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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Job Creation, Economic  
Development and Consumer Affairs (SC-JCEDCA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Senate

### Record of Committee Proceedings

#### **Committee on Job Creation, Economic Development and Consumer Affairs**

##### **Senate Joint Resolution 61**

Relating to: senate approval of certain agreements negotiated by the governor (first consideration).

By Senators Kanavas, Leibham, Zien, A. Lasee, Kapanke, Olsen, Reynolds and Lazich; cosponsored by Representatives Kleefisch, LeMahieu, Lothian, Albers, Hahn, Bies, Kreibich, Vos, Gunderson and Townsend.

February 06, 2006      Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

March 1, 2006          **PUBLIC HEARING HELD**

Present:    (4)      Senators Kanavas, Zien, Lassa and Decker.

Absent:    (1)      Senator Reynolds.

##### Appearances For

- Ted Kanavas, Brookfield — Senator

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

##### Registrations For

- None.

##### Registrations Against

- Jason Johns — Oneida Tribe of Indians of Wisconsin
- Carrie Miljevich, Odanah — Bad River Band
- Ann Jablonski, Madison — St. Croix Chippewa Indians of Wisconsin

March 2, 2006          **EXECUTIVE SESSION HELD**

Present:    (5)      Senators Kanavas, Zien, Reynolds, Lassa and Decker.

Absent:    (0)      None.

Moved by Senator Zien, seconded by Senator Reynolds that **Senate Joint Resolution 61** be recommended for adoption.

Ayes: (3) Senators Kanavas, Zien and Reynolds.

Noes: (2) Senators Lassa and Decker.

ADOPTION RECOMMENDED, Ayes 3, Noes 2

James Michel  
Committee Clerk

**SENATE JOINT RESOLUTION 61 (LRB -4365)**

To create section 11 of article V of the constitution; relating to: senate approval of certain agreements negotiated by the governor (first consideration).

**2006**

02-06.	S.	Introduced by Senators <b>Kanavas, Leibham, Zien, A. Lasee, Kapanke, Olsen, Reynolds and Lazich;</b> cosponsored by Representatives <b>Kleefisch, LeMahieu, Lothian, Albers, Hahn, Bies, Kreibich, Vos, Gunderson and Townsend.</b>	
02-06.	S.	Read first time and referred to committee on Job Creation, Economic Development and Consumer Affairs .....	584
03-01.	S.	Public hearing held.	
03-02.	S.	Executive action taken.	
03-04.	S.	Report adoption recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 3, Noes 2 .....	685
03-04.	S.	Available for scheduling.	
05-11.	S.	Failed to adopt pursuant to Senate Joint Resolution 1 .....	853

**MOTION**

**Recommend Senate Bill 407**, relating to: eliminating an outdated reference regarding the calculation of the school levