



Report to the Joint Legislative Council

LCR 2021-02

March 9, 2021

Special Committee on State-Tribal Relations

SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

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March 9, 2021

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PART I

EXECUTIVE SUMMARY

State law requires the Joint Legislative Council to create a Special Committee on State-Tribal Relations each biennium. The special committee is then required to report its findings and its legislative recommendations to the Joint Legislative Council.

The special committee met three times through the fall and winter of 2020 and 2021. The committee discussed numerous policy options spanning an array of substantive areas of law, including items from the committee's work last session that did not pass the Legislature, ideas proposed by the committee chair, and other items proposed by committee members.

Additionally, based discussion and consensus from a majority of committee members, Chair Mursau and Vice-Chair Bewley co-authored a letter to the Governor asking for inclusion in the Governor's budget proposal of a state grant program to assist school districts that choose to retire American Indian mascots, images, symbols, and personalities with offsetting potential costs.

Part II provides a summary of the committee discussion at each meeting.

In concluding its work, the committee recommends the following five bill drafts for introduction by the Joint Legislative Council, with **Part III** describing the bill drafts in more detail:

- **LRB-0213/1** 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.
- **LRB-0216/1** adds the following 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.
- **LRB-0025/1** 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.
- **LRB-0386/1** modifies the condition for certain tribal cigarette, tobacco, and vapor product refunds that the land on which the sale occurs must have been designated a reservation or trust land on or before January 1, 1983, by providing that the land on which the sale occurs must be designated a reservation or trust land, without reference to any date limitation.
- **LRB-0227/2** requires that a tribal chair be notified when a county is ordered by a court to prepare a report recommending a residential option for a sexually violent person being placed on supervised release, that the county consult with any tribal law enforcement agencies in the county when preparing its report, and that a tribal law enforcement agency be notified when a sexually violent person is placed on supervised release.

PART II

COMMITTEE ACTIVITY

ASSIGNMENT

The Joint Legislative Council established the Special Committee on State-Tribal Relations and appointed the chairperson by a June 18, 2020 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 July 24, 2020 mail ballot. The final committee membership consisted of three representatives, three senators and 10 public members. A list of committee members is included as **Appendix 3** to this report.

SUMMARY OF MEETINGS

The committee held three virtual meetings on the following dates:

- October 19, 2020
- December 1, 2020
- January 25, 2021

October 19, 2020

At the first meeting on October 19, 2020, the special committee reviewed and discussed four preliminary bill drafts prepared by Chair Mursau, and members offered other priorities for the special committee to consider in future meetings.

Anne Sappenfield, Director of the Legislative Council staff, welcomed committee members and thanked them for their service. She remarked upon the history of the Legislative Council and the procedures followed throughout the study committee process.

Chair Mursau introduced himself and welcomed the committee members. At the invitation of the chair, committee members introduced themselves and provided brief explanations of their backgrounds and interest in the committee's topic.

LC Study Committee Memo No. 1, "Topics for Committee Discussion," October 12, 2020

Steve McCarthy, Legislative Council Senior Staff Attorney, provided an overview of information provided in LC Study Committee Memo No. 1. Specifically, Mr. McCarthy noted that the memo describes four bill drafts prepared by Chair Mursau, provides relevant background information,

and identifies issues that the committee may wish to take into consideration when discussing the bill drafts.

Mr. McCarthy explained that Chair Mursau put the bill drafts before the committee to prompt discussion to determine where there is committee consensus and if the committee would like to request modifications or additional information on any or all of the bill drafts.

At the beginning of the discussion of each of the four bill drafts, Mr. McCarthy provided relevant background material and described the bill drafts.

LRB-0213/P1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty

Mr. McCarthy explained that 2019 Assembly Bill 104, which was recommended by the committee last session and is identical to LRB-0213/P1, could still be taken up by the Senate before the end of the year. However, the committee could renew its recommendation of the bill draft for consideration by the Legislature next session if it is the case that the Senate takes no further action this year.

Vice-Chair Bewley asked about the history of LRB-0213/P1, and Chair Mursau responded that the bill draft 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.

Mr. Besaw, Chair Mursau, and others voiced support for renewing the committee's recommendation of the bill draft, and members agreed to vote on recommending the bill draft at the committee's next meeting.

LRB-0216/P1, relating to the membership of the Higher Educational Aids Board

Mr. McCarthy noted that LRB-0216/P1 is identical to 2019 Senate Bill 905, which was introduced by Vice-Chair Bewley on March 26, 2020. However, the Legislature took no action on that bill.

