

Oneida Tribe of Indians of Wisconsin BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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Testimony on State/Tribal Relations Study Committee bills before the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform

Submitted by:
Councilman Vince DelaRosa,
Oneida Nation

Good morning Chairman Brown and members of the committee. My name is Vince Dela Rosa. I am a Councilman for the great Oneida Nation. My comments today will address Oneida Nation's support of Senate Joint Resolution 36, relating to state recognition of the sovereign status of the eleven Indian tribes; Senate Bill 189, relating to the creation of a tribal-state council; and, Senate Bill 190, relating to preparation of tribal impact statements.

Each of these State-Tribal Relations Study Committee proposals was thoroughly researched and deliberated. All but one was adopted by the Study Committee on a unanimous vote, SB 190 was the lone exception with 15-1 approval margin. The full Joint Legislative Council, on a 15-2 vote, supported the proposals for introduction in the Senate and Assembly.

When these bills were introduced at the end of last year's legislative session, there were concerns raised by a few tribes that these measures, especially SB 189 (creation of tribal-state council), would interfere with a tribes ability to have direct government-to-government relations with the state. I want to reassure all concerned, that these proposals do not interfere with the sovereign ability of any of the 11 Indian Nations in Wisconsin. The proposal will not affect the ability of tribal governments to meet independently with either the state's executive or legislative branches on a government-to-government basis. Likewise, we support SB 189.

It's worth noting, the Oneida Nation would not support any measure that would diminish our ability to meet directly with state officials.

The intent of these proposals, especially SB 189, is to provide a mechanism to foster greater understanding and education between the State of Wisconsin and the sovereign Nations within the state. I believe the Tribal-State Council created in SB 189, an effective mechanism to address many misunderstandings regarding tribal self-governance. For instance, authors of two recent proposals would have had a forum to present their ideas for relevant feedback from tribes prior to circulating them for co-sponsorship.

Information would have been provided to legislators noting that legislation mandating tribes provide workers' compensation and unemployment insurance to its employees is unnecessary because these benefits are already provided.

Legislators would have also been informed that AB 122, relating to banning campaign contributions from funds derived from gaming proceeds, would prohibit any tribal citizen that receives a per capita payment from making campaign contributions. Thereby eliminating their right to freely express themselves in Wisconsin politics. These two examples alone highlight an absolute need for the Tribal-State Council.

It was recently reported in a St. Paul Pioneer Press article on June 22, that the Tribal-State Council would settle disputes between the state and tribes. It is unfortunate that the Pioneer Press does not understand Wisconsin's legislative language. If you look at chapter 16.025(2)(a) on page 4 of SB 189, it states the council shall "Facilitate the resolution of disputes, disagreements and misunderstandings between state government and tribal governments by coordinating communication between the appropriate representatives of the state and tribal governments."

Nowhere in this section does it state that the council shall settle disputes or disagreements. There is a significant difference between - facilitation and coordination - and settlement of disputes. Again, the Oneida Nation would not support any legislation which limits its ability to negotiate directly with the state.

In fact, I do not believe the council's directive to facilitate disputes would be used often. Tribes negotiate directly with the state to resolve any disputes, and in most cases, would not need the assistance of the council to help facilitate discussions. However, paragraphs (b) through (k) of this section are essential functions for the council. These paragraphs highlight the education and communication components of the council. Through these functions misunderstandings can be addressed and hopefully clarified.

Some have questioned the council's involvement in future gaming compact negotiations. This legislation is not intended to involve the council in Indian gaming compacts. However, under 16.025(2)(f) (page 4), the council will "monitor agreements between state government and tribal governments."

Senate Bill 190 relates to the creation of a tribal impact statement for legislation that may impact Native Americans and tribal governments differently than other individuals or governments. This legislation is straight forward and mirrors similar statutory requirements which require small business impact statements.

Under this legislation, the Legislative Reference Bureau is directed to identify bills that require a tribal impact statement. Should the Reference Bureau fail to identify a bill as needing an impact statement, the legislation also allows for the chairperson or co-chairpersons of the State-Tribal Relations Study Committee the ability to request the impact statement. There is also a provision should SB 189 become law, that allows the Tribal-State Council executive director or either co-chair to request the impact statement.

A tribal impact statement will provide legislators with valuable input on proposed legislation. If the impact statement is done properly, it will highlight impacts that the legislative author may not have considered. It seems only logical the state would want to know the impact of proposed legislation on sovereign governments within its borders.

Finally, I would like to express the Oneida Nation's support for Senate Joint Resolution 36, relating to state recognition of the sovereign status of federally recognized Indian tribes. It is difficult to understand that in its 155 years of statehood the state of Wisconsin, with its 11 Indian tribes, has not yet followed the Federal government's recognition of tribal sovereignty.

