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# Wisconsin Legislative Council

## MINUTES

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### SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

College of Menominee Nation Cultural Learning Center  
172 WI-55, Keshena, WI

September 27, 2022  
10:00 a.m. – 3:15 p.m.

COMMITTEE MEMBERS PRESENT:	Rep. Jeffrey Mursau, Chair; Reps. David Bowen, Donna Rozar, Paul Tittl, and Robyn Vining; and Public Members Joey Awonohopay, Christopher Boyd, Michael Decorah, Conroy Greendeer, Jr., and Lisa Liggins.
COMMITTEE MEMBERS EXCUSED:	Sen. Janet Bewley, Vice-Chair; Sen. André Jacque; Rep. James Edming; and Public Members Dee Ann Allen, Ned Daniel's, Jr., Lorraine Gouge, Shannon Holsey, and Carmen McGeshick.
TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT:	Kris M. Goodwill, Department of Natural Resources; Stephanie Lozano, Department of Children and Families; David O'Connor, Department of Public Instruction; Sandy Stankevich, Department of Transportation; Danielle Williams and Cara Connors, Department of Workforce Development; and Holly Wilmer, Department of Revenue.
TECHNICAL ADVISORY COMMITTEE MEMBERS EXCUSED:	Tom Bellavia, Department of Justice; and Gail Nahwahquaw, Department of Health Services.
COUNCIL STAFF PRESENT:	Steve McCarthy, Senior Staff Attorney; and Ben Kranner, Staff Analyst.
APPEARANCES:	David O'Connor, American Indian Studies Consultant, and Kevyn Radcliffe, Legislative Liaison, Department of Public Instruction. Brian Jackson, Jim Pete, and Shannon Chapman, Wisconsin Indian Education Association.

### SHUTTLE TOUR OF MENOMINEE NATION SITES

Members of the Special Committee on State-Tribal Relations, the Technical Advisory Committee, and Legislative Council staff participated in a shuttle tour of various Menominee Nation sites. Sites visited included a community and recreation center, tribal offices, and the Menominee Cultural Museum.

### CALL TO ORDER AND ROLL CALL

Chair Mursau called the meeting to order and welcomed committee members. A quorum was determined to be present.

## **APPROVAL OF THE MINUTES FROM THE AUGUST 18, 2022 MEETING**

*Representative Tittl moved to approve the minutes of the Special Committee's August 18, 2022 meeting. The motion was seconded by Representative Rozar and passed by unanimous consent.*

### **REMARKS FROM MENOMINEE TRIBAL CHAIRMAN**

The Menominee Tribal Chair, Ron Corn, Sr., welcomed members and expressed appreciation for the consultations between the executive branch and the tribes.

### **PRESENTATION BY INVITED SPEAKERS AND DISCUSSION OF ITEMS FOR COMMITTEE STUDY**

Representatives of the Department of Public Instruction (DPI), David O'Connor, American Indian Studies Consultant, and Kevyn Radcliffe, Legislative Liaison, presented background information on four bill drafts that were provided by Chair Mursau for committee discussion. Ms. Radcliffe noted that while three of the bill drafts resulted from DPI proposals, LRB-0011/P1 is not a proposal from DPI. However, she noted that DPI would support LRB-0011/P1 with certain improvements and that DPI would submit its analysis of the bill draft ahead of the next meeting of the committee.

#### **LRB-0012/P1, Relating to Pupils Wearing Traditional Tribal Regalia at a High School Graduation Ceremony**

Mr. O'Connor discussed how, for many Indigenous students and their families, wearing cultural and religious items honors their nation, community, and heritage. However, students are sometimes prohibited from wearing these items at various school events. Ms. Radcliffe noted that DPI superintendents, past and present, have written letters to school districts urging them to work with regional tribal nations to develop policies that recognize the cultural and religious significance of certain items. Ms. Radcliffe outlined various Wisconsin laws that provide protections for religious beliefs and cultural heritage, but noted that these laws have not prevented schools from prohibiting students from wearing tribal regalia to graduation ceremonies. In turn, she noted that DPI recommends a statutory change to accommodate tribal regalia.

Mr. O'Connor discussed other states (including Utah, North Dakota, and Arizona) that established protections for tribal regalia and urged legislation modeled after these other states. Ms. Radcliffe further noted that DPI recommends broadening the applicability of LRB-0012/P1 to address graduation ceremonies and school-sponsored events, rather than only high school graduation ceremonies.

Representative Rozar asked whether DPI's suggested modification would expand the bill draft's applicability to all public schools, rather than only high schools. Mr. O'Connor confirmed this and also clarified that DPI's suggestion would broaden the bill's applicability to all school-sponsored events.

