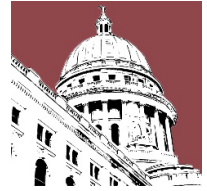

Wisconsin Legislative Council

STUDY COMMITTEE MEMO



Memo No. 2

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

FROM: Steve McCarthy, Senior Staff Attorney, and Benjamin Kranner, Staff Analyst

RE: Items for Committee Discussion

DATE: September 20, 2022

This memo describes items for discussion for the September 27, 2022 meeting of the Special Committee on State-Tribal Relations. Specifically, Chair Mursau has included four bill drafts that will be discussed by various invited speakers and the Special Committee during the discussion portion of its meeting.

Very briefly, all four bill drafts generally relate to public education. Three bill drafts have been recommended by the Department of Public Instruction (DPI), and the other bill draft combines three proposals that the Special Committee recommended during its work in 2018.

2023 LRB-0012/P1, RELATING TO PUPILS WEARING TRADITIONAL TRIBAL REGALIA AT A HIGH SCHOOL GRADUATION CEREMONY

Background

According to DPI, which suggested this bill draft as a topic of study for the Special Committee, American Indian students across the state are often prohibited from wearing items of religious and cultural significance at graduation ceremonies even though wearing cultural and religious items honors their nation, community, and heritage. DPI superintendents past and present have written letters to school districts asking them to work with their regional Tribal Nations to develop policies that recognize the cultural and religious significance of these items to students of these sovereign nations.

Wisconsin law contains some general protections for students' religious beliefs, ancestry, creed, race, and national origin. Specifically, schools must provide for the reasonable accommodation of a pupil's sincerely held religious beliefs with regard to all examinations and other academic requirements. [s. 115.28 (31), Stats., and ch. PI 41, Wis. Adm. Code.] Additionally, no student may be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, pupil services, recreational, or other program or activity because of race, religion, national origin, ancestry or creed. [s. 118.13, Stats.] However, Wisconsin law does not explicitly protect an American Indian student's right to wear traditional tribal regalia at a graduation ceremony.

A number of other states, including Utah, North Dakota, and Arizona, have enacted laws that protect American Indian students' right to wear items of religious and cultural significance. These laws were used as a model for drafting this bill.

The Bill Draft

This bill draft explicitly prohibits school boards and charter schools from prohibiting a pupil who is a member of, or eligible to be enrolled in, a federally recognized American Indian tribe or band in this state from wearing traditional tribal regalia at a high school graduation ceremony.

For purposes of this prohibition, “traditional tribal regalia” is defined as “a tribe’s traditional dress or recognized objects of religious or cultural significance, including tribal symbols, beads, and feathers.”

2023 LRB-0014/P1, RELATING TO REQUIRING SCHOOL DISTRICTS TO REPORT INFORMATION RELATED TO AMERICAN INDIAN CHILDREN ATTENDING SCHOOL IN THE SCHOOL DISTRICT

Background

According to DPI, in the 2021-2022 academic year, various school districts in Wisconsin began voluntarily reporting data regarding the tribal affiliation of American Indian and Alaska Native students. This data enables the department, school districts, and Tribal Nations to more effectively develop, implement, and evaluate their services and programs. However, not all school districts in Wisconsin report information on student tribal affiliation to DPI.

Wisconsin law currently directs the State Superintendent to conduct a statewide, biennial assessment of the need for American Indian language and culture education programs.¹ The statutes specify information that must be included in this assessment, including information on the numbers, ages, location, and tribal affiliation of American Indian pupils. [s. 115.74 (a), Stats.] However, current law does not explicitly direct school districts to collect this information and report it to DPI.

DPI suggests this bill draft as a topic of study for the Special Committee and indicates that Tribal Nations have specifically asked DPI to collect information on student tribal affiliation.

The Bill Draft

Current law requires each school district to file an annual report containing information such as the number of pupils taught in the schools of the school district and the number and the names of all teachers employed by the school district. [s. 120.18 (1), Stats.] The bill draft expands the requirements of this report, requiring school districts to report the numbers, ages, and tribal affiliation of American Indian children attending the schools of the school district.

2023 LRB-0265/P1, RELATING TO INDIGENOUS PEOPLES’ DAY

Background

DPI has suggested the recognition of Indigenous Peoples’ Day as a topic of study for the Special Committee. Various states have recognized an Indigenous Peoples’ Day, often through a proclamation

¹ State law also provides that the State Superintendent must include the results of this assessment, as well as other information relating to American Indian pupils and American Indian language and culture education, as an addendum to DPI’s biennial report to the Governor and the Legislature. [s. 115.74 (4), Stats.] The department’s 2019-2021 report is available on the department’s website at: https://dpi.wi.gov/sites/default/files/imce/policy-budget/pdf/DPI_2019-21_Biennial_Report_10.15.2021_FINAL.pdf.

by the state's governor. In October 2021, Governor Evers issued an executive order recognizing the second Monday in October as Indigenous Peoples' Day.² In the same month, President Biden similarly proclaimed Indigenous Peoples' Day as Monday, October 11, 2021.

