



Joint Legislative Council's Report of  
the Special Committee on  
State-Tribal Relations

[2019 Assembly Bills 104, 105, 106, 107, 108, and 109]

April 15, 2019

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# SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

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April 15, 2019

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# PART I

## KEY PROVISIONS OF JOINT LEGISLATIVE COUNCIL RECOMMENDATIONS

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The Joint Legislative Council introduced the following bills in the 2019-20 session of the Legislature.

### **2019 ASSEMBLY BILL 104, RELATING TO BATTERY OR THREAT TO AN OFFICER OF THE COURT IN A TRIBAL PROCEEDING AND PROVIDING A PENALTY**

2019 Assembly Bill 104 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, 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.

### **2019 ASSEMBLY BILL 105, RELATING TO MODEL ACADEMIC STANDARDS FOR AMERICAN INDIAN STUDIES**

2019 Assembly Bill 105 directs the Department of Public Instruction (DPI) to develop model academic standards for American Indian studies in Wisconsin.

### **2019 ASSEMBLY BILL 106, RELATING TO INFORMATIONAL MATERIALS RELATED TO A SCHOOL BOARD'S OBLIGATION TO PROVIDE INSTRUCTION ON AMERICAN INDIANS**

2019 Assembly Bill 106 requires DPI to prepare and distribute informational materials to school boards regarding their responsibility for providing certain instruction in American Indian studies. The bill draft requires each school board to distribute those materials to its members and to certain administrative and instructional personnel.

### **2019 ASSEMBLY BILL 107, RELATING TO THE AMERICAN INDIAN STUDIES REQUIREMENT FOR TEACHER LICENSURE**

2019 Assembly Bill 107 modifies the parameters of the instruction in American Indian studies that most teaching candidates must receive before being granted a license.

**2019 ASSEMBLY BILL 108, RELATING TO REQUIRING PRIVATE SCHOOLS PARTICIPATING IN A PARENTAL CHOICE PROGRAM AND INDEPENDENT CHARTER SCHOOLS TO PROVIDE INSTRUCTION IN AMERICAN INDIAN HISTORY, CULTURE, AND TRIBAL SOVEREIGNTY**

2019 Assembly Bill 108 applies current law on American Indian studies to private schools participating in a parental choice program (“choice schools”) and independent charter schools.

**2019 ASSEMBLY BILL 109, RELATING TO REQUIRED INSTRUCTION IN AMERICAN INDIAN STUDIES IN THE ELEMENTARY AND HIGH SCHOOL GRADES**

2019 Assembly Bill 109 increases the frequency of existing American Indian studies instruction in the elementary and high school grades, including specifying elementary grade bands within which the instruction must occur.

# PART II

## COMMITTEE ACTIVITY

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### ASSIGNMENT

The Joint Legislative Council established the Special Committee on State-Tribal Relations and appointed the chairperson by an April 9, 2018 mail ballot. **Appendix 2** identifies the membership of the Joint Legislative Council at the time the mail ballot was approved. The committee was directed to study issues relating to American Indians and the American Indian tribes and bands in this state and develop specific recommendations and legislative proposals relating to these issues. [s. 13.83 (3), Stats.]

Membership of the special committee was appointed by a June 4, 2018 mail ballot. The final committee membership consisted of three representatives, five senators and 10 public members. A list of committee members is included as **Appendix 3** to this report.

### SUMMARY OF MEETINGS

The committee held four meetings on the following dates:

- September 12, 2018.
- October 10, 2018.
- November 15, 2018.
- December 13, 2018.

At the September 12, 2018 meeting, the special committee heard testimony from several invited speakers.

**Dee Pettack, legislative liaison, DPI**, provided the committee with an overview of the Wisconsin public school system, including demographic and funding information. Ms. Pettack described DPI's recent efforts with respect to various requirements related to American Indian Studies instruction required by 1989 Wisconsin Act 31 ("Act 31"), specifically highlighting annual educator professional development opportunities and efforts to make classroom resources available to teachers. She described DPI's efforts to establish a memorandum of understanding with each federally recognized tribe and band in the state to improve collaboration regarding the education of American Indian students. Finally, she noted that the model academic standards for social studies and environmental literacy and sustainability were recently revised with tribal member input to include issues of importance to the tribes and to strengthen the implementation of Act 31 requirements. Together with **David O'Connor, American Indian studies consultant, DPI**, Ms. Pettack answered committee members' questions about whether implementation of Act 31 is occurring as expected, whether there is a mechanism for DPI to measure and track progress towards

implementing Act 31, and whether the educational resources made available to teachers are accessible and properly vetted.

