

---

# Wisconsin Legislative Council

## STUDY COMMITTEE MEMO

---



**Memo No. 2**

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

**FROM:** Steve McCarthy, Senior Staff Attorney

**RE:** Items for Committee Recommendation and Discussion

**DATE:** November 24, 2020

This memo describes items for recommendation and discussion for the December 1, 2020 meeting of the Special Committee on State-Tribal Relations. Specifically, Chair Mursau has included in the meeting agenda two bill drafts from the committee's last meeting and one new item relating to American Indian mascots and logos to be considered for recommendation by the full committee. In addition, he has included two bill drafts from the committee's last meeting and one new bill draft for further committee discussion.

Where relevant, the memo provides background material and information requested by the committee at its last meeting. For more detail regarding the bill drafts discussed at the committee's first meeting, see "[Memo No. 1, "Topics for Committee Discussion," \(October 12, 2020\)](#)", also available on the committee's website.

## ITEMS FOR COMMITTEE APPROVAL

### Bill Drafts

#### **LRB-0213/1, Relating to Battery or Threat to an Officer of the Court in a Tribal Proceeding and Providing a Penalty**

LRB-0213/1 expands to tribal court proceedings the enhanced criminal penalties that apply to state court proceedings 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, if the harm or threat is in response to an action taken by the officer in his or her official capacity in certain types of court proceedings.

At the committee's last meeting, members agreed to make no changes to the draft, so Chair Mursau is presenting the bill draft for a vote for recommendation by the full committee.

#### **LRB-0216/1, Relating to the Membership of the Higher Educational Aids Board**

LRB-0216/1 adds three members to the Higher Educational Aids Board (HEAB) to represent the interests of the state's tribal colleges.

At the committee's last meeting, some members expressed concern that the bill would create an even-numbered board membership and requested that committee staff follow up with HEAB staff to ask whether an even-numbered board membership would in any way inhibit the board's ability to conduct

its business. Connie Hutchison, HEAB Executive Secretary, reported that an even-numbered board membership would not pose any problems for the operation of the board, noting that, in her experience, board decisions are very rarely, if ever, contentious. Ms. Hutchison also noted board staff's general support for the bill, and stated that tribal colleges are not currently represented on the board because they did not exist when the board was originally created by statute.

Given the information provided by HEAB, Chair Mursau is presenting the bill draft for a vote for recommendation by the full committee.

## **Letter to the Speaker's Task Force on Racial Disparities Regarding American Indian Mascots and Logos**

At the committee's first meeting, Ms. Liggins raised the issue of the use of American Indian mascots and logos by public schools in the state. The Oneida Nation has submitted a state budget funding request to the Department of Administration for school districts that want to retire their Native American mascot and logo. Specifically, the Oneida Nation proposes a funding request of \$200,000 per year, and a distribution of \$50,000 per request per year with no matching funds required, to assist and incentivize those school districts that would like to retire their mascot and logo.

Chair Mursau would like the committee to consider whether there is consensus to send a letter to the recently created Assembly Speaker's Task Force on Racial Disparities asking that task force to consider and act on the issue of the use of American Indian mascots and logos by public schools in the state.

### **Consideration**

- Should the draft letter be modified in any way?
- Should the committee vote to send a letter to the leaders of the Speaker's Task Force on Racial Disparities?
- Are there other initiatives the committee would like to pursue on this issue?

## **ITEMS FOR COMMITTEE DISCUSSION**

### **LRB-0227/P1, Relating to Composition of Temporary Committee Identifying Residential Options for a Sexually Violent Person Being Placed on Supervised Release**

#### **Background**

LRB-0227/P1 adds to the membership of temporary committees established to identify residential options for a sexually violent person placed on supervised release, a representative of each federally recognized Indian tribe or band located in that county.

At the committee's last meeting, the committee requested that committee staff gather more information from the Department of Health Services (DHS) about current temporary committee operation and practices. DHS provided responses to questions concerning both temporary committee operation and practices and the potential impact of the bill draft on temporary committee proceedings.

DHS staff commented that current law requires that the court create the temporary committee that identifies residential options for a sexually violent person placed on supervised release. In practice, the

court's order has a distribution list which identifies the stakeholders that receive copies of it, and it is the court's responsibility to send out the orders to the distribution list.

As it relates to the operation of the temporary committee, DHS staff reported that a designee of the county department of community programs takes the lead on searching and identifying prospective residential options. These options are assessed during temporary committee meetings using statutory criteria. The temporary committee then consults with local law enforcement having jurisdiction over the residential option, with the temporary committee chairperson typically taking the lead on communication with law enforcement.