Representative Rozar also asked whether the bill draft's protections would be applicable to students of any cultural background, rather than only students of Indigenous background. She also expressed support for legislation that would be applicable to people with a wider range of backgrounds. Legislative Council staff noted that the bill draft's protections for wearing tribal regalia would be limited to members of federally recognized tribes in Wisconsin. Legislative Council staff also noted that the bill draft could be modified to extend protections to members of tribes that are not located in Wisconsin.

Representative Rozar asked if there were any other statutes that would provide protections for cultural regalia for people of other cultural backgrounds. Legislative Council staff noted that certain statutes confer similar rights, but that there was not a law that provide protections comparable to those established in LRB-0012/P1.

Representative Rozar asked if there were specific examples where students were denied the ability to wear tribal regalia. Mr. O'Connor described such an instance.

Mr. Decorah suggested that the bill draft's applicability be expanded to afford protections to descendants of tribal members. He also asked whether the bill draft would apply to online schools and detailed an instance where a student of an online school was denied the ability to wear tribal regalia. Mr. O'Connor responded that the bill draft would apply in the situation described by Mr. Decorah.

Mr. Boyd noted that the Bayfield School District includes many tribal members but has previously restricted tribal regalia at graduation ceremonies. He also urged the committee to consider expanding the bill draft's applicability to include non-federally recognized tribes that are in the process of receiving federal recognition (such as the Brothertown Indian Nation).

Mr. Awonohopay recommended broadening the bill draft to allow pupils to wear tribal regalia in schools on a more regular basis, beyond school-sponsored events and graduation ceremonies.

Representative Tittl expressed support for broadening the bill draft to provide protections to individuals of Indigenous descent who are not enrolled tribal members. He also cautioned against expanding the bill draft's scope in a manner that would include types of cultural regalia beyond tribal regalia.

Committee members discussed potential language for expanding the bill draft's scope to address enrolled members and their descendants. They also discussed the option of enumerating specific items of cultural significance in the bill draft.

Representative Rozar asked what types of barriers may have existed to establishing protections similar to those included in the bill draft. Mr. Decorah and Representative Tittl generally noted that school boards may be more responsive to local concerns rather than directives from DPI. Representative Tittl also noted that LRB-0012/P1 is not a proposal that has been previously rejected by the Legislature.

Jim Pete, President of the Wisconsin Indian Education Association, commented that they often hear concerns that tribal members may be receiving special accommodations. He suggested that the wearing of tribal regalia is a means of expressing Indigenous culture, much as non-tribal individuals may be able to express their culture without restriction.

Janet Chapman, Menominee Tribal Education Director, provided an example of a student being restricted from wearing tribal regalia. She also asked if the bill draft would supersede a school's requirement to wear a specific type of clothing, such as a cap and gown. Legislative Council staff confirmed that the bill draft would provide for broad protection of the ability to wear tribal dress.

Legislative Council staff summarized committee member comments and outlined potential changes to the bill draft.

### **LRB-0014/P1, Relating to Requiring School Districts to Report Information Related to American Indian Children Attending School in the School District**

Mr. O'Connor provided information on the intent of LRB-0014/P1 and summarized existing Wisconsin statutes relevant to the topic. He noted that, beginning in the 2021-22 academic school year, various

school districts in Wisconsin began voluntarily reporting tribal affiliation data for American Indian/Alaska Native students. While this data has assisted DPI efforts, it has been of limited utility because not all school districts report the data. As such, DPI proposes a statutory change to specifically require school districts to collect and report this data to DPI.

Legislative Council staff noted that the Wisconsin Association of School Boards submitted written comments on the bill draft, as well as the other three bill drafts before the committee.

Ms. Liggins commented that data collection efforts may only be as reliable as parents' reporting of their children's demographic information.

Legislative Council staff asked DPI staff how the department collects demographic data and whether the bill draft would create a suitable mechanism for collecting this data. Mr. O'Connor confirmed that demographic data is currently collected through the reporting mechanism modified by the bill draft.

Representative Rozar asked if DPI would be able to collect tribal affiliation information even if parents chose not to provide the information to their school district. Mr. O'Connor responded that the bill draft would establish a means for parents to report tribal affiliation data where they may currently be unable to do so.

Legislative Council staff asked DPI staff how school districts collect demographic data regarding their students. Mr. O'Connor and Ms. Liggins described the mechanisms through which school districts collect this data.

Mr. Awonohopay asked why reporting of tribal affiliation is currently only optional and not required. Mr. O'Connor noted that Wisconsin is currently the only state that collects data regarding tribal affiliation.

Representative Rozar asked whether the bill draft's use of the term "descendent of the first or second degree" would include everyone who is eligible to enroll in a tribe. Ms. Liggins and Mr. Awonohopay discussed the meaning of this term and indicated that descendants of enrolled members may not necessarily be eligible for enrollment in a tribe.