The committee then heard a panel presentation by **Judge Robert Collins, Oneida Judiciary, Judge James Schlender, Lac Courte Oreilles Tribal Court, John Wilhelmi, attorney, Menominee Indian Tribe of Wisconsin, and Gary Besaw, tribal legislator, Menominee Indian Tribe of Wisconsin.** The panel gave an overview of 2017 Wisconsin Act 272 (“Act 272”), which provided felony penalties for acts or threats of battery against a guardian ad litem (GAL), a corporation counsel, an attorney, or a family member of any of the preceding individuals in specified state court proceedings. Their presentation focused on assisting the committee in developing legislation to apply the substance of Act 272 to acts or threats that are in response to analogous proceedings in a tribal court. To that end, Judge Collins identified court officers and others who are generally involved in the Oneida Judiciary’s proceedings, and Judge Schlender advocated for providing the enhanced penalties in Act 272 to acts or threats in connection with any tribal court proceeding against any tribal court officer or staff member. Following the presentation, the panel answered committee members’ questions and verified that they sought parity between tribal and state courts in the coverage of Act 272. The committee directed Legislative Council staff to produce a draft achieving that parity.

Chair Mursau then facilitated a preliminary discussion of future agenda topics for the committee. Committee members touched on Indigenous Peoples’ Day, the Indian Child Welfare Act, funding for county services provided by a tribe, and civil commitments under ch. 51, Stats.

At the October 10, 2018 meeting, the committee reviewed a preliminary bill draft, LRB-0388/P2, and discussed topics summarized in the LC Study Committee Memorandum, *Topics for Committee Discussion Relating to K-12 American Indian Studies* (October 3, 2018).

For LRB-0388/P2, Legislative Council staff explained that the bill draft would apply the enhanced penalties in Act 272 to threats or battery to officers of the court within tribal court proceedings, and their family members, as directed by the committee. Staff also conveyed that Mr. Wilhelmi of the Menominee Tribe had suggested that the bill draft be expanded so that the definition of “advocate” include an individual representing the interests of any person, rather than only the interests of the child or the tribe. The committee directed Legislative Council staff to produce a new draft reflecting that modification for consideration at the next meeting.

Chair Mursau and Legislative Council staff then led the committee through discussion of the Legislative Council memorandum, focusing on the following seven topics.

#### *American Indian Studies Curriculum*

The committee discussed whether to expand DPI’s model curriculum beyond its current grade range and beyond its current focus on the Chippewa, whether American Indian studies should be included in subject areas beyond social studies, and whether to increase the frequency of required instruction. In addition, committee members discussed DPI’s model academic standards. The committee directed Legislative Council staff to determine where American Indian issues were included in the model academic standards currently and to produce draft legislation directing DPI to develop new model academic standards for American Indian studies. The committee also directed staff to produce draft legislation requiring that school boards provide instruction in

American Indian studies at least three times in elementary school and annually in high school in social studies and other subjects.

*Informational Materials Regarding Act 31 Requirements*

The committee directed Legislative Council staff to produce draft legislation requiring DPI to develop informational materials for school board members, principals, and school district administrators to inform them of the requirements of Act 31.

*Accountability for Act 31 Compliance*

The committee discussed whether to require data collection on school compliance with Act 31 responsibilities, and, more fundamentally, whether to develop a mechanism for determining if Act 31 was succeeding in its goals. The committee did not direct Legislative Council staff to produce draft legislation in this area.

*Teacher Licensing*

The committee discussed but chose not to recommend applying the Act 31 teacher preparation requirements to those pursuing an alternative pathway to teacher licensure. Rather, the committee directed Legislative Council staff to produce draft legislation modifying the instruction that must be included in the traditional licensure pathway by including contemporary tribal issues and events, in addition to the existing requirement for instruction in history, culture, and tribal sovereignty.

*High School Graduation Civics Exam*

The committee discussed but chose not to recommend changing the questions on the civics exam that students must pass before receiving a high school diploma.

*Applicability of Act 31 to Private School Choice Programs and Independent Charter Schools*

The committee reached consensus on requiring choice schools and independent charter schools to provide instruction in the history, culture, and tribal sovereignty of Wisconsin tribes and bands, as public schools are required to do, and directed Legislative Council staff to produce draft legislation to accomplish this goal.