Vice-Chair Bewley noted that the bill draft's proposed expansion of the membership of the Higher Educational Aids Board so that three new board members would represent the interests of the state's tribal colleges closely mirrors current board membership that represents other interests.

Mr. Besaw and Ms. Gouge expressed support for the bill, noting that the board currently has nonvoting members that represent the interests of the state's tribal colleges.

Chair Mursau and Senator Smith raised concerns that the bill draft would lead to an even number of board members, and asked whether state law addresses how the board must manage a situation with a tie vote. Mr. McCarthy responded that, as a general matter of legislative procedure, a tie vote is a failed vote. Senator Jacque, who has previously been a board member, noted that the board is able to request legislation and could request a change to the law if the board is unable to resolve issues that may arise with an even-numbered board membership. Per

the committee's request, Mr. McCarthy offered to follow up with the board to ask whether an even-numbered board membership would in any way inhibit the board's ability to conduct its business. The committee agreed to keep the bill draft in its current form pending receipt of more information, and the Chair may decide to schedule the bill for more discussion or for a vote at the committee's next meeting.

LRB-0227/P1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed on supervised release

Mr. Decorah, Ms. Gouge, and others acknowledged the serious impact of sexual assault and violent crime on tribal communities, and voiced support for providing tribal representation on these temporary committees.

Mr. Besaw objected to the structure of the bill draft, requesting that it be changed so that a tribe would be invited, but not required, to participate in the temporary committee's work. Mr. Besaw noted both that some tribes may have little interest in the affairs of a county where the tribe has a small presence and that there are some counties where numerous tribes are located, which could bloat the size of the temporary committee. Mr. Besaw also said that principals of tribal sovereignty make it inappropriate for the state to require anything of the tribe without its affirmative consent. Other members noted that the law would not require any particular level of involvement from a tribe that is on the temporary committee. The committee discussed the merits of the proposal, and Mr. McCarthy described certain aspects of the law relating to the creation and duties of the temporary committees. The committee requested more information about current temporary committee operation and practices.

The committee agreed to keep the bill draft in its current form pending receipt of more information, and that the Chair could decide to schedule the bill draft for more discussion or for a vote at the committee's next meeting.

LRB-0025/P2, relating to a 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

Mr. Besaw requested that the bill draft 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 period competency recertification. The committee requested that the Department of Public Instruction (DPI) be consulted on whether they object to this proposal. Depending on outreach to DPI, the committee agreed that the bill draft could be modified and returned to the committee for its review at its next meeting.

Chair Mursau invited members to share issues of concern they want the committee to address this session.

Vice-Chair Bewley and other members discussed the feasibility of modifying state law such that the interests of tribes are always included by the Legislature when it considers legislation, noting

that many items the committee discusses have to do with adding tribal interests to statutes that do not address applicability to tribes. The committee requested a list of state grant programs and committees so it can review whether and where tribal interests could be added to state law.

Ms. Liggins raised two issues: school funding relating to the use of tribal mascots and logos, and modifying state statutes to allow a tribe to pass certain alcohol and tobacco enforcement ordinances.

Ms. Gouge and Mr. Decorah raised the issue of removing a state statutory limitation on tribal lands that are eligible to receive certain tobacco sale refunds from the Department of Revenue.

Mr. Besaw raised the issue of updating state law to clarify the responsibilities of Menominee County under the state Children's Code in light of updates to certain tribal laws related to children.

December 1, 2020

At the December 1, 2020 meeting, the special committee voted to recommend two bill drafts, reviewed two bill drafts that were modified based on discussion at the committee's previous meeting, and discussed two new bill drafts.

LRB-0213/1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty

Mr. McCarthy reminded the committee that 2019 Assembly Bill 104, which was recommended by the committee last session and is identical to LRB-0213/1, could still be taken up by the Senate before the end of the year. However, the committee noted in its discussion that it could renew its recommendation of the bill draft for consideration by the Legislature next session if it is the case that the Senate takes no further action this year. The committee approved a motion to recommend introduction of the bill draft.

LRB-0216/1, relating to the membership of the Higher Educational Aids Board

Mr. McCarthy reported that Higher Educational Aids Board (HEAB) staff responded to some questions raised by the committee at its last meeting. Specifically, HEAB staff confirmed that an even-numbered board membership would not pose any problems for the operation of the board, noting that board decisions are very rarely, if ever, contentious. HEAB staff 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. The committee approved a motion to recommend introduction of the bill draft.

