



## WISCONSIN LEGISLATIVE COUNCIL

### STATE-TRIBAL RELATIONS

Lake of the Torches Conference Center  
Lac du Flambeau, WI

September 12, 2011  
12:00 Noon – 3:45 p.m.

[The following is a summary of the September 12, 2011 meeting of the Special Committee on State-Tribal Relations. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

#### Call to Order and Roll Call

Chair Mursau called the committee to order. The roll was called. A quorum was not initially present; subsequently, a quorum was achieved.

COMMITTEE MEMBERS PRESENT: Rep. Jeffrey Mursau, Chair; Sen. Kathleen Vinehout; and Public Members Melinda Danforth, Gregg W. Duffek, Dee Ann Mayo, and William Morrow.

COMMITTEE MEMBER EXCUSED: Sen. Spencer Coggs, Vice-Chair; Rep. Nick Milroy; and Public Members Laura Arbuckle, Laurie Boivin, and Marvin Defoe.

TECHNICAL ADVISORY COMMITTEE MEMBER PRESENT: Thomas Ourada, Department of Revenue.

TECHNICAL ADVISORY COMMITTEE MEMBER EXCUSED: Tom Bellavia, Department of Justice; J.P. Leary, Department of Public Instruction; Michael Lutz, Department of Natural Resources; Alyssa Macy, Department of Transportation; Mark Mitchell, Department of Children and Families; John Walker, Department of Workforce Development; and Jim Weber, Department of Health Services.

COUNCIL STAFF PRESENT: David L. Lovell, Senior Analyst, and David Moore, Staff Attorney.

APPEARANCES: Tom Maulson, Chairman, Lac du Flambeau Band of Lake Superior Chippewa Indians; LeeAnn Cooper, Intoxicated Driver Program Coordinator, Department of Health Services; Pat Ustianowski, AODA Coordinator, Lac du Flambeau Band of Lake Superior Chippewa Indians; and Ken Ninham, Tribal-State Collaborative for Positive Change.

## **Opening Remarks**

*Tom Maulson, Chairman, Lac du Flambeau Band of Lake Superior Chippewa Indians*

Mr. Maulson welcomed the committee to Lac du Flambeau. He encouraged the committee to aggressively investigate issues of concern to Native Americans. Mr. Maulson complimented the committee on its past work, particularly the legislation giving Great Lakes Indian Fish and Wildlife Commission wardens the same law enforcement tools and personal safety protections afforded to Department of Natural Resources wardens. He indicated that there were a number of topics the committee could take up, and urged the legislators to discuss these issues with the tribes.

## **Intoxicated Driver Program: Invited Speakers and Committee Discussion**

*LeeAnn Cooper, Intoxicated Driver Program Coordinator, Department of Health Services*

Ms. Cooper provided an overview of the intoxicated driver program (IDP). She explained that the program provides for the assessment of individuals who have been arrested and convicted of intoxicated driving to determine whether the driver needs education or treatment to avoid reoffending. She clarified that the program is administered by counties and that each county may designate only one agency to provide these assessments. Assessors are not required to have AODA (alcohol or other drug abuse program) certification.

*Pat Ustianowski, AODA Coordinator, Lac du Flambeau Band of Lake Superior Chippewa Indians*

Ms. Ustianowski told the committee that many tribes have staff that could do IDP assessments and that she believed that tribes with these resources should be permitted to do them for their members. She stated that her agency has four AODA certified staff members, one of whom is also certified to perform intoxicated driver assessments.

*Ken Ninham, Tribal-State Collaborative for Positive Change*

Mr. Ninham, a licensed psychotherapist, expressed concern that tribes have been excluded from county decisions related to administering the IDP and outlined three problems with this lack of inclusion. First, he explained that he finds it deeply problematic that the drug and alcohol dependencies of Native Americans are being assessed by people who are not required to have AODA certification. Second, he asserted that tribes are in a better position than counties to effectively treat their own members in a culturally sensitive manner. Third, he stated that tribes must often treat their own members without adequate funding because even when assessors refer Indian offenders to the tribes for treatment, counties fail to return funding to defray the cost of treatment.

## **Tribal Elders' Transportation Services: Committee Discussion**

*Memo No. 2, Funding for Transportation Services for Tribal Elders (September 6, 2011)*

Mr. Lovell presented Memo No. 2 to the committee members discussing state funding of transportation services for tribal elders. Mr. Duffek requested the committee propose the current

funding level be quadrupled and the source of funding be changed from tribal gaming revenues to the state Transportation Fund.

### **Concealed Carry of Firearms: Staff Briefing Regarding New State Law and Its Application of the Indian Country**

*Memo No. 3, Application of 2011 Wisconsin Act 35 in Indian Country (September 9, 2011)*

Mr. Moore presented Memo No. 3 to the committee members summarizing 2011 Wisconsin Act 35 and discussing the application of the Act in Indian country. Act 35 creates a process to obtain a license to carry a concealed weapon and alters the law with respect to weapons possession in several additional ways.

### **Composition of the Special Committee on State-Tribal Relations: Addition of an Off-Reservation Representative**

*Memo No. 1, Options Related to Permitting Appointment of a Member to the Special Committee on State-Tribal Relations Who Resides Off-Reservation (November 9, 2010)*

Mr. Lovell presented Memo No. 1 to the committee members outlining options for adding a member to the Special Committee on State-Tribal Relations Committee to represent concerns of American Indians living off-reservation. Following discussion, Chair Mursau observed that there was little or no support for this idea and so removed the issue from further consideration.

### **Discussion of Topics for Committee Study**

Ms. Danforth proposed three topics for committee study. First, she presented Chair Mursau with a letter outlining federal tax credits available to non-Indian employers who either hire Indians or have facilities in Indian country. The letter proposed the committee study how these federal tax benefits could interact with state tax incentives. Second, she requested the committee develop a presentation on tribal sovereignty to incorporate into the Legislature's new member orientation. Third, she proposed the committee develop legislation requiring the state to notify a tribe's aging unit before appointing a guardian to an elderly member of that tribe.

Mr. Duffek also raised three issues. First, he suggested the committee pursue the topic of closing tribe-owned land in the managed forest land program to hunting by non-members. Second, he proposed the committee investigate cross-deputization of game wardens. Third, he expressed interest in developing a requirement that the state consult with tribes before releasing control organisms to combat invasive species.

Ms. Mayo requested the committee continue to study the disproportionate placement of Indian children in special education. She also proposed that the committee address the implementation of 1991 Wisconsin Act 31, which requires public school curriculum to include education on tribal sovereignty. Additionally, she suggested the committee focus on fee-to-trust property tax issues.

Senator Vinehout raised two issues that were presented to her by Jon Greendeer, President of the Ho-Chunk Nation. The first was a proposal that tribes be permitted to take fee land they use for tribal businesses off the tax rolls to boost economic development in and around Indian country. The proposal

suggested that \$5 million of gaming revenue be set aside as a temporary alternative to payments in lieu of taxes to allow a phase-out of the property tax revenue so that municipalities would not be overly burdened by the loss of taxable land. Second, she conveyed President Greendeer's concern that tribal members are improperly being turned away from services, particularly health services, from counties.

Mr. Morrow expressed agreement with the general topics raised, and echoed the desire to study fee-to-trust property tax issues.

### **Other Business**

There was no other business brought before the committee.

### **Plans for Future Meetings**

The next meeting of the Special Committee on State-Tribal Relations will be held at the call of the Chair.

### **Adjournment**

The meeting was adjourned at 3:45 p.m.

DM:jal