*Online Resources Provided by DPI*

The committee discussed whether the Act 31 teaching resources that DPI makes available on its website had received sufficient tribal vetting.

Committee members raised the following issues for possible discussion at future meetings:

- Discourage continued use of the term “Act 31” by creating a meaningful title for the provisions of Act 31 and any subsequent related legislation.
- Replace “Chippewa” with “Ojibwe” in s. 115.28 (17) (d), Stats., the current statute requiring DPI to produce specific American Indian-related curriculum.
- Include implementation deadlines in any legislation approved by the committee.

At the November 15, 2018 meeting, the committee heard testimony from several invited speakers, discussed topics contained in the LC Study Committee Memorandum, *Current Incorporation of American Indian Studies in Wisconsin's Model Academic Standards* (November 8, 2018), and reviewed five preliminary bill drafts.

**Kenya Bright, section chief, Integrated Services Section, Bureau of Prevention, Treatment, and Recovery, Division of Care and Treatment Services, Department of Health Services**, presented the committee with an overview of the process for involuntary civil commitments governed by ch. 51, Stats., including explaining the legal bases under which certain individuals who are mentally ill, drug dependent, or developmentally disabled may be detained by a law enforcement officer, the judicial proceedings attending such a detention, and the mental health evaluations that are performed. Ms. Bright emphasized that state law vests each county with key decision-making authority throughout the process. **Tammy Bergum, Lac Courtes Oreilles behavioral health director and comprehensive community services administrator**, presented the committee with challenges that the tribe has had interacting with the county during the civil commitment process of tribal members. Following the presentations, Ms. Bright and Ms. Bergum answered committee members' questions regarding funding for the civil commitment process and the use of certain health care facilities for mental health evaluation and treatment.

The committee then heard a panel presentation by individuals representing the Wisconsin Indian Education Association, Inc. (WIEA). **Brian Jackson, president, WIEA**, gave an overview of his organization's efforts to further the goals of Act 31 and suggested that enforcement was needed to improve compliance by school districts. Mr. Jackson then introduced the panel. **Rachel Byington, board member, WIEA**, opined that teachers generally want to comply with Act 31 but some avoid it based on lack of access to vetted instructional material. **Doreen Wawronowicz, board member, WIEA**, urged teachers to focus on local tribes and urged school districts to hire more American Indian teachers. **Brandon Thoms, board member, WIEA**, urged the committee to include more specificity in the preliminary bill drafts.

Following the presentations, Chair Mursau and Legislative Council staff facilitated committee discussion regarding the Legislative Council memorandum and the bill drafts.

First, the committee discussed the memorandum and LRB-0468/P1 in tandem. The memorandum details where tribes and bands are mentioned in the existing model academic standards, and the bill draft directs DPI to develop separate model academic standards for American Indian studies. The committee did not recommend any changes to the bill draft.

Next, the committee discussed LRB-0469/P2. This bill draft increases the required frequency of American Indian studies instruction in the elementary and high school grades. The committee asked for an alternative draft that would specify grade bands in the elementary grades during which the instruction occurs, and that would begin the instruction in pre-kindergarten.

The committee then discussed LRB-0470/P2. This bill draft directs DPI to develop orientation materials to inform school board members, school district administrators, and principals about a school board's responsibilities under Act 31, and it requires a school board to distribute these materials to principals, administrators, and school board members, including to a new school board member within 30 days of taking office. The committee asked for a modification

to the draft to ensure that a new school district administrator or a new principal receives the materials within 30 days of beginning to work in such a position.

Next, the committee discussed LRB-0471/P2. This bill draft modernizes the description of the instruction that most teaching candidates must receive before being granted a license. The committee did not recommend any changes to the bill draft.

Finally, the committee discussed LRB-0472/P2. This bill draft applies current law on American Indian studies under Act 31 to parental choice schools and independent charter schools. The committee did not recommend any changes to the bill draft.

At the final committee meeting on December 13, 2018, Chair Mursau led the committee through a discussion of the bill drafts that had been explained at prior meetings and one alternative bill draft that had been prepared at the direction of the committee at the previous meeting.

First, the committee reviewed LRB-0388/1, a bill draft that reflected the change to LRB-0388/P2 discussed at the October 10, 2018 meeting; namely, the expansion of the definition of “advocate” to include an individual representing the interests of **any person** in a tribal court proceeding, rather than the interests of only **a child** or **a tribe**. As with the preliminary draft, this bill draft expands to a tribal court proceeding the enhanced criminal penalties that apply to a person who intentionally causes or threatens to cause bodily harm to an officer of the court or a member of the 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 state court proceedings. The committee approved a motion to recommend introduction of LRB-0388/1.