LRB-0227/P1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed on supervised release

Mr. Besaw questioned whether the bill draft could be changed so that a tribe would be invited, but not required, to participate in the temporary committee's work. Mr. Besaw noted both that some tribes may have little interest in the affairs of a county where the tribe has a small presence and

that there are some counties where numerous tribes are located, which could bloat the size of the temporary committee.

Senator Smith and others noted that the bill draft would not necessarily require any particular level of involvement from a tribe that is on the temporary committee, and suggested moving forward on the bill as drafted. Chair Mursau agreed, and directed committee staff to research any possible unintended consequences with the bill draft relating to temporary committee quorum issues.

The committee agreed to keep the bill draft in its current form, and the Chair indicated his intent to schedule the bill draft for a vote at the committee's next meeting.

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 (DPI)

Mr. Besaw, Representative Edming, Ms. Gouge, and Senator Bewley all noted their support for the changes made to the bill draft based on the committee's discussion at its last meeting. Specifically, the bill draft was 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.

Mr. McCarthy reported that DPI 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 regarding teacher licensing that DPI has signed with all of the tribes.

The committee agreed to keep the bill draft in its current form, and the Chair indicated his intent to schedule the bill draft for a vote at the committee's next meeting.

LRB-0386/P1, relating to removing the tribal lands designation deadline for cigarette, tobacco products, and vapor products tax refund

Chair Mursau and Representative Edming made comments about the impact the bill could have on local cigarette and tobacco products retailers. Ms. Gouge stated that the statutory designation deadline has been an issue in the past and removing it would be beneficial. Senator Bewley also noted her support for the bill draft.

The committee agreed to keep the bill draft in its current form, and the Chair indicated his intent to schedule the bill draft for a vote at the committee's next meeting.

Letter from Special Committee on State-Tribal Relations to Speaker's Task Force on Racial Disparities, relating to American Indian mascots and logos

Senator Jacque noted multiple concerns with the letter, including that the Speaker's Task Force on Racial Disparities may not be the appropriate forum for the issue of American Indian mascots and

logos and that he has found tribal support of the use of tribal mascots and logos by schools in his legislative district. Senator Jacque stated that he wanted school districts to decide on their own whether tribal mascots and logos should be changed and noted he is not in support of sending the letter at this time.

Senators Smith and Bewley noted their general support for the concept of the letter, but questioned whether sending it to the Speaker's Task Force on Racial Disparities was sufficient or effective action on the issue of American Indian mascots and logos.

Mr. Besaw, Ms. Gouge, and Ms. Liggins also stated their support for the letter and made comments about the seriousness of the issue. Ms. Gouge noted that the Oneida Nation's budget request mentioned in the letter would incentivize, but not require, a school district to change its mascot and logo. Ms. Liggins stated there are multiple efforts tribes are taking on this issue, and that the letter is just one of multiple initiatives. Mr. O'Connor observed that it is important to educate people about first nations' history and people.

Senators Smith and Bewley suggested that the letter may be more properly sent directly to the Governor in support of the budget request on this issue instead of to the Speaker's Task Force on Racial Disparities. Chair Mursau asked committee staff to work on amending the letter so it could be sent to the Governor by the Chair on behalf of the committee.

Ms. Gouge noted current efforts undertaken on issues relating to mental health under ch. 51, Stats., and mentioned that the issue is one the committee could take up in the future.

Mr. Besaw asked for an update on the bills the committee recommended last session relating to Act 31. Chair Mursau noted he is still working with his legislative colleagues to determine whether there is a path forward on some or all of those bills.

Mr. Besaw mentioned current efforts undertaken on a white paper relating to the Indian Child Welfare Act and future plans to engage the Department of Children and Families on that issue. Mr. Besaw also noted current efforts on reviewing state statutes in order to add tribal representation to certain state boards and councils and allowing tribes to participate in certain state grant programs.

Ms. Liggins asked for an update on the materials she sent to committee staff relating to modifying state statutes to allow a tribe to pass certain alcohol and tobacco enforcement ordinances. Mr. McCarthy responded that committee staff is still working on this issue, but that it could conceivably be finished in time for discussion at the committee's next meeting.