DHS staff reported that the practices of temporary committee meetings vary, as most are formal meetings with open and closed sessions, but some others are informal meetings without public notice. It is the responsibility of the county corporation counsel to provide oversight and legal opinions on how to lead and manage the committee and meetings. In most cases, the committee takes a formal vote over whether or not to approve a particular residential option. Since the implementation of 2017 Wisconsin Act 184,<sup>1</sup> DHS has not experienced a tie vote amongst the committee members or a situation where the committee voted down the proposed location.

As it relates to committee member concerns about a tribe being required to participate in the temporary committee, DHS staff noted that there is a quorum requirement for any public meeting, but there have been cases where temporary committee members have not been present for meetings due to different reasons. However, as long as the minimum number is present, the temporary committee can proceed with the meeting, and in most cases, the temporary committee members are present for all or most of the meetings. Therefore, if the bill draft were to be passed in its current form, and a tribe ignored or otherwise declined to participate in the temporary committee, the temporary committee could still function, but circumstances could arise in which a tribe's lack of participation could jeopardize the temporary committee's ability to reach a quorum for a meeting.

As it relates to the suggestion by some committee members that the bill draft be modified so that a tribe would be invited, but not required, to participate in the temporary committee's work, DHS staff noted that delays in opting in or out may delay the temporary committee's ability to find a residential option within the 120-day statutory timeframe in which the temporary committee must identify a residential option. Therefore, if the committee were to modify the bill draft in this manner, DHS staff endorsed the idea of requiring the tribe to make its decision of whether to participate within a specified timeframe.

## **Bill Draft**

LRB-0227/P1 is the same version of the bill draft discussed by the committee at its first meeting.

## **Considerations**

- Should the committee amend the bill draft to require that a tribe may decide whether or not to participate in a temporary committee identifying residential options for a sexually violent person placed on supervised release?
- If the committee amends the bill draft to afford a tribe such discretion, should it also be amended to require that a tribe make its decision to participate within a certain timeframe?

---

<sup>1</sup> Act 184 made a number of changes to laws regarding the supervised release of sexually violent persons, including requiring the establishment of temporary committees to identify residential options for such persons. See the [Legislative Council Act Memo](#) for more information.

## **LRB-0025/P3, Relating to a Lifetime 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**

### **Background**

At the committee's last meeting, members requested that LRB-0025 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 periodic competency recertification. The committee also requested that the Department of Public Instruction (DPI) be consulted on whether they object to this proposal.

Committee staff presented the committee's proposal to DPI, which confirmed it could overcome any administrative issues with teacher-by-teacher competency determinations, and also noted that teacher-by-teacher competency determinations align with the spirit of the memoranda of understanding (MOUs) regarding teacher licensing that DPI has signed with all of the tribes.

### **Bill Draft**

LRB-0025/P3 provides an option for a tribe to decide whether each individual applicant for a lifetime license to teach the American Indian language associated with the tribe in an American Indian language program is qualified to receive the lifetime license. To exercise this option, a tribe must notify DPI in writing, and DPI then may not issue a lifetime license unless the tribe has approved the individual's application.

Under the bill draft, if a tribe opts to review individual applicants for a lifetime license, the tribal government must determine whether an applicant is highly skilled in the applicable American Indian language. If the tribal government determines the applicant is highly skilled, the tribe approves the application and DPI may issue a lifetime license to the applicant. However, if the tribe determines the applicant is not highly skilled in the applicable American Indian language, it may deny the application and instead require that the applicant be recertified as competent in the language as a condition of DPI renewing the individual's provisional license. Additionally, the bill draft provides that the tribe determines the term of the applicant's renewed provisional license, and there is no limit on the number of times that a provisional teaching license may be renewed.

Note that the bill draft includes a number of drafter's notes for consideration by the committee. Generally speaking, the drafter's notes prompt the committee to consider whether the law should include more detail about certification processes a tribe must follow or standards that could be defined further.

### **Considerations**

- Does the bill draft provide the right measure of flexibility for each tribe to determine its own course on this topic?
- Should any changes be made to the bill draft in response to the drafter's notes?