Next, the committee reviewed LRB-0468/1, relating to model academic standards for American Indian studies. The committee approved a motion to recommend introduction of the bill draft.

The committee then reviewed LRB-0469/1 and LRB-0935/1, relating to required instruction in American Indian studies in the elementary and high school grades. The latter bill draft was prepared as an alternative to the former in that it specifies grade bands during which the instruction will occur. The committee expressed a preference for the latter bill draft and approved a motion to modify it by increasing the frequency of instruction in the final grade band (grades 6 to 8). The committee then approved a motion to finalize LRB-0935/1.

Chair Mursau notified committee members that they would receive a mail ballot with the revised version of LRB-0935/1.

Next, the committee reviewed LRB-0470/1, relating to materials related to a school board’s obligations to provide instruction on American Indians. As directed by the committee at the previous meeting, this bill draft specifies that the informational materials be given to a new school board member or new principal or administrator within 30 days of being elected or accepting a position, respectively, as well as anytime the materials are updated by DPI. The committee directed that the bill draft be modified in several ways, including by expanding the target audience for the orientation materials to include social studies teachers and the individual responsible for curriculum within the school district (in addition to school board members, school district administrators, and principals), and adjusting the timing of when materials are distributed by DPI

and by a school board. The committee approved a motion to finalize the bill draft with the specified changes.

Chair Mursau notified committee members that they would receive a mail ballot with the revised version of LRB-0470/1.

The committee then reviewed LRB-0471/1, relating to the American Indian studies requirement for teacher licensure. The committee heard testimony from **Kara Besaw, student, University of Wisconsin-Madison**, regarding her experience enrolled in an undergraduate teacher preparation program. On the basis of that presentation and the committee discussion which followed, Chair Mursau indicated that he and Vice Chair Vinehout would send a letter to the Joint Legislative Audit Committee requesting that the Legislative Audit Bureau conduct an audit of DPI's compliance with s. 118.19 (8), Stats.<sup>1</sup> The committee then approved a motion to recommend introduction of LRB-0471/1.

Finally, the committee reviewed LRB-0472/1, relating to requiring a private school participating in a parental choice program and independent charter schools to provide instruction in American Indian history, culture, and tribal sovereignty. The committee approved a motion to recommend introduction of the bill draft.

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<sup>1</sup> Following Senator Vinehout's retirement from the Legislature at the end of the 2017-18 session, Senator Bewley assumed responsibility for coauthoring the letter with Chair Mursau. The letter is included with this report as Appendix 4.

# PART III

## RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

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This Part of the report provides background information on, and a description of, the bills as recommended by the Special Committee on State-Tribal Relations and introduced by the Joint Legislative Council.

### **2019 ASSEMBLY BILL 104**

#### **Background**

Under current law, s. 940.203, Stats., it is a Class H felony<sup>2</sup> to intentionally cause bodily harm or threaten to cause bodily harm to certain legal professionals if the harm or threat of harm is in response to an action taken by the legal professional in his or her official capacity in a proceeding under chs. 48, 51, 54, 55, 767, 813, or 938, Stats. The legal professionals addressed by this law are a current or former GAL, corporation counsel, or attorney, or a family member of such a person.

#### **Description**

The bill modifies s. 940.203, Stats., in two respects. First, it expands the set of proceedings that may trigger the penalties to include any tribal court proceeding that is similar to a state court proceeding under one of the seven specified chapters. Second, it adds an “advocate” to the list of covered legal professionals. As defined by the bill, an “advocate” is an individual who represents the interests of a child, the tribe, or another party in a tribal court proceeding.

Thus, under the bill, 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: (1) 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 (2) 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 state court proceedings described above.

### **2019 ASSEMBLY BILL 105**

#### **Background**

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

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<sup>2</sup> A Class H felony is punishable by a fine of up to \$10,000, imprisonment up to six years, or both. [s. 939.50 (3) (h), Stats.]

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.

### **Description**

The bill requires DPI to produce model academic standards for American Indian studies. The standards, to be developed in consultation with WIEA, 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 does not mandate that a school district adopt the standards.

## **2019 ASSEMBLY BILL 106**

### **Background**

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.