January 25, 2021

At the final meeting of the committee, the special committee voted to recommend introduction of two bill drafts, agreed to modify one bill draft and vote on it by mail ballot, and discussed other issues that the committee did not have time to address this session.

LRB-0025/1, 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

Mr. McCarthy reminded the committee that the bill is in the same form as discussed at the committee's previous meeting. The committee agreed to proceed to a vote without further discussion and approved a motion to recommend introduction of the bill draft.

LRB-0386/1, relating to removing the tribal lands designation deadline for cigarette, tobacco products, and vapor products tax refunds

Mr. McCarthy reminded the committee that the bill is in the same form as discussed at the committee's previous meeting. Mr. Greendeer and Mr. Decorah spoke in favor of the legislation, noting that the bill is a key priority for their tribes. The committee approved a motion to recommend introduction of the bill draft.

LRB-0227/1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed on supervised release

Mr. McCarthy advised the committee that some members were interested in amending LRB-0227/1, given feedback received from the Wisconsin Counties Association since the committee's last meeting. Specifically, the committee discussed whether the bill should be modified such that a tribe in a county where a sexually violent person being placed on supervised release would not be appointed to the temporary committee identifying residential options, but rather, would receive certain notice of related proceedings and activity.

Ms. McGeshick and her staff asked questions about the rights of victims in cases where a sexually violent person is being placed on supervised release. Ms. Gouge expressed interest in keeping the bill as is, but others, including Mr. Besaw, noted that the bill had little chance of becoming law if it was not modified. The committee agreed to have committee staff modify the bill as discussed and vote on recommending the bill by mail ballot at a later time.

Recommendations for tribal representation on certain state boards and councils

Chair Mursau indicated that a bill draft specifying tribal representation on dozens of state boards and councils was received the morning of the meeting. Chair Mursau indicated that his office was still reviewing the draft, and that it was not yet ready for committee discussion. However, Chair Mursau indicated his intent to introduce the bill on his own during the current legislative session so that action may be taken on it before the committee is formed again next year.

Mr. Besaw indicated his support for acting on the bill draft as soon as possible, noting that tribal representation and input on these boards and councils is a key priority that would improve the work of the identified boards and councils.

Recommendation for tribal eligibility for certain grants from DPI

Mr. McCarthy advised members that DPI indicated concerns with moving on the idea as proposed. Specifically, DPI was concerned that the suggested bill language was too broad, and could lead to confusion over whether DPI must allocate funds that were not intended to be included. Mr. McCarthy advised committee members that DPI indicated its willingness to work with committee members on crafting a bill that more precisely identified DPI grant programs that could be opened up to tribal schools. Chair Mursau also indicated a willingness to continue to work on this topic. The committee took no further action on this item.

Numerous committee members made concluding remarks and mentioned priorities that tribes will continue to work on, including Act 31 changes, ch. 51 reform, tobacco and alcohol ordinance enforcement, rural broadband expansion, and a bill that addresses “paddle wheel” raffles.

PART III

RECOMMENDATIONS FOR INTRODUCTION BY THE JOINT LEGISLATIVE COUNCIL

LRB-0213/1 (BATTERY OR THREAT TO AN OFFICER OF THE COURT IN A TRIBAL PROCEEDING)

Background

LRB-0213/1 is identical to 2019 Assembly Bill 104, which was recommended by the special committee last session. The bill passed the Assembly and was recommended for approval by the Senate Committee on Insurance, Financial Services, Government Oversight and Courts, but was not acted upon by the Senate.

Under current law, s. 940.203, Stats., it is a Class H felony¹ 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 ch. 48, 51, 54, 55, 767, 813, or 938, Stats. The legal professionals addressed by this law are a current or former guardian ad litem (GAL), corporation counsel, or attorney, or a family member of such a person.

Description

The bill draft 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 draft, 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 draft, a person who intentionally causes or threatens to cause bodily harm to the advocate 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.

¹ 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.]

LRB-0216/1 (MEMBERSHIP OF THE HEAB)

Background

LRB-0216/1 is identical to 2019 Senate Bill 905, which was introduced by Special Committee Vice-Chair Bewley on March 26, 2020. The Legislature took no action on that bill.

HEAB is a part-time independent policy-making board that, among other responsibilities, administers a number of state student aid programs. Under current law, the Board consists of 11 voting members that represent certain interests, including public institutions of higher education, private nonprofit institutions of higher education, and the general public. The Board, however, does not include voting members that represent the interests of the state's tribal colleges.

