

Committee Name:
Joint Committee on Finance – Budget Hearings (JCF_BH)

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Tribal Issues

St. Croix Tribal Council

TRIBAL COUNCIL

P.O. Box 287

Hertel, Wisconsin 54845

(715)349-2195

Fax (715)349-5768

Lewis Taylor
Tribal Chairman
Sand Lake Community

David Merrill
Vice-Chairman
Round Lake Community

Curtis Bearhart
Secretary/Treasurer
Maple Plain Community

Leo Butler
Tribal Administrator
Sand Lake Community

Beverly Benjamin
Member
Danbury Community

EXECUTIVE SECRETARY

Mary Hartmann

HEALTH DIRECTOR

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PERSONNEL DIRECTOR

Duane Emery

INTERSTATE ACCOUNTING CLERK

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COMPTROLLER

Rick Petersen

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JUDICIAL BRANCH

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Judge

Julie A. Nelson
Court Clerk

TRIBAL ATTORNEY

Howard J. Bichler
George Morrison

ENTERPRISES

St. Croix Casino
Turtle Lake
Hole In The Wall Casino
Danbury
Chippewa Corners Cafe
Danbury Bingo
Round Lake Bingo
Maple Plain Bingo
Sand Lake Bingo & Casino
SCHA
St. Croix Ojibwa Construction

Joint Committee on Finance

Public Hearing April 15, 1999

Testimony on Native American Cigarette Tax Refund

Mr. Chaimen and members of the Committee: My name is Tom Tahmakera, and I am here today representing St. Croix Tribal Chairman Lewis Taylor. We originally planned to be here today to testify on the Native American Gaming Initiative, but you heard from a representative of our tribal council yesterday and I will not repeat that testimony.

I am here today to address another issue in Assembly Bill 133: the governor's proposal that would cut the tribes' cigarette tax refund for sales to non-tribal members from 70% to 50%. The bill would also extend the same percentage refund to sales of tobacco products, and authorize the state to enter into agreements with the tribes for tobacco products refunds.

We oppose these measures. If enacted, these changes would represent a \$6 million cut in revenues to the tribes — who collect taxes for the state — over the 1999-2001 biennium. Tribal sales account for only 5.5% of all cigarette sales in Wisconsin.

Tribal cigarette compacts with the state date from 1983. The Dreyfus and Earl Administrations negotiated these agreements with the tribes following a number of incidents involving revenue agents. The tribes have lived up to their agreements. In our gaming compact negotiations, Governor Thompson raised this issue. It still remains an issue that the state has said it wants to negotiate with the tribes.

A reduction in revenues affects each tribe differently. For some tribes, this change would be a hardship because we use the refunds to finance tribal operations such as health care, day care, housing and family programs. Also, to be eligible for refunds, sales must occur on 1983 tribal land. Not all tribal facilities — including the St. Croix Turtle Lake Casino — fall under that rule.

The major point I want to make today is that no new agreements have been negotiated with the state. We were not consulted about this budget proposal. Why should tribes negotiate agreements with the state if the state decides it is inconvenient to comply and tries to abrogate them unilaterally?

Tribes do not have to be state tax collectors, but we agreed to be your tax collector in 1983. I shall conclude by quoting a Legislative Fiscal Bureau document from last session.

"If the tribes choose to stop selling stamped cigarettes, net revenues could decrease by as much as \$4.9 million in 1997-98 and \$5.7 million in 1998-99, plus additional amounts if Native American sellers can offer a larger price advantage as an incentive for other consumers to purchase cigarettes."

Thank you for allowing me to appear before you today.

current law, this would increase tax revenues by \$46.9 million in 1997-98 and \$59.5 million in 1998-99 and would increase funding for Native American refunds by \$1.9 million in 1997-98 and \$3.4 million in 1998-99.

The Committee also adopted a provision to reduce the manufacturers' and distributors' cigarette discount percentage from 2.0% to 1.6%. Change the effective date of this provision from September 1 to November 1, 1997, or the first day of the second month beginning after publication of the budget act, whichever is earlier, to reflect delayed passage of the budget bill. This would reduce general fund revenues by an estimated \$100,000 in 1997-98.

8. SALE OF CIGARETTES BY NATIVE AMERICANS -- CHANGE REFUND PERCENTAGE

Reduce the statutory refund percentage from 70% to not more than 50% of sales of stamped cigarettes by Native American retailers to non-Native American retailers, effective on the first day of the second month beginning after publication of the budget act or November 1, 1997, whichever is earlier. In addition, specify that the refund percentage would be adjusted to reflect any future agreements between the state and Native American tribes.