### **Description**

The bill requires DPI to prepare and disseminate to school boards informational materials regarding their responsibilities with respect to American Indian studies instruction. These materials must be posted on the department's website and transmitted to school boards annually. The bill requires each school board to annually distribute the materials to school board members, school district administrators, principals, social studies teachers, and individuals responsible for curriculum in the district.

## **2019 ASSEMBLY BILL 107**

### **Background**

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.

### **Description**

The bill 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.

## **2019 ASSEMBLY BILL 108**

### **Background**

Under current law, school boards are 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 least twice in the elementary grades and at least once in the high school grades. These requirements do not apply to independent charter schools and choice schools.

### **Description**

The bill requires that each independent charter school and each choice school include in its curriculum instruction in the history, culture, and tribal sovereignty of Wisconsin tribes and bands at least twice in the elementary grades and at least once in the high school grades.

## **2019 ASSEMBLY BILL 109**

### **Background**

Under current law, 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 least twice in the elementary grades and once in the high school grades.

### **Description**

The bill modifies in several respects the instruction that a school board must provide. First, it increases the frequency of the required instruction in the elementary grades and specifies the grade bands during which the instruction must occur. Specifically, it requires instruction at least once during grades kindergarten to 2, at least once during grades 3 to 5, and at least twice during grades 6 to 8. Second, it increases the frequency of the required instruction in high school to annually. Third, with regard to the high school instruction, the bill still requires instruction at least once as part of the social studies curriculum but it also allows the instruction to occur in any other subject area. Finally, it modernizes the description of the required instruction to include contemporary issues along with historical ones.



## STUDY COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

The following drafts were recommended by the Special Committee on State-Tribal Relations.

### SPECIAL COMMITTEE VOTES

On December 13, 2018, the special committee voted to recommend the following bill drafts to the Joint Legislative Council for introduction in the 2019-20 session of the Legislature. The votes on the bill drafts were as follows:

- LRB-0388/1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty, passed by a vote of Ayes, 13 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Carpenter, Taylor, and Vinehout; and Public Members Allen, Besaw, Cleveland, Decorah, Peterson, and Weaver); Noes, 0; and Absent, 5 (Sen. Petrowski; and Public Members Daniels, Holsey, McGeshick, and Summers).
- LRB-0468/1, relating to model academic standards for American Indian studies, passed on a vote of Ayes, 13 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Carpenter, Taylor, and Vinehout; and Public Members Allen, Besaw, Cleveland, Decorah, Peterson, and Weaver); Noes, 0; and Absent, 5 (Sen. Petrowski; and Public Members Daniels, Holsey, McGeshick, and Summers).
- LRB-0471/1, relating to the American Indian studies requirement for teacher licensure, passed on a vote of Ayes, 11 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Taylor, and Vinehout; and Public Members Allen, Besaw, Cleveland, Decorah, and Weaver); Noes, 0; and Absent, 7 (Sens. Carpenter and Petrowski; and Public Members Daniels, Holsey, McGeshick, Peterson and Summers). Mr. Peterson indicated that he would have voted “Aye” had he been present.
- LRB-0472/1, relating to requiring private schools participating in a parental choice program and independent charter schools to provide instruction in American Indian history, culture, and tribal sovereignty, passed on a vote of Ayes, 11 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Taylor, and Vinehout; and Public Members Allen, Besaw, Cleveland, Decorah, and Weaver); Noes, 0; and Absent, 7 (Sens. Carpenter and Petrowski; and Public Members Daniels, Holsey, McGeshick, Peterson and Summers). Mr. Peterson indicated that he would have voted “Aye” had he been present.

The special committee voted by a December 20, 2018 mail ballot to recommend the following bill drafts to the Joint Legislative Council for introduction in the 2019-20 session of the Legislature. The votes on the bill drafts were as follows:

- LRB-0935/2, relating to required instruction in American Indian studies in the elementary and high school grades, passed on a vote of Ayes, 15 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Carpenter, and Taylor; and Public Members Allen, Besaw, Cleveland, Daniels, Decorah, Holsey, Peterson, Summers, and Weaver); Noes, 0; and Not Voting, 3 (Sens. Petrowski and Vinehout; and Public Member McGeshick).
- LRB-0470/3, relating to informational materials related to a school board's obligation to provide instruction on American Indians, passed on a vote of Ayes, 15 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Carpenter, and Taylor; and Public Members Allen, Besaw, Cleveland, Daniels, Decorah, Holsey, Peterson, Summers, and Weaver); Noes, 0; and Not Voting, 3 (Sens. Petrowski and Vinehout; and Public Member McGeshick).