## **LRB-0386/P1, Relating to Removing the Tribal Lands Designation Deadline for Cigarette, Tobacco Products, and Vapor Products Tax Refunds**

### **Background**

Under current law, the Wisconsin cigarette tax, which is an excise tax charged on cigarettes, does not apply to cigarettes sold on tribal land by a tribe or its authorized retailer to Native Americans who reside on their tribal land. All other cigarettes sold by a tribe or its authorized retailers are required to be sold with the Wisconsin tax stamp properly affixed to each package. Tribes in Wisconsin may purchase untaxed cigarettes for sales to Native Americans who reside on their tribal land, or they may enter into an agreement with the Department of Revenue (DOR) to receive cigarette tax refunds.

For the second option, a tribe may enter into an agreement with DOR to receive a refund of 70 percent of the Wisconsin cigarette taxes paid on cigarettes purchased by the tribe or its authorized cigarette retailers for sale on its tribal land over which the tribe has jurisdiction. To qualify for the 70 percent refund, the following conditions must be met:

- The tribal council has filed a claim for the refund with the department.
- The tribal council has approved the retailer.
- The land on which the sale occurred was designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.
- The cigarettes were not delivered by the retailer to the buyer by means of a common carrier, a contract carrier, or the U.S. Postal Service.
- The retailer has not sold the cigarettes to another retailer or to a jobber.<sup>2</sup> [s. 139.323, Stats.]

The Wisconsin Supreme Court has noted that one effect of the cigarette tax refund law is an automatic increase in tribal revenues every time the state raises the cigarette tax. The court has also surmised that the third statutory condition for refund, which requires that a sale occur on land designated a reservation or trust land on or before January 1, 1983, was included in the law because the Legislature “must have concluded that it had to cut off new land for Indian smoke shops to prevent further erosion of the state’s cigarette tax base.” [*Ho-Chunk Nation v. WI. Dept. of Revenue*, 2009 WI 48, ¶ 58.] The part of the statute that allows DOR to issue a refund for a sale that occurred on reservation or trust land designated on a date *later* than January 1, 1983, as agreed upon by the department and a tribal council, was added to the law by 2009 Wisconsin Act 28.

### **Bill Draft**

LRB-0386/P1 removes from both the cigarette and tobacco and vapor product refund laws the reference to designation of reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council. Therefore, under the bill, the condition requires only that the land on which the sale occurred was designated a reservation or trust land at the time of the sale.

---

<sup>2</sup> State law also provides for the refund of certain taxes from the sale of tobacco and vapor products, except that law allows, but does not require, DOR to enter into a refund agreement with a tribe. However, the tobacco and vapor product refund law contains nearly identical conditions that must be met in order for a cigarette refund to be issued. [s. 139.803, Stats.] For more information on the cigarette and tobacco and vapor product tax refunds, see [Wisconsin Department of Revenue, “Wisconsin Taxation Related to Native Americans,” Publication 405 \(December 2017\)](#).

### **Consideration**

- Is the 2009 change in the law that allows a tribe and DOR to agree to a reservation or tribal land designation date later than January 1, 1983, an ineffective mechanism for expanding the reservation and tribal lands that qualify for the tax refunds, thus necessitating the modifications made in LRB-0386/P1?

SM:jal

Attachments



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0213/1  
EAW:kjf

## 2021 BILL

1     **AN ACT** *to amend* 940.203 (3) (intro.), 940.203 (3) (a) and 940.203 (3) (b); and *to*  
2             *create* 940.203 (1) (ab) of the statutes; **relating to:** battery or threat to an  
3             officer of the court in a tribal proceeding and providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

---

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on State-Tribal Relations. Under current law, it is a Class H felony to intentionally cause or threaten to cause bodily harm to the person or a family member of a guardian ad litem, corporation counsel, or attorney if (a) the person causing or threatening to cause the harm knows or should have known the person is a current or former guardian ad litem, corporation counsel, or attorney, or a member of the current or former guardian ad litem's, corporation counsel's, or attorney's family and (b) the act or threat is in response to an action taken by the current or former guardian ad litem, corporation counsel, or attorney in his or her official capacity in a court proceeding relating to child welfare, juvenile justice, guardianships, protective services, or an action affecting the family.

**BILL**

This bill provides that a person who intentionally causes or threatens to cause bodily harm to the person or a family member of an advocate, as defined by the bill, is guilty of a Class H felony if (a) the person causing or threatening to cause the harm knows or should have known the person is an advocate or a member of the advocate's family and (b) the act or threat is in response to an action taken by the advocate in his or her official capacity in a tribal court proceeding similar to the proceedings described above. "Advocate" is defined by the bill to mean "an individual who is representing the interests of a child, the tribe, or another party in a tribal court proceeding."