Wisconsin currently has an agreement with most Native American tribes through which Native American retailers purchase and sell only stamped (taxed) cigarettes. The state then provides a refund to the tribes of 100% of the tax paid on sales to Native Americans and of 70% of the tax paid on sales to non-Native Americans. The current refund provisions are outlined in agreements between the state and the tribes, along with the provision that Native American retailers sell stamped cigarettes. The refund percentages are also specified in the statutes.

It is unclear how this change would impact state revenues. If the tribes accept the modification and continue to sell stamped cigarettes, refund payments could decrease by an estimated \$3.9 million in 1997-98 and \$3.75 million in 1998-99 (based on a 59¢ cigarette tax). However, if tribes choose to stop selling stamped cigarettes, revenues could decrease by \$4.9 million in 1997-98 and \$5.7 million in 1998-99 (the amount of tax the state is estimated to retain from Native American sales with a 59¢ cigarette tax), plus additional amounts if Native American sellers can offer a larger price advantage as an incentive for other consumers to purchase cigarettes. As a result, it is unclear what effect a statutory change would have on revenues.

9. SALES TAX ON VENDING MACHINE SALES

Require the Legislative Audit Bureau to conduct a study on the feasibility of replacing the current sales tax provisions for vending machine purchases of food and beverages with an annual

**Testimony of Debbie Doxtator, Chairwoman
Oneida Tribe of Indians of Wisconsin
State Budget Hearing for 1999-2000 as proposed by Governor Thompson
April 15, 1999**

I want to thank the members of the Joint Finance Committee for the opportunity to present the concerns of the Oneida Nation in relation to the Governor's Budget.

The Oneida Nation has a number of concerns about this budget. Our primary concern deals with the use of the new compact monies that will be relinquished to the state as part of the extended compacts recently signed between two sovereign nations; the Oneida Tribe and the State of Wisconsin. A component of those compacts was a Memorandum of Understanding (MOU) outlining the primary goals on how this money is to be disbursed. They are as follows:

1. Economic development initiatives to benefit tribes and/or American Indians within Wisconsin,
2. Economic development initiative in regions around casinos,
3. Promotion of tourism within the State of Wisconsin,
4. Support of programs and services of the county in which the Tribe is located.

“It is further agreed that the State and Tribe shall establish a schedule of regular meetings to address government to government issues of mutual concern. One such meeting per year shall contain an accounting of the funds expended in accordance with this agreement.”

This well-intended meeting has never occurred to date, much to the detriment to the State of Wisconsin and the Oneida Nation.

This committee has the power to remedy this error and the authority to produce a budget in line with the MOU signed by the Governor on behalf of the State of Wisconsin and the Oneida Nation.

We urge you to review the Administration - Native American Gaming Initiatives portion of the proposed budget to assure they are in compliance with the MOU. Specific areas of the proposed budget simply are replacement dollars versus the previous subsidies provided by the State of Wisconsin.

Areas of Concern:

- The first year of the Budget Recommendations prepared by the Governor does not utilize all of the monies which are being contributed by the respective Tribes. Year one, approximately \$3,400,000 is undesignated. The second year of the proposal \$1,800,000 million is undesignated and should be available for usage.
- Several programs, which were beneficial to the State's American Indians have either been discontinued or have incurred funding cutbacks. \$800,000 in Indian student assistance was eliminated several years ago, while it is true that this program still exists, it currently is funded at a significantly lower level. Another vital program, The Native American Economic Development Grant and Loan Program, has been drastically reduced from previous levels of funding.
- Hunting and fishing license subsidies from compact monies in the amount of \$2,000,000 for each of the two years has no relationship to any area of usage identified within the MOU.
- The Department of Tourism receives \$4,000,000 during each of the two years without any designation. These monies should be targeted to the counties where the contributing tribes have casinos.
- The Economic Development and Diversification Loan and Grant programs are too broad. These programs could potentially provide monies for counties that are distant from Tribal casinos and would support economic diversification in municipalities that lack this need.
- The Oneida Priority Watershed Grant, a partnership project with the State of Wisconsin, is allotted \$120,000, which funds the total project utilizing compact revenue supplant state dollars.
- The expansion of the elk herd in Wisconsin at the allocation of \$250,000 is an item hard to articulate within the realm of the MOU.
- The funding of an Indian Law Attorney to focus solely on Indian related litigation is controversial. This position is not in the best interest the Tribes, however we are expected to finance the position.

We recommend the following for your consideration:

- Establish a meeting with the Governor and the tribal leaders to allow the Tribes the opportunity to communicate on how they envision the compact dollars being used.

- Establish the compact dollars as a segregated fund to track the disbursement of the revenue.

In closing, we thank you for this opportunity to address you and express our thoughts and concerns. We trust that you will utilize the concrete solutions we have offered regarding the 1999-2000 proposed budget.