## JOINT LEGISLATIVE COUNCIL VOTE

At its March 6, 2019 meeting, the Joint Legislative Council voted as follows on the recommendations of the study committee:

*Sen. Roth moved, seconded by Sen. Shilling, that **LRB-0388/1, LRB-0468/1, LRB-0470/3, LRB-0471/1, LRB-0472/1, and LRB-0935/2**, be approved for introduction by the Joint Legislative Council. The motion passed by a roll call vote of Ayes, 20 (Reps. Brooks, August, Ballweg, Billings, Hesselbein, Hintz, Spiros, Steineke, Taylor, and Vos; Sens. Roth, Darling, Fitzgerald, Jacque, Marklein, Miller, Olsen, Petrowski, Risser, and Shilling); Noes, 0; and Absent, 2 (Rep. Nygren and Sen. Erpenbach). [LRB-0388/1, LRB-0468/1, LRB-0470/3, LRB-0471, LRB-0472/1, and LRB-0935/2 were introduced as 2019 Assembly Bills 104, 105, 106, 107, 108, and 109.]*

JOINT LEGISLATIVE COUNCIL

<b><u>SENATE MEMBERS</u></b>	<b><u>ASSEMBLY MEMBERS</u></b>
<b>Roger Roth, Co-Chair</b> Senate President Appleton	<b>Robert Brooks, Co-Chair</b> Assistant Majority Leader Saukville
<b>Alberta Darling</b> JFC Co-Chair River Hills	<b>Tyler August</b> Speaker Pro Tempore Lake Geneva
<b>Scott Fitzgerald</b> Majority Leader Juneau	<b>Joan Ballweg</b> Markesan
<b>Howard Marklein</b> President Pro Tempore Spring Green	<b>Peter Barca</b> Kenosha
<b>Mark Miller</b> Monona	<b>Dianne Hesselbein</b> Assistant Minority Leader Middleton
<b>Terry Moulton</b> Chippewa Falls	<b>Gordon Hintz</b> Minority Leader Oshkosh
<b>Jerry Petrowski</b> Marathon	<b>John Nygren</b> JFC Co-Chair Marinette
<b>Fred A. Risser</b> Madison	<b>John Spiros</b> Marshfield
<b>Jennifer Shilling</b> Minority Leader La Crosse	<b>Jim Steineke</b> Majority Leader Kaukauna
<b>Lena Taylor</b> JFC Ranking Minority Member Milwaukee	<b>Chris Taylor</b> JFC Ranking Minority Member Madison
<b>Van Wanggaard</b> Racine	<b>Robin Vos</b> Speaker Rochester

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 senators and 5 representatives appointed as are members of standing committees.



## Committee List

### Joint Legislative Council Special Committee on State-Tribal Relations

<p><b>Chair Jeffrey Mursau</b>, Representative 4 Oak Street Crivitz, WI 54114</p>	<p><b>Vice Chair Kathleen Vinehout</b>, Senator W1490 Cesler Valley Road Alma, WI 54610</p>
<p><b>Dee Ann Allen</b> Lac du Flambeau Band of Lake Superior Chippewa Indians P.O. Box 67 Lac du Flambeau, WI 54538</p>	<p><b>Gary Besaw</b>, Tribal Legislator Menominee Indian Tribe of Wisconsin P.O. Box 910 Keshena, WI 54135</p>
<p><b>Janet Bewley</b>, Senator 60995 Pike River Road Mason, WI 54856</p>	<p><b>Tim Carpenter</b>, Senator 2957 South 38th Street Milwaukee, WI 53215</p>
<p><b>Wilfrid Cleveland</b>, President Ho-Chunk Nation W9814 Airport Rd. P.O. Box 667 Black River Falls, WI 54615</p>	<p><b>Dave Considine</b>, Representative N6194 Breezy Hill Road Baraboo, WI 53913</p>
<p><b>Ned Daniels, Jr.</b>, Chairman Forest County Potawatomi Community P.O. Box 340 Crandon, WI 54520</p>	<p><b>Michael Decorah</b>, Senior Intergovernmental Affairs Specialist St. Croix Chippewa Indians of Wisconsin St. Croix Tribal Center 24663 Angeline Ave. Webster, WI 54893</p>
<p><b>James Edming</b>, Representative N4998 Edming Road Glen Flora, WI 54526</p>	<p><b>Shannon Holsey</b>, President Stockbridge-Munsee Community N8476 Moh He Con Nuck Rd. Bowler, WI 54416</p>
<p><b>Chris McGeshick</b>, Chairman Sokaogon Chippewa Community 3160 Indian Route 10 Crandon, WI 54520</p>	<p><b>Richard Peterson</b>, Chairman Red Cliff Band of Lake Superior Chippewa Indians 88385 Pike Road, Highway 13 Bayfield, WI 54814</p>
<p><b>Jerry Petrowski</b>, Senator 720 North 136th Avenue Marathon, WI 54448</p>	<p><b>Lisa Summers</b>, Secretary Oneida Nation P.O. Box 365 Oneida, WI 54155</p>
<p><b>Lena Taylor</b>, Senator Room 5 South State Capitol P.O. Box 7882 Madison, WI 53707-7882</p>	<p><b>Jason Weaver</b>, Secretary Lac Courte Oreilles Tribal Governing Board 13394 West Trepania Road Hayward, WI 54843</p>