**SECTION 1.** 940.203 (1) (ab) of the statutes is created to read:

940.203 (1) (ab) "Advocate" means an individual who is representing the interests of a child, the tribe, or another party in a tribal court proceeding.

**SECTION 2.** 940.203 (3) (intro.) of the statutes is amended to read:

940.203 (3) (intro.) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of a current or former guardian ad litem, corporation counsel, advocate, or attorney under all of the following circumstances is guilty of a Class H felony:

**SECTION 3.** 940.203 (3) (a) of the statutes is amended to read:

940.203 (3) (a) At the time of the act or threat, the actor knows or should have known that the victim is a current or former guardian ad litem, corporation counsel, advocate, or attorney, or a member of the current or former guardian ad litem's, corporation counsel's, advocate's, or attorney's family.

**SECTION 4.** 940.203 (3) (b) of the statutes is amended to read:

940.203 (3) (b) The act or threat is in response to an action taken by the current or former guardian ad litem, corporation counsel, advocate, or attorney in his or her official capacity in a proceeding under ch. 48, 51, 54, 55, 767, 813, or 938 or in a similar proceeding in a tribal court.

(END)





State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0216/1  
ARG:kjf

## 2021 BILL

1     **AN ACT** *to amend* 15.67 (1) (intro.); and *to create* 15.67 (1) (d) of the statutes;  
2     **relating to:** the membership of the Higher Educational Aids Board.

---

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

---

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

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

Under current law, the Higher Educational Aids Board consists of 11 members representing public institutions of higher education; private, nonprofit institutions of higher education; and the general public. Members include the superintendent of public instruction, members of the Board of Regents of the University of Wisconsin System and the Technical College System Board, a member of the board of trustees of an independent college or university, financial aid administrators, students, and a member representing the general public. Members are appointed for three-year terms except that student members are appointed for two-year terms. Members are appointed by the governor without senate confirmation.

This bill adds the following three members to HEAB to represent the state's tribal colleges: one member of a tribal college's governing body; one tribal college financial aid administrator; and one tribal college student. In order to stagger the terms of the three new board members, the bill provides that the board member representing a tribal college's governing body must be appointed for an initial 4-year term.

**BILL****SECTION 1**

**SECTION 1.** 15.67 (1) (intro.) of the statutes is amended to read:

15.67 (1) (intro.) There is created a higher educational aids board consisting of the state superintendent of public instruction and the following members appointed for 3-year terms, except that the members specified under pars. (a) 5. and 6. ~~and~~, (b) 3., ~~and~~ (d) 3. shall be appointed for 2-year terms:

**SECTION 2.** 15.67 (1) (d) of the statutes is created to read:

15.67 (1) (d) To represent the state's tribal colleges, all of the following:

1. One member of the governing body of a tribal college in this state.
2. One financial aids administrator of a tribal college in this state.
3. One student enrolled at least half-time and in good academic standing at a tribal college in this state who is at least 18 years old and a resident of this state.

**SECTION 3. Nonstatutory provisions.**

(1) STAGGERED TERMS. Notwithstanding the length of terms specified for the members of the higher educational aids board under s. 15.67 (1) (intro.), the member of the higher educational aids board appointed under s. 15.67 (1) (d) 1. shall be appointed for an initial 4-year term.

(END)

Dear Co-Chair <insert name>,

On behalf of the members of the 2020 Legislative Council's Standing Interim Committee on State and Tribal Relations, we are recommending for consideration to the Assembly Speaker's Task Force on Racial Disparities the creation of a state grant program to assist those school districts that choose to retire the use of American Indian mascots, symbols, images, and personalities with the associated costs of doing so, with up to a \$50,000 grant per district.

The Speaker's Task Force on Racial Disparities was created "to focus on ways to address racial disparities, educational opportunities, public safety, and law enforcement policies and standards."

Established research shows the negative educational outcomes associated with the use of American Indian mascots, symbols, images, and personalities - regardless of intent. According to the [American Psychological Association](#), its continued use "establishes an unwelcome and often times hostile learning environment that affirms negative images and stereotypes that are promoted in mainstream society." Further, it "is a form of discrimination against Indigenous Nations that can lead to negative relations between groups."

We are at a critical time in our history as a state and a nation. Governments, businesses, faith-based organizations and citizens recognize and are calling for an end to policies and practices that promote and establish racial discrimination and disparity, which divides our country and our people.

As an example, earlier this year, the National Football League team for Washington announced after 87-years the retirement of the term 'Redskins' from their official name. Further in 2018 after 71-years the Major League Baseball team for the City of Cleveland retired the 'Chief Wahoo' mascot that so many found racially and culturally offensive.

