
Wisconsin Legislative Council

MINUTES



SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

Room 411 South, State Capitol
Madison, WI
September 30, 2024
12:00 p.m. – 1:20 p.m.

CALL TO ORDER AND ROLL CALL

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

COMMITTEE MEMBERS PRESENT:	Rep. Jeffrey Mursau, Chair; Sen. Mary Felzkowski, Vice Chair; Reps. Sue Conley and Donna Rozar; and Public Members Liz Arbuckle, Joey Awonohopay, Michael J. Decorah, Jon Greendeer, Shannon Holsey, and Lisa Liggins.
COMMITTEE MEMBERS EXCUSED:	Sen. Jeff Smith; Rep. James Edming; and Public Members Dee Ann Allen, Brooks A. Boyd, Nicole Boyd, Dylan Jennings, and Bill Trepanier.
TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT:	Kathey Bilek, Department of Transportation; Benjamin M. Cornelius, Department of Natural Resources (DNR); Stephanie Lozano, Department of Children and Families; Chris McKinny, Department of Justice; Gail Nahwahquaw, Department of Health Services; and David O'Connor, Department of Public Instruction (DPI).
TECHNICAL ADVISORY COMMITTEE MEMBERS EXCUSED:	Katie Jaeger, Department of Workforce Development; and Holly Wilmer, Department of Revenue.
COUNCIL STAFF PRESENT:	Steve McCarthy, Senior Staff Attorney; and Abby Gorzlancyk, Staff Attorney.

APPROVAL OF THE MINUTES OF THE AUGUST 22, 2024 MEETING

Senator Felzkowski moved to approve the meeting minutes from August 22, 2024. The motion was seconded by Representative Rozar and the committee approved them by unanimous consent.

DESCRIPTION OF DISTRIBUTED MATERIALS BY LEGISLATIVE COUNCIL COMMITTEE STAFF

LC Study Committee Memo No 2, “Topics of Committee Discussion,” September 30, 2024

Steve McCarthy, Legislative Council Senior Staff Attorney, and Abby Gorzlancyk, Staff Attorney, provided an overview of information provided in LC Study Committee Memo No. 2. Specifically, Mr. McCarthy noted that the memo describes three bill drafts and four ideas for legislation put before the committee by Chair Mursau to determine whether there is committee consensus to advance any of the bills or ideas or whether the committee would like to request modifications or additional information on any or all of the items discussed.

At the beginning of the discussion of each of the bill drafts and ideas for consideration, Mr. McCarthy and Ms. Gorzlancyk briefly summarized the idea from the first committee meeting, provided additional information and research obtained since the first meeting, and identified issues and questions the committee may wish to consider in its discussion.

2025 LRB-0122/P1, relating to pupils wearing traditional tribal regalia at a graduation ceremony or school-sponsored event

Mr. McCarthy noted that all three bills on the committee’s agenda for discussion are identical to the versions the committee recommended unanimously last session and discussed at the first committee meeting. Each of the bills was redrafted with updated numbers for the 2025-2026 legislative session.

After hearing a description of the bill’s provisions, Representative Rozar asked if the committee had received any complaints about students not being allowed to wear tribal regalia at school events since the bill was considered last session.

Mr. Greendeer noted that these issues would likely not be brought to the committee, but each year during graduation season issues relating to wearing tribal regalia at graduation arise at all tribal levels. He stated that tribal governments also do not have specific data on which districts allow students to wear tribal regalia at school events and which do not, and that this issue would likely continue to occur until legislation is passed. He further noted that, generally speaking, these issues arise with little time to be resolved, and result in students not being allowed to wear their regalia or deciding not to walk at graduation.

Mr. McCarthy noted that comments made at the first meeting indicate that this is still an ongoing issue for tribal members.

Mr. O’Connor stated that DPI receives comments and contacts about this issue each year around graduation time, noting that those are just the issues that are raised with the department so there are likely more examples than the department knows about. He also noted that the State Superintendent sent out a letter to all school districts this past year asking the districts to review their policies on tribal regalia at graduation ceremonies and other school-sponsored events.¹

Chair Mursau directed the bill be brought before the committee at a future meeting for committee action.

¹ See the [letter from State Superintendent Jill Underly \(May 16, 2024\)](#).

2025 LRB-0123/P1, relating to authorization for tribal governments to copy certified copies of vital records for administrative use

After hearing a description of the bill's provisions and a summary of comments made at the last committee meeting about the reason tribal governments utilize copies of certified copies of vital records, Senator Felzkowski asked why the legislation has not been passed or been previously enacted.

Chair Mursau agreed that this is a common-sense legislative change and stated that it was likely an oversight in the original legislation. He also noted the bill did not get a vote on the Senate floor last session.

