill for more discussion or for a vote at the committee's next meeting.

**LRB-0227/P1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed on supervised release**

Mr. Decorah, Ms. Gouge, and others acknowledged the serious impact of sexual assault and violent crime on tribal communities, and voiced support for providing tribal representation on these temporary committees.

Mr. Besaw objected to the structure of the bill draft, requesting that it be changed so that a tribe would be invited, but not required, to participate in the temporary committee's work. Mr. Besaw noted both that some tribes may have little interest in the affairs of a county where the tribe has a small presence and that there are some counties where numerous tribes are located, which could bloat the size of the temporary committee. Mr. Besaw also said that principals of tribal sovereignty make it inappropriate for the state to require anything of the tribe without its affirmative consent. Other members noted that the law would not require any particular level of involvement from a tribe that is on the temporary committee. The committee discussed the merits of the proposal, and Mr. McCarthy described certain aspects of the law relating to the creation and duties of the temporary committees. The committee requested more information about current temporary committee operation and practices.

The committee agreed to keep the bill draft in its current form pending receipt of more information, and the Chair may decide to schedule the bill draft for more discussion or for a vote at the committee's next meeting.

**LRB-0025/P2, relating to a license that authorizes an individual to teach an American Indian language in an American Indian language program and modifying rules promulgated by the Department of Public Instruction**

Mr. Besaw requested that the bill draft be modified such that each tribe associated with an American Indian language could decide on a teacher-by-teacher basis whether the teacher no longer requires period competency recertification. The committee requested that the Department of Public Instruction (DPI) be consulted on whether they object to this proposal. Depending on outreach to DPI, the bill draft may be modified and returned to the committee for its review at its next meeting.

## **COMMITTEE DISCUSSION AND PLANS FOR FUTURE MEETINGS**

Chair Mursau invited members to share issues of concern they want the committee to address this session.

Vice-Chair Bewley and other members discussed the feasibility of modifying state law such that the interests of tribes are always included by the Legislature when it considers legislation, noting that many items the committee discusses have to do with adding tribal interests to statutes that do not address applicability to tribes. The committee requested a list of state grant programs and committees so it can review whether and where tribal interests could be added to state law.

Ms. Liggins raised two issues: school funding relating to the use of tribal mascots and logos, and modifying state statutes to allow a tribe to pass certain alcohol and tobacco enforcement ordinances.

Ms. Gouge and Mr. Decorah raised the issue of removing a state statutory limitation on tribal lands that are eligible to receive certain tobacco sale refunds from the Department of Revenue.

Mr. Besaw raised the issue of updating state law to clarify the responsibilities of Menominee County under the state Children's Code in light of updates to certain tribal laws related to children.

Chair Mursau advised members that he will poll members with dates from November and early December for the committee's next meeting.

## **ADJOURNMENT**

The meeting adjourned at 1:00 p.m.

[The preceding is a summary of the October 19, 2020 meeting of the Special Committee on State-Tribal Relations, which was recorded by WiscosninEye. The video recording is available in the [WisconsinEye archives](#).]

SM:jal