We recognize that resolutions are not much more than symbolic votes with no legislative authority. However, with the ever increasing tensions and anti-Indian sentiment coming from Republican leaders, the symbolism of not passing this resolution speaks volumes and will amplify this tension in the eyes of a public that wants us to work together.

Chairman Brown and members of the committee, I would like to thank you for scheduling this public hearing today. As stated previously, there is an ever increasing tension between the majority party and Native Americans in Wisconsin over the Republican attacks on the gaming compacts; the Republican party's "scalping" cartoon; the direct assault on Native American programs in the budget and introduction of legislation that is specifically directed to hinder Native Americans.

It is my hope that today's hearing is not simply a symbolic gesture or an attempt to apply window dressing to disguise a problem. These bills should receive full legislative action.

The Oneida Nation strongly encourages you to support all three of the State-Tribal Relations proposals before you today.

Again, thank you for your time and I will be happy to address any questions or concerns you may have.

Testimony of Stockbridge-Munsee Band of Mohican Indians
President Robert Chicks
Before the State of Wisconsin Senate Committee on Homeland Security, Veterans and
Military Affairs and Government Reform.

2003 Senate Joint Resolution 36
2003 Senate Bill 189
2003 Senate Bill 190

July 9, 2003

Good morning, my name is Robert Chicks and I am the President of the Stockbridge-Munsee Band of Mohican Indians. I am also the Minneapolis Regional Vice President to the National Congress of American Indians and as such represent the collective interests of 37 Tribes and more than 170,000 Native Americans in the Midwest. I would also like to add for the record that I serve on the Advisory Board for the Tribal-State Relations Project, funded by the Kellogg Foundation and jointly administered by the National Conference of State Legislators and The National Congress Of American Indians. I am here today to provide testimony on behalf of the Stockbridge-Munsee Tribe on three specific bills before your committee. They are Senate Joint Resolution 36, Senate Bill 189 and Senate Bill 190. Before I address each of these bills separately, I will preface my testimony with a statement that I believe threads a common theme linking all three of these Bills before you today.

The Stockbridge-Munsee is one of eleven federally recognized Indian Tribes in Wisconsin and regularly participates in the meetings and discussions of the Joint Legislative Special Committee on Tribal-State Relations. During the past six years I have had the honor to both participate in and observe the debate over the wisdom and perhaps, the obligation to engage our respective governments in discussions that have led to the development of these three bills.

On the face of it, it seems obvious to me that each of these three Bills would pass unanimously without many debates. My experience in Tribal-State relations, however leads me to another conclusion. In as much as some State officials may have trouble recognizing and understanding the often complex intersection of Federal, State and Tribal laws, Tribal Leaders too may lack the understanding of the fundamental functions of a Tribal-State relationship.

Tribal Leaders sometimes fear too cozy of a relationship with State governments, believing that such relationships might somehow interfere with the federal trust responsibility or somehow alter the government-to-government relationship between Tribes and the Federal government.

State Legislators and State Executive officers might equally be wary that such relationships might lead to dilution of jurisdictional control or otherwise interfere with their elected or appointed obligations.

As a result, these understandings often lead to litigation or confrontation. In many instances communication only evolves during a crisis and generally leads only to more active opposition or perhaps, worse, ignoring one another's role in governance. This is the most classic example of barriers that reduce our mutual and respective goals of effective and efficient government.

The Bills before you today address more than a form of preventative governance, each of these Bills in some fashion addresses a more fundamental commitment to cooperate. The need for this may seem obvious, but a commitment to cooperate forms the most essential foundation for healthy Tribal-State relations, a matter which I sincerely hope is no longer a politically correct view, but easily recognizable as a priority objective of our respective governments.

It is the view of the Stockbridge-Munsee Tribe that these three Bills when enacted into law will not only establish commitment but will also work to institutionalize or preserve the relationship(s) between the Tribes and the State of Wisconsin.

Let me now turn to Senate Joint Resolution 36, a resolution relating to state recognition of the sovereign status of federally recognized Tribes.

If there is a beginning, Senate Joint Resolution 36, embraces it. It seems far less likely that any formal Tribal-State relationship will have far reaching success until there exists a formal statement recognizing the obvious—that federally recognized Tribes have a legally and politically defined governmental status.

While it should be obvious, our experiences tell us otherwise. I and so many other Tribal Leaders find ourselves' having to justify who we are and why we have a right to be involved in decisions that primarily or uniquely affect our governments and our Tribal members. It often is very difficult to get to the heart of an issue because we are unable to get beyond the basics of Tribal governments, Treaties, Federal Executive Orders or the United States Constitution itself for that matter.