Mr. Greendeer also agreed that this is a common-sense legislative change that just extends an exemption that already exists to tribal governments.

Mr. McCarthy added that the penalty for copying a certified vital record without an exemption is a felony, even if enforcement of the punishment against tribal governments for making these records under current law is unlikely.

Chair Mursau directed the bill be brought before the committee at a future meeting for committee action.

2025 LRB-0124/P1, 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

After hearing a description of the bill's provisions, Mr. Awonohopay expressed broad support for recommending introduction of the bill.

Chair Mursau directed the bill be brought before the committee at a future meeting for committee action.

Discussion of Ideas for Legislation Submitted by Committee Members to the Chair

Mr. McCarthy noted that committee members submitted helpful information on the ideas for legislation prior to this meeting which was appreciated. Also, that in the last week, committee staff received some additional information from executive agency counterparts that has changed some of the substance of the ideas since the publication of Memo No. 2.

Tribal Impact Statements

Mr. McCarthy reviewed the idea of requiring tribal impact statements to be attached to any introduced bill in the Legislature and outlined certain questions that would need to be answered about the scope and potential unintended consequences of such an idea.

Mr. Greendeer stated that there are often oversights in legislation regarding tribes and tribal members, and stated that tribal impact statements could avoid those oversights in the future.

Chair Mursau explained that historically tribes were often overlooked during bill drafting, but that during his time in the Legislature this has gotten better. However, he supported a formal process for notifying and including tribes about legislation that may impact them.

Mr. Greendeer noted that Representatives and Senators, particularly those that represent tribal communities, do work hard to ensure the inclusion of tribes in legislation.

Representative Rozar asked if there was any consideration of the fiscal impacts of tribal impact statements. Mr. McCarthy stated that there have been previous proposals to add tribal impact statements, and in those cases, the Department of Administration (DOA) and Legislative Reference Bureau (LRB) both filed fiscal estimates where the cost would be indeterminate but could be absorbed.

Mr. McCarthy then explained that it would be helpful to discuss the specifics of what a tribal impact is for purposes of notifying the tribes. Mr. Greendeer suggested a broader standard that would include any legislation that might impact Indian country, land issues, jurisdiction issues, financial issues, etc. He also noted that a broader standard like this would likely include more legislation that is not included. He also stated that there is a cost to not having tribal impact statements including the time and energy spent to fix legislation after it is enacted.

Senator Felzkowski voiced concerned about slowing down the legislative process, along with concerns about creating expectations that the statement would be taken into consideration before passing all legislation when that may not be the case. Additionally, she noted that other levels of government and interest groups employ lobbyists to track legislation and advocate on their behalf.

Chair Mursau proposed creating a system that notifies the tribes of legislation that may impact tribes and tribal members, and then leave it up to the tribes to do the advocacy themselves or through the elected officials that represent their communities. Senator Felzkowski responded that all legislation could have an impact on the tribes and bands, rendering a general notification ineffective.

Mr. Greendeer responded that the request was not intended to create additional bureaucracy and acknowledged that the statements may not be reviewed by all legislators or change the outcome of the legislation. However, he explained that the idea would be important as an intentional step to include tribes in the legislative process.

Chair Mursau noted that the state already has a notification system for introduced legislation generally, with the ability to specify notifications to key terms or words. Mr. Greendeer responded that the notification system is a good tool for information, but it is not useful in identifying legislation that may impact tribes.

Representative Conley asked who would be required to notify the tribes about bills that may impact tribes. Mr. Greendeer suggested either LRB or other staff that understands what legislation is moving in either chamber or in key committees. Representative Conley noted that it might be good to centralize communication to make it easier to reach out to all of the tribes and bands. Mr. McCarthy stated that in previously proposed legislation, LRB along with the chair of the Special Committee on State-Tribal Relations could request a tribal impact statement, and then DOA assign an agency to complete the report. The committee could consider requiring LRB to notify each of the tribes and bands and leaving it up to each tribe to formally submit a statement that is part of the record similar to fiscal impact statements.

Chair Mursau directed committee staff to draft a bill that requires LRB to notify the tribes of introduced bills that may have a tribal impact, using previous legislation as a starting point.

Tribal Office in Madison

Ms. Gorzlancyk reviewed the idea of requesting DOA to allow tribal leaders and staff to utilize office space in Madison and outlined certain questions that would need to be answered about the scope and potential unintended consequences of such an idea.

Representative Rozar asked how DOA would treat a request from another sovereign nation to use office space owned and maintained by the state. Mr. McCarthy responded by deferring to DOA, and stated that there are ways to differentiate the 11 federally recognized tribes and bands in Wisconsin and their relationship with the federal government from other sovereign nations.