During the committee's discussion of the bill draft, HEAB staff noted their 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.

Description

LRB-0216/1 adds the following three members to the Board 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.

LRB-0025/1 (LIFETIME LICENSE THAT AUTHORIZES AN INDIVIDUAL TO TEACH AN AMERICAN INDIAN LANGUAGE IN AN AMERICAN INDIAN LANGUAGE PROGRAM)

Background

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. One such provisional teaching license is for a teacher participating in American Indian language programs.

Current law also requires DPI to establish standards certifying the abilities of these teachers. Those standards require, among other things, that the applicant for the license must be certified as competent in the American Indian language by the applicable tribal council, tribal language division, or local American Indian parent advisory committee.

Description

The bill draft 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 DPI 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 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 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 draft and current law, there is no limit on the number of times that a provisional teaching license may be renewed.

LRB-0386/1 (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, all of the following conditions must be met:

1. The tribal council has filed a claim for the refund with the department.
2. The tribal council has approved the retailer.
3. 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.
4. 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.
5. The retailer has not sold the cigarettes to another retailer or to a jobber.

State law also provides for the refund of certain taxes from the sale of tobacco and vapor products, except that the law allows, but does not require, DOR to enter into a refund agreement with a tribe. Within such refund agreements, DOR provides a refund of 50 percent of the tobacco and

vapor products taxes paid on such products purchased by a tribe or its authorized tribal retailers. The conditions that must be met in order for a tobacco and vapor product refund to be issued are nearly identical to the conditions in the cigarette tax refund law.

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.

Description

As it relates to the condition for cigarette, tobacco, and vapor product refunds that the land on which the sale occurs must have been designated a reservation or trust land on or before January 1, 1983, the bill modifies the condition so that the land on which the sale occurs must be designated a reservation or trust land, without reference to any date limitation.

LRB-0227/2 (NOTIFICATION TO TRIBAL CHAIRS AND TRIBAL LAW ENFORCEMENT AGENCIES FOR A SEXUALLY VIOLENT PERSON BEING PLACED ON SUPERVISED RELEASE IN A COUNTY IN WHICH THE TRIBE IS LOCATED)

Background

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 residential option for the person.

Among other requirements, when preparing the report, the county must consult with a local law enforcement agency having jurisdiction over the residential option and include in its report any report prepared by the local law enforcement agency. Current law also requires that, before a person is placed on supervised release by the court, the court notify the municipal police department and county sheriff for the municipality and county in which the person will be residing unless the municipal police department or county sheriff waives its notification rights.

Description

The bill draft requires that the court notify the tribal chair of any tribe with tribally owned lands located within any county that has been ordered to prepare a residential option report. The bill

draft also requires that the county consult with any tribal law enforcement agency located within the county and include in its report any report prepared by the tribal law enforcement agency.

The bill draft also provides that, unless waived by a tribal law enforcement agency, the court must also notify any tribal law enforcement agency located in the county in which the person will be residing of the placement.

COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

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

STUDY COMMITTEE VOTE

On December 1, 2020, the special committee voted to recommend the following bill drafts to the Joint Legislative Council for introduction in the 2021-22 session of the Legislature. The votes on the bill drafts were as follows:

- LRB-0213/1, 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, Jacque, and Smith; and Public Members Allen, Besaw, Gouge, Greendeer, Holsey, Liggins, and, Peterson); Noes, 0; and Absent, 3 (Public Members Daniels, Decorah, and McGeshick).
- LRB-0216/1, relating to the membership of the Higher Educational Aids Board, passed by a vote of Ayes, 13 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Jacque, and Smith; and Public Members Allen, Besaw, Gouge, Greendeer, Holsey, Liggins, and, Peterson); Noes, 0; and Absent, 3 (Public Members Daniels, Decorah, and McGeshick).

On January 25, 2021, the special committee voted to recommend the following bill drafts to the Joint Legislative Council for introduction in the 2021-22 session of the Legislature. The votes on the bill drafts were as follows:

- LRB-0025/1, 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, passed on a vote of Ayes, 14 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Jacque, and Smith; and Public Members, Besaw, Decorah, Gouge, Greendeer, Holsey, Liggins, McGeshick, and Peterson); Noes, 0; and Absent, 2 (Public Members Allen and Daniels).
- LRB-0386/1, relating to removing the tribal lands designation deadline for cigarette, tobacco products, and vapor products tax refunds, passed on a vote of Ayes, 14 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Jacque, and Smith; and Public Members, Besaw, Decorah, Gouge, Greendeer, Holsey, Liggins, McGeshick, and Peterson); Noes, 0; and Absent, 2 (Public Members Allen and Daniels).