### **LRB-0265/P1, Relating to Indigenous Peoples' Day**

Mr. O'Connor noted that DPI supports designating the second Monday in October as Indigenous Peoples' Day. He also provided background information on efforts to designate an Indigenous Peoples' Day in Wisconsin, in other states, and at the federal level. He also recognized that the idea of replacing Columbus Day with Indigenous Peoples' Day is not without controversy and mentioned that some other states recognize the days separately.

Legislative Council staff noted that the bill draft mirrors a bill co-sponsored by Chairman Mursau and Representative Bowen in the recent legislative session (2021 Assembly Bill 705). The staff also noted that the bill draft modifies two references to Columbus Day in the statutes: one relating to the day's observance by schools and one relating to days exempt from consideration as business days for the purposes of various consumer protection laws. Staff also described technical changes that could be made to the bill draft to clarify the date of Indigenous Peoples' Day. Representative Bowen indicated that the intent of 2021 Assembly Bill 705 was to designate Indigenous Peoples' Day as the second Monday in October.

Representative Rozar asked whether it would be possible for the bill draft to allow for the observance of both Indigenous Peoples' Day and Columbus Day. Legislative Council staff confirmed that the bill draft

could be modified to provide for this and outlined different options. Staff also noted that schools have significant flexibility with respect to how they observe certain dates designated in the statutes.

Chair Mursau commented that he did not believe a bill draft that replaced Columbus Day would be passed by the Legislature. He suggested that both Columbus Day and Indigenous Peoples' Day be recognized. Representative Rozar similarly indicated support for a proposal that would allow for recognition of both days.

Mr. Awonohopay expressed support for a compromise that would allow for recognition of both days. Representative Rozar asked whether the proposed change would require schools to observe both days, or whether a school could choose which day to observe. Legislative Council staff indicated that schools generally have flexibility with respect to how certain dates are observed. Additionally, they indicated that various dates that the statutes require schools to observe may not, in practice, actually be observed by all schools.

**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**

Brian Jackson, Jim Pete, and Shannon Chapman, members of the Wisconsin Indian Education Association, spoke on Act 31, its benefits, and the celebration of its anniversary.

Legislative Council staff noted that LRB-0011/P1 is largely identical to three bills relating to Act 31 that were introduced in the 2019-2020 legislative biennium (2019 Assembly Bills 105, 106, and 107). They noted that these bills resulted from prior work of the Special Committee on State-Tribal Relations and that the three bills received hearings in the Assembly Committee on Education (though they did not receive further legislative action).

Legislative Council staff described the content of LRB-0011/P1 and the differences between the bill draft and the three bills introduced in the 2019-2020 biennium.

Representative Rozar asked for clarification regarding the legislative history of the bills relating to Act 31. Legislative Council staff indicated that five bills relating to Act 31 were introduced, four of which received hearings, though none received executive sessions. Chair Mursau indicated that this may have been due to a resistance to creating more obligations for schools and school boards during the COVID-19 pandemic.

Representative Rozar asked whether the teacher licensure requirement addressed by the bill draft includes any requirement regarding training hours. Legislative Council staff indicated that this question would require follow-up.

Mr. Awonohopay commented that more resources may be required to implement the changes incorporated in the bill draft. He also suggested that tribes may be able to prepare curriculum for use by schools and that the state could provide funding for this effort. Legislative Council staff commented that they were not certain of the fiscal impacts of the proposal and would defer to DPI on this issue. DPI staff indicated that they had concerns regarding the resources required for implementing the bill draft's requirements.

Representative Vining asked if DPI may be able to address resource needs through budget requests in the budget cycle. DPI staff indicated that they would pass this suggestion along to other staff in the department.

Legislative Council staff indicated that the Special Committee on State-Tribal Relations has previously written a letter to the Governor to express support for budget items and that a similar approach could be explored again. The staff also provided additional information about the process through which bill drafts recommended by the special committee may receive hearings in the Legislature.

Mr. Boyd expressed concern regarding the implementation of existing requirements under Act 31 and agreed with Mr. Awonohopay's comments regarding the need for more resources. He also asked whether the committee had made any decisions regarding LRB-0265/P1. Legislative Council staff indicated that they would modify the draft to establish Indigenous Peoples' Day without replacing Columbus Day and that the committee would be able to review a modified draft in a future meeting.

Representative Rozar asked DPI staff about the degree of specificity that DPI provides to schools with regards to the teaching of Native American history. Mr. O'Connor indicated that the curriculum is generally at the discretion of school districts.

### **ADJOURNMENT**

Legislative Council staff and committee members discussed plans for the next meeting of the committee. Mr. Awonohopay suggested that tribal representatives work to develop suggestions for narrowing the scope of LRB-6468/P1, a bill draft discussed at the first meeting of the Special committee.

Representative Mursau thanked members and urged members to contact his office with suggestions regarding potential legislation. He also cautioned against members meeting to develop legislation outside of committee to ensure compliance with the state Open Meetings Law.

The committee adjourned at 3:15 p.m.

SM:BK:jal