Representative Rozar also asked how tribal governments and tribal members are taxed and support the state government. Mr. Greendeer responded that trust property is exempt from property tax, unlike fee land that is taxed. Also, he stated that tribal governments are employers, whose employees pay income tax. He said the only way an individual is not paying any taxes would be if they lived and worked on the reservation and never left, and for tribes like Ho-Chunk, which is not contiguous, this is not possible.

Chair Mursau asked how much space the tribes are looking for and whether the space would be permanent or requested as needed. Senator Felzkowski said she hopes that DOA can enter into an agreement for the use of their surplus office space in Madison without legislation. Ms. Gorzlancyk noted that committee staff is still working to learn from DOA whether this request can be accomplished without a legislative change. Mr. Greendeer responded that DOA should have enough extra space post-COVID, but will come back with the exact amount of space and the ancillary needs, noting that this is different than previous requests to create an embassy type of space.

Chair Mursau directed committee staff to continue communicating with DOA and for tribal members to work on a consensus about the amount and permanence of the space.

Tribal Law Enforcement Officers as Deputy Conservation Wardens

Ms. Gorzlancyk reviewed the idea of adding tribal law enforcement officers and the Great Lakes Indian Fish and Wildlife Commission conservation wardens as other law enforcement officers for purposes of s. 29.941, Stats. She also mentioned staff was able to speak to DNR and learned that the department does consider tribal law enforcement officers as other law enforcement officers for purposes of specifically requested mutual aid.

Representative Rozar asked whether it is DNR's understanding that tribal law enforcement officers are considered other law enforcement officers for purpose of requested mutual aid, so the requested amendment would not change the law but instead be codifying current practice. Ms. Gorzlancyk confirmed that adding tribal law enforcement officers specifically to s. 29.941, Stats., would not change DNR's current practice of requesting mutual aid from tribal law enforcement as needed.

Ms. Arbuckle stated that in the past, this law is not always interpreted in the manner DNR stated. She asked if there is any data about historical and current use of tribal law enforcement officers to assist conservation wardens. Ms. Gorzlancyk said that she did not ask about this data and was not sure if there is data on how many mutual aid requests DNR makes and to whom they are made. Ms. Arbuckle stated that there appears to be some discrepancy in the implementation of this statute.

Senator Felzkowski, Representative Rozar, and Ms. Arbuckle spoke about differences in when mutual aid requests are made and to whom, likely based on personal relationships. Chair Mursau commented that even if the statute was changed to explicitly include tribal law enforcement officers as other law enforcement officers, that would not require conservation wardens to make mutual aid requests to tribal law enforcement officers.

Representative Conley commented that one solution may be explicitly adding tribal law enforcement officers to the definition of other law enforcement officers, so there is no confusion that tribal law enforcement officers are included in s. 29.941, Stats. Ms. Arbuckle agreed.

Representative Rozar asked if there was documentation of specific instances where tribal law enforcement officers were not called upon by DNR conservation wardens to assist. Ms. Arbuckle responded that she would follow up with that information.

Chair Mursau directed committee staff and committee members to continue to work through this idea.

Bipartisan Housing Package

Ms. Gorzlancyk reviewed four of the bills passed last session as part of the Bipartisan Housing Package. Specifically, she noted that three of the acts, 2023 Wisconsin Acts 14, 15, and 18, create loan programs with requirements that explicitly exclude housing projects on tribal trust land, while the loan program under 2023 Wisconsin Act 17 does not have those requirements. However, after consulting with the Wisconsin Housing and Economic Development Authority (WHEDA), there is a practical limitation in implementing these loan funds for housing projects on tribal trust land, due barriers in obtaining a security interest in the property. This is because trust land is owned by the U.S. government for the benefit of the tribe, so it cannot be the subject of a security interest like fee land or other land subject to property taxes.

Chair Mursau commented that tribal governments often make developments that better their entire community, not just tribal members. However, he noted that not being able to obtain a security interest on the trust land is an issue that tribes encounter when obtaining loans. Chair Mursau supported changing the requirements of the loan programs so that housing developments on trust land could be eligible.

Ms. Liggins commented that tribes take out loans from banks with some frequency, even for projects on trust land. She also noted that there is an upcoming consultation between the tribes and WHEDA where they may be able to discuss this issue. In the meantime, she supported the committee continuing to work on making the loan funds available to projects on trust land.

Senator Felzkowski commented that ensuring the infrastructure loan program, 2023 Wisconsin Act 14, would likely be the most important program to change.

Chair Mursau directed committee staff and committee members to continue to work through this idea, especially with the tribes' upcoming WHEDA consultation.

PLANS FOR FUTURE MEETINGS

Chair Mursau noted that the next committee meeting would be the second week in November and be held at the Oneida reservation.

ADJOURNMENT

The meeting adjourned at 1:20 p.m.

SM:AG:jal