Ending racial and cultural discrimination is vital toward healing the divisions that exist in our state and our country. While Wisconsin over the past two decades has seen several school districts discontinue the use of Native American mascots and logos, there are approximately 26 that continue the practice today. Some of these districts have cited cost as a barrier to implementing change. Therefore, at this time of working toward ending racial division we are asking the Wisconsin State Legislature through its appropriate committees and task force to consider this request as a legislative bill or budget provision.

Sincerely,



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0227/P1  
CMH:wlj

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT to amend** 980.08 (4) (dm) 1. (intro.) of the statutes; **relating to:**  
2             composition of temporary committee identifying residential options for a  
3             sexually violent person being placed on supervised release.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person who has been found to be a sexually violent person may be involuntarily committed to the Department of Health Services for control, care, and treatment. If a person is committed and placed in institutional care, the person may periodically petition the court for supervised release to the community. If a court approves the petition, the court must order the person's county of residence to prepare a report that identifies one appropriate residence for the person.

Under current law, the county creates a temporary committee to prepare the report. Members of the temporary committee are the county department of community programs, a representative from DHS, a local probation or parole officer, the county corporation counsel, and a land use planning official. This bill adds to the membership of the temporary committee a representative of each federally recognized Indian tribe or band located in that county.

---

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

4             **SECTION 1.** 980.08 (4) (dm) 1. (intro.) of the statutes is amended to read:

1           980.08 (4) (dm) 1. (intro.) If the court finds that all of the criteria in par. (cg)  
2           are met, the court shall order the county of the person's residence, as determined by  
3           the department of health services under s. 980.105, to prepare a report. The county  
4           shall create a temporary committee to prepare the report for the county. The  
5           committee shall consist of the county department under s. 51.42, a representative of  
6           the department of health services, a local probation or parole officer, the county  
7           corporation counsel or his or her designee, ~~and~~ a representative of the county that  
8           is responsible for land use planning or the department of the county that is  
9           responsible for land information, and, if there is a federally recognized Indian tribe  
10          or band located in the county, a representative of each such tribe or band. In the  
11          report, the county shall identify an appropriate residential option in that county  
12          while the person is on supervised release. In counties with a population of 750,000  
13          or more, the committee shall select a residence in the person's city, village, or town  
14          of residence, as determined by the department of health services under s. 980.105  
15          (2m). The report shall demonstrate that the county has contacted the landlord for  
16          that residential option and that the landlord has committed to enter into a lease. The  
17          county shall do all of the following when identifying an appropriate residential  
18          option:

19               **SECTION 2. Initial applicability.**

20           (1) This act first applies to court orders under s. 980.08 (4) (dm) 1. made on the  
21          effective date of this subsection.

22                               **(END)**



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0025/P3  
FFK:amn&wlj

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to amend* 118.19 (18) (bg) 1.; and *to create* 118.19 (18) (bp) of the  
2             statutes; **relating to:** a lifetime license that authorizes an individual to teach  
3             an American Indian language in an American Indian language program and  
4             modifying rules promulgated by the Department of Public Instruction.

---

***Analysis by the Legislative Reference Bureau***

Under current law, an individual who holds any provisional teaching license is eligible for a lifetime license upon successfully completing six semesters of teaching experience. This bill provides an option for a federally recognized American Indian tribe or band to decide whether each applicant for a lifetime license to teach the American Indian language associated with the tribe or band in an American Indian language program is qualified to receive the lifetime license. To exercise this option, an American Indian tribe or band must notify the Department of Public Instruction in writing. If an American Indian tribe or band exercises this option, DPI may not issue a lifetime license to teach the associated American Indian language to an individual unless the American Indian tribe or band approves the individual's application.

Under the bill, if an American Indian tribe or band opts to review individual applicant's for a lifetime license, the tribal government must determine whether an applicant is highly skilled in the applicable American Indian language. If the tribal government determines the applicant is highly skilled, the American Indian tribe or band approves the application and DPI may issue a lifetime license to the applicant. If the tribal government determines the applicant is not highly skilled in the

applicable American Indian language, the American Indian tribe or band may deny the application and instead require that the applicant be recertified as competent in the language as a condition of DPI renewing the individual's provisional license. Additionally, the tribal government determines the term of the applicant's renewed provisional license. Under the bill and current law, there is no limit on the number of times that a provisional teaching license may be renewed.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

---

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

1           **SECTION 1.** 118.19 (18) (bg) 1. of the statutes is amended to read:

2           118.19 (18) (bg) 1. The Except as provided in par. (bp), the department may  
3 issue a lifetime license under this subdivision to an individual who obtained a  
4 provisional license under par. (a) or (bc) if the individual has successfully completed  
5 6 semesters of teaching, administrating, or pupil services experience, as defined by  
6 the department by rule.