In addition to executive action, various states have recognized Indigenous Peoples' Day through legislation, including Nevada and Illinois. The dates in Nevada and Illinois are August 9 and the last Monday in September, respectively.³

The Bill Draft

Current law provides that certain dates must be "appropriately observed" if they fall on a day when school is held. If a specified date falls on a Saturday or Sunday, the day must be appropriately observed on a school day immediately following or preceding the respective day. Wisconsin law designates 22 specific dates, including Christopher Columbus' birthday, for observance. [s. 118.02, Stats.] The bill draft replaces the October 12 observance of Christopher Columbus' birthday with observance of Indigenous Peoples' Day on the second Monday in October.

Current law also recognizes Columbus Day as a day exempt from consideration as a business day for the purpose for various state laws relating to consumer transactions. [s. 421.301 (6), Stats.] The bill draft replaces this reference to Columbus Day with a reference to Indigenous Peoples' Day.

The bill draft is identical to 2021 Assembly Bill 705, co-sponsored by Chair Mursau and Special Committee member Representative Bowen.

2023 LRB-0011/P1, RELATING TO MODEL ACADEMIC STANDARDS RELATED TO AMERICAN INDIAN STUDIES, INFORMATIONAL MATERIALS RELATED TO A SCHOOL BOARD'S OBLIGATION TO PROVIDE INSTRUCTION ON AMERICAN INDIANS, AND THE AMERICAN INDIAN STUDIES REQUIREMENT FOR TEACHER LICENSURE

Background

LRB-0011/P1 combines three separate bills recommended by the Special Committee in 2018, with some minor changes described below. Specifically, LRB-0011/P1 incorporates the language of 2019 Assembly Bill 105, relating to model academic standards for American Indian studies; 2019 Assembly Bill 106, relating to informational materials related to a school board's obligation to provide instruction on American Indians; and 2019 Assembly Bill 107, relating to the American Indian studies requirement for teacher licensure.

During the 2019-20 legislative session, these three bills received a public hearing in the Assembly Committee on Education, but no further action was taken on any of the bills.

² The order, [Executive Order 136](#), also formally recognized and apologized for tragedies inflicted upon Native American communities through the former federal Indian boarding school policies. Additionally, the order declared support for investigations into boarding schools that once operated in Wisconsin.

³ See [Nevada Revised Statutes s. 236.037](#) and [5 Illinois Compiled Statutes 490/7](#).

The Bill Draft

Model Academic Standards

Under current practice, DPI develops and revises a set of model academic standards for students from early learning through high school. These standards describe knowledge and concepts that a student should be able to demonstrate at a given grade level across more than 20 subject areas. Under current law, a school district must adopt academic standards for certain subjects and may choose to adopt DPI's model academic standards to satisfy this requirement.

The bill draft requires DPI to incorporate American Indian studies into the model academic standards.⁴ The standards, to be developed in consultation with the Wisconsin Indian Education Association, Inc., must include historical and contemporary information on such topics as significant events, tribal sovereignty, and culture of the federally recognized tribes and bands located in Wisconsin. The bill draft does not mandate that a school district adopt the standards.

Information Materials for School Boards

Under current law, a school board is responsible for certain instruction relating to American Indian tribes and bands located in Wisconsin. First, a school board must provide instruction in understanding human relations, including with regard to American Indians. Second, a school board must provide, as part of the social studies curriculum, instruction in the history, culture, and tribal sovereignty of Wisconsin tribes and bands at certain times in the elementary and high school grades.

The bill draft requires that DPI must develop informational materials related to these requirements for distribution to school boards annually. The bill draft requires DPI to develop and post these materials on DPI's website by September 1, 2024. DPI must update the materials in response to any changes to a school board's obligation to provide instruction related to American Indians. The bill draft also requires that, beginning in the 2024-25 school year, school boards annually provide the informational materials to school board members, school district administrators, certain individuals responsible for curriculum or staff development, principals, and social studies teachers.⁵

Teacher Licensure Requirement

Under current law, the State Superintendent of Public Instruction may not grant a teaching license to an individual unless that individual has received instruction in the history, culture, and tribal sovereignty of Wisconsin tribes and bands. There are some alternative pathways to licensure that do not include this requirement.

The bill draft modernizes the description of the instruction that a licensed teacher must have received. It changes "history, culture, and tribal sovereignty" to "culture, tribal sovereignty, and contemporary and historical significant events." It does not address the alternative pathways to licensure.

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⁴ Note that this language is slightly different from that in 2019 Assembly Bill 105. Whereas Assembly Bill 105 required DPI to "develop model academic standards for American Indian studies," this bill draft requires that DPI "incorporate American Indian studies into the model academic standards." This modification was suggested by DPI, and is very similar to language used in 2021 Wisconsin Act 30, relating to incorporating the Holocaust and other genocides into the state model social studies standards.

⁵ Note that the dates by which DPI must develop, post, and distribute the informational materials are later than the dates by which DPI must satisfy those requirements as provided in 2019 Assembly Bill 106.