**STUDY ASSIGNMENT:** The Special Committee is directed to study issues relating to American Indians and the American Indian tribes and bands in this state and develop specific recommendations and legislative proposals relating to these issues. [s. 13.83 (3), Stats.]

**18 MEMBERS:** 3 Representatives; 5 Senators; and 10 Public Members.

**LEGISLATIVE COUNCIL STAFF:** David Moore, Senior Staff Attorney, Rachel E. Snyder and Ethan Lauer, Staff Attorneys, and Julie Learned, Support Staff.



## LETTER TO LEGISLATIVE AUDIT COMMITTEE



### WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

February 14, 2019

Senator Robert Cowles, Co-Chair  
Joint Legislative Audit Committee  
Room 118 South, State Capitol  
Madison, WI 53703

Representative Samantha Kerkman, Co-Chair  
Joint Legislative Audit Committee  
Room 315 North, State Capitol  
Madison, WI 53703

Dear Senator Cowles and Representative Kerkman:

We are writing, in connection with our membership on the Special Committee on State-Tribal Relations, to request that you consider an audit of compliance by the Department of Public Instruction (DPI) with s. 118.19 (8), Stats., which provides as follows:

The state superintendent may not grant to any person a license to teach unless the person has received instruction in the study of minority group relations, including instruction in the history, culture and tribal sovereignty of the federally recognized American Indian tribes and bands located in this state.

The Special Committee on State-Tribal Relations is established in each biennium by the Joint Legislative Council to “study issues related to American Indians and the American Indian tribes and bands in this state and develop specific recommendations and legislative proposals relating to these issues.” [s. 13.83 (3) (a), Stats.] The special committee is composed of legislator members and members appointed by the Joint Legislative Council from names submitted by the federally recognized American Indian tribes and bands in Wisconsin.

One issue that is of continuing interest to the committee is the implementation of provisions, enacted as part of the 1989-91 budget bill (1989 Wisconsin Act 31), relating to American Indian studies and elementary and secondary education. These provisions generally require the following:

•That DPI, under the authority of the state superintendent, develop a curriculum for grades 4 to 12 on the Chippewa Indians’ treaty-based, off-reservation rights to hunt, fish and gather. [s. 115.28 (17) (d), Stats.]

•That each school board provide an instructional program designed to give all K-12 students an understanding of human relations, particularly with regard to American Indians, Black Americans, and Hispanics. [s. 118.01 (2) (c) 8., Stats.]

•That teachers licensed by DPI receive instruction in the study of minority group relations, including instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in Wisconsin as a condition of receiving that license. [s. 118.19 (8), Stats.]

•That each school board, as part of the social studies curriculum, include instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in Wisconsin at least twice in the elementary grades and at least once in the high school grades. [s. 121.02 (1) (L) 4., Stats.]

During the 2018 interim, the special committee reviewed DPI's recent efforts with respect to these requirements, heard from various other stakeholders, and engaged in discussion about whether to recommend any modifications to these provisions. The committee identified a variety of legislative changes it believes would be beneficial and has advanced five bill drafts on this topic to the Joint Legislative Council.

In addition, a number of committee members expressed concern about whether teachers licensed by DPI are receiving sufficient "instruction in the...culture and tribal sovereignty of the federally recognized American Indian tribes and bands located in this state" to enable them to provide the required instruction on this topic to elementary and high school students. There was general consensus among committee members that an audit would be an appropriate mechanism to determine whether this is the case. Accordingly, we respectfully request that you consider an audit of DPI's compliance with s. 118.19 (8), Stats.