7           **SECTION 2.** 118.19 (18) (bp) of the statutes is created to read:

8           118.19 (18) (bp) Beginning on the effective date of this paragraph .... [LRB  
9 inserts date], the department may not issue to an individual a lifetime license that  
10 authorizes the individual to teach an American Indian language in an American  
11 Indian language program if the federally recognized American Indian tribe or band  
12 in this state that is associated with the American Indian language submits to the  
13 department written notice that states that the tribe or band wishes to evaluate each  
14 individual who applies for a lifetime license to teach the American Indian language  
15 in an American Indian language program. If a federally recognized American Indian  
16 tribe or band in this state submits a written notice to the department under this  
17 paragraph, the department may issue a lifetime license to the individual to teach an  
18 American Indian language in an American Indian language program only if the tribe

1 or band notifies the department that it has determined that the individual is  
2 qualified for a lifetime license to teach the American Indian language in an American  
3 Indian language program.

4 **SECTION 3.** PI 34.055 (3) of the administrative code is created to read:

5 PI 34.055 (3) LIFETIME LICENSE; OPTIONAL APPROVAL PROCESS. (a) If a tribal  
6 government associated with a language under sub. (1) submits a notice to the  
7 department under s. 118.19 (18) (bp), Stats., the department shall notify the tribal  
8 government whenever an individual applies for a lifetime license in the language  
9 under sub. (1) that is associated with the tribal government. The department shall  
10 provide the associated tribal government a copy of the individual's application.

11 (b) If a tribal government receives notice under par. (a), the tribal government  
12 shall review the individual's application, determine whether the individual is highly  
13 skilled in the American Indian language, and do one of the following:

\*\*\*\*NOTE: Do you want to include any language about the process the tribal  
government uses to decide how to proceed with an individual applicant?

14 1. If the associated tribal government determines that the individual is highly  
15 skilled in the American Indian language, approve the individual's application for a  
16 lifetime license.

\*\*\*\*NOTE: "Highly skilled" is just a placeholder. Please let me know what level of  
knowledge/proficiency qualifies an individual for a lifetime license. I assume it is  
something more than "competent" because that is the requirement for the provisional  
license.

17 2. If the associated tribal government determines that the individual is not  
18 highly skilled in the American Indian language, deny the lifetime license application  
19 and require the individual to be recertified as competent in the American Indian  
20 language as a condition of renewing the individual's provisional license in that  
21 American Indian language. If recertification is required under this subdivision,



1 notwithstanding s. PI 34.040 (3), the tribal government shall determine the term of  
2 the individual's renewed provisional license, except that the term may not exceed 5  
3 years.

\*\*\*\*NOTE: Do you want a minimum term or, for example, could the tribe say the  
provisional license is good for one year?

4 (c) If a tribal government requires recertification under par. (b) 2., the tribal  
5 government shall determine which of the entities under sub. (2) (cm) 1. to 3. may do  
6 the recertification.

7 (END)



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0386/P1  
EKL:amn

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to amend* 139.323 (3) and 139.803 (3) of the statutes; **relating to:**  
2             removing the tribal lands designation deadline for cigarette, tobacco products,  
3             and vapor products tax refunds.

---

***Analysis by the Legislative Reference Bureau***

Under current law, Indian tribes may receive a partial refund of the Wisconsin excise taxes paid on cigarettes, tobacco products, and vapor products purchased by the tribe and its authorized retailers for sale on its tribal land if certain conditions are met. One condition is that the land on which the sales occur must have been designated a reservation or trust land either before January 2, 1983, or a later date as determined by agreement between the tribe and the Department of Revenue.

This bill modifies the condition so that the land on which the sales occur must be designated a reservation or trust land, without reference to any date limitation.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

---

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

4             **SECTION 1.** 139.323 (3) of the statutes is amended to read:

139.323 (3) The land on which the sale occurred ~~was~~ is designated a reservation or trust land ~~on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.~~

**SECTION 2.** 139.803 (3) of the statutes is amended to read:

139.803 (3) The land on which the sale occurred ~~was~~ is designated a reservation or trust land ~~on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.~~

**(END)**