The Stockbridge-Munsee Tribe supports Senate Joint Resolution 36 and views its passage as a fundamental component to a healthier and stronger Tribal-State relationship. Senate Joint Resolution 36 formally codifies what many state departments and or agencies do as

a routine matter. It also formally adopts what many state laws already do in regards to certain matters that involve Tribes.

Finally, Senate Joint Resolution 36 will serve to encourage a higher level of interaction between the Tribes and the State of Wisconsin and assist us both in carrying out the various functions of our governments.

I now turn to Senate Bill 189, relating to creation of and appropriation for a Tribal-State Council.

As you realize, the Joint Legislative Council formed what is now called the "Special Committee on State-Tribal Relations," in 1955 to address issues related to the termination of the Menominee Indian Tribe. Today the Committee is "...directed to study issues relating to American Indians and the American Indian Tribes and Bands in the state and develop specific recommendations and legislative proposals relating to those issues" (Wisc. Stats. 13.83(3)).

The Stockbridge-Munsee Tribe views the work of the Committee as essential and appreciates the dedication and efforts of the Committee in furthering the discussion of the importance of Tribal-State relations, particularly in co-hosting the *Wisconsin Leadership Conference on State-Tribal Relations*, a joint effort between the National Conference of State Legislatures, the National Congress of American Indians, this legislature and the eleven Tribes of Wisconsin in early 2001. It is largely through the efforts of the Committee that these Bills are before you today.

The Special Committee on State-Tribal Relations, however, does not address all Tribal-State issues. It does not for example, debate budgetary issues, nor does it have the authority to bring non-legislative agencies formally into the discussions. The Wisconsin Tribal-State Council would require its membership to include representatives from state agencies and departments along with representatives from all Tribes as well as both houses of the Legislature.

The Council's role would go far beyond acting as a clearinghouse and serve both as a resource to agencies as well as the Legislature and Tribes on matters involving Tribal-State relations. The Council would both monitor Tribal-state agreements and legislation that might affect Tribal governments or American Indians. The Council would also make recommendations for both the executive and legislative branches of government designed at strengthening policies, practices and laws that affect Tribes.

The Council should not supplant the role of the Special Committee on State-Tribal Relations, rather extend its work to the next logical step. The Stockbridge-Munsee Tribe supports the passage and enactment of Senate Bill 189.

Finally, let me turn to Senate Bill 190, relating to the preparation of Tribal Impact Statements for bills that would have an impact on Tribal Governments or American Indians.

Senate Bill 190, represents the most common sense approach in effectively dealing with Tribal-State relations. This Bill would require the preparation of an Impact Statement relating to legislation affecting Tribes or Tribal people. Sometimes legislation can have unintended consequences, particularly on matters that affect Tribes. Senate Bill 190 would certainly help eliminate otherwise well-meaning legislation that unintentionally overlooked impacts on Tribes.

Senate Bill 190 works hand-in-hand with other legislation to actively assure that any pending legislation has a "disclosure" identifying how it might impact Tribes. It differs slightly, but largely parallels current requirements for the preparation of statements describing fiscal impacts of legislation.

A good example can be found in the current budget before the Governor. In it, is a reduction in the amount of cigarette tax refunded to Tribes. In this case the budget ignores an agreement that the Stockbridge-Munsee Tribe and the State of Wisconsin signed in 1984. On the face of it, the Joint Finance Committee may have viewed the reduction in rebates to Tribes as a safe opportunity to capture revenue. The true impact, at least on the Stockbridge-Munsee Tribe is quite severe. We allocate the net proceeds of the tax rebate to the operation of the Stockbridge-Munsee Health and Wellness Center to fund programs that have been cut or reduced through both the Federal and State budget reductions.

We feel certain that it was not the intention of the legislature to take health care dollars away from the Stockbridge-Munsee Tribe, but the effect of this reduction in the cigarette tax rebate has the same impact. In this case a Tribal Impact Statement would have provided legislators with an opportunity to evaluate this issue from a Tribal standpoint.

I think the fundamental point here is that even when the State and Tribe(s) want to cooperate, it is much more expensive and difficult to change a decision after it has been made. By making provisions through Tribal Impact Statements, legislators will have the most accurate information prior to making decisions.

The Stockbridge-Munsee Tribe believes that all three Bills before you today represent a big and important step in strengthening Tribal-State relationships. We believe that Tribal and State governments have far more in common than we have in conflict. No matter what our histories have been, we need to work together on these issues so that the Tribal-State relationship is not just a footnote, but that our respective government-to-government relationship is a preface to everything else we mutually seek to achieve.

This concludes my testimony today. Mr. Chairman, thank you for the opportunity to represent the views of the Stockbridge-Munsee Tribe on these Bills before your committee and I will be glad to answer your questions.