The special committee voted by a February 17, 2021 mail ballot to recommend the following bill draft to the Joint Legislative Council for introduction in the 2021-22 session of the Legislature. The vote on the bill draft was as follows:

- LRB-0227/2, relating to notification to tribal chairs and tribal law enforcement agencies for a sexually violent person being placed on supervised release in a county in which the tribe is located, passed on vote of Ayes, 14 (Reps. Mursau, Considine, and Edming; Sens. Bewley, Jacque,

and Smith; and Public Members Allen, Besaw, Decorah, Gouge, Holsey, Liggins, McGeshick, and Peterson); and Noes, 0; and Not Voting, 2 (Public Members Daniels, Jr., and Greendeer, Jr.).

JOINT LEGISLATIVE COUNCIL

SENATE MEMBERS	ASSEMBLY MEMBERS
Roger Roth, Co-Chair Senate President Appleton	Robert Brooks, Co-Chair Saukville
Janet Bewley Minority Leader Mesa	Tyler August Speaker Pro Tempore Lake Geneva
Alberta Darling JFC Co-Chair River Hills	Joan Ballweg Markesan
Jon Erpenbach JFC Ranking Minority Middleton	Jill Billings La Crosse
Scott Fitzgerald Majority Leader Juneau	Dianne Hesselbein Assistant Minority Leader Middleton
Andrè Jacque DePere	Gordon Hintz Minority Leader Oshkosh
Howard Marklein President Pro Tempore Spring Green	John Nygren JFC Co-Chair Marinette
Mark Miller Monona	John Spiros Marshfield
Luther Olsen Ripon	Jim Steineke Majority Leader Kaukauna
Jerry Petrowski Marathon	Chris Taylor JFC Ranking Minority Madison
Fred A. Risser Madison	Robin Vos 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.

SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

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Lac du Flambeau Band of Lake Superior Chippewa
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Sokaogon Chippewa Community
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Crandon, WI 54520

Jeff Smith, Senator
S7747 Norrish Road
Eau Claire, WI 54701

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.]

16 MEMBERS: 3 Representatives; 3 Senators; and 10 Public Members.

LEGISLATIVE COUNCIL STAFF: Steve McCarthy Senior Staff Attorney, and Julie Learned, Administrative Staff.

COMMITTEE MATERIALS LIST

[Copies of documents are available at www.legis.wisconsin.gov/lc]

October 19, 2020 Meeting

- Memo No. 1, “Topics for Committee Discussion” (October 12, 2020).
- LRB-0213/P1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty.
- LRB-0216/P1, relating to membership of the Higher Educational Aids Board.
- LRB-0227/P1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed in supervised release.
- LRB-0025/P2, relating to a 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.

December 1, 2020 Meeting

- Memo No. 2, “Items for Committee Recommendation and Discussion” (November 24, 2020).
- LRB-0213/1, relating to battery or threat to an officer of the court in a tribal proceeding and providing a penalty.
- LRB-0216/1, relating to membership of the Higher Educational Aids Board.
- Draft letter to the Speaker’s Task Force on Racial Disparities.
- LRB-0227/P1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed in supervised release.
- 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.
- LRB-0386/P1, relating to removing the tribal lands designation deadline for cigarette, tobacco products, and vapor products tax refunds.

January 25, 2021 Meeting

- LRB-0025/1, 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.
- LRB-0227/1, relating to composition of temporary committee identifying residential options for a sexually violent person being placed on supervised release.

- LRB-0386/1, relating to removing the tribal lands designation deadline for cigarette, tobacco products, and vapor products tax refunds.
- Letter to Governor Evers from Rep. Mursau, Chair, and Sen. Bewley, Vice-Chair, Special Committee on State-Tribal Relations.
- Proposal from Certain Committee Members Regarding LRB-0227/P1.
- Proposal from Certain Committee Members Regarding Tribal Eligibility for Certain DPI Grants.
- Recommendations by Certain Committee Members for Tribal Representation on State Boards and Councils.

February 17, 2021 Mail Ballot

- LRB-0227/2, relating to notification to tribal chairs and tribal law enforcement agencies for a sexually violent person being placed on supervised release in a county in which the tribe is located.