Sincerely,



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Representative Jeff Mursau, Chair  
Special Committee on State-Tribal Relations



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Senator Janet Bewley, Member  
Special Committee on State-Tribal Relations

JM:JB:jal

## COMMITTEE MATERIALS LIST

[Copies of documents are available at [www.legis.wisconsin.gov/lc](http://www.legis.wisconsin.gov/lc)]

### September 12, 2018 Meeting

- *Wisconsin Public Schools at a Glance*, submitted by the Department of Public Instruction
- Memorandum from the Honorable Robert J. Collins II, Family Court, Oneida Judiciary, to Representative Mursau, Chair of the Special Committee, and David Moore and Rachel Snyder, Legislative Council, regarding s. 940.203, Stats., battery to an officer of a tribal court (September 13, 2018)
- PowerPoint Presentation, submitted by Dee Pettack, Legislative Liaison, and David O'Connor, American Indian Studies Consultant, Department of Public Instruction
- Memo, to the Tribal Governing Board, from James H. Schlender, Jr., Chief Judge, Lac Courte Oreilles Tribal Court (August 15, 2018)
- LC Study Committee Memorandum, *Recommendations of the Special Committee on State-Tribal Relations Enacted During the 2017-18 Session* (September 5, 2018)

### October 10, 2018 Meeting

- LRB-0388/P2, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty
- LC Study Committee Memorandum, *Topics for Committee Discussion Relating to K-12 American Indian Studies* (October 3, 2018)

### November 15, 2018 Meeting

- LC Study Committee Memorandum, *Current Incorporation of American Indian Studies in Wisconsin's Model Academic Standards* (November 8, 2018)
- Attachment to November 8, 2018 Memorandum, *Wisconsin Standards for Social Studies and Environmental Literacy and Sustainability Connections to Act 31*
- LRB-0388/P4, relating to battery or threat to an officer of the court in a tribal proceeding and providing an penalty
- LRB-0468/P1, relating to model academic standards for American Indian studies
- LRB-0469/P2, relating to required instruction in American Indian studies in the elementary and high school grades

- LRB-0470/P2, relating to materials related to a school board's obligations to provide instruction on American Indians
- LRB-0471/P2, relating to the American Indian studies requirement for teacher licensure
- LRB-0472/P2, relating to requiring private schools participating in a parental choice program and independent charter schools to provide instruction in American Indian history, culture, and tribal sovereignty

### **December 13, 2018 Meeting**

- LRB-0388/1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty.
- LRB-0468/1, relating to model academic standards for American Indian studies.
- LRB-0469/1, relating to required instruction in American Indian studies in the elementary and high school grades.
- LRB-0470/1, relating to materials related to a school board's obligations to provide instruction on American Indians.
- LRB-0471/1, relating to the American Indian studies requirement for teacher licensure.
- LRB-0472/1, relating to requiring private schools participating in a parental choice program and independent charter schools to provide instruction in American Indian history, culture, and tribal sovereignty.
- LRB-0935/1, relating to required instruction in American Indian studies in the elementary and high school grades.

### **December 20, 2018 Mail Ballot**

- LRB-0470/3, relating to informational materials related to a school board's obligation to provide instruction on American Indians.
- LRB-0935/2, relating to required instruction in American Indian studies in the elementary and high school grades.

### **Recommendations to the Joint Legislative Council**

- LRB-0388/1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty.
- LRB-0468/1, relating to model academic standards for American Indian studies.
- LRB-0470/3, relating to informational materials related to a school board's obligation to provide instruction on American Indians.
- LRB-0471/1, relating to the American Indian studies requirement for teacher licensure.

- LRB-0472/1, relating to requiring private schools participating in a parental choice program and independent charter schools to provide instruction in American Indian history, culture, and tribal sovereignty.
- LRB-0935/2, relating to required instruction in American Indian studies in the elementary and high school grades.

**Joint Legislative Council Recommendations to the 2019-20 Legislature**

- 2019 Assembly Bill 104
- 2019 Assembly Bill 105
- 2019 Assembly Bill 106
- 2019 Assembly Bill 107
- 2019 Assembly Bill 108
- 2019 Assembly Bill 109
- Joint Legislative Council's Report of the Special Committee on State-Tribal Relations  
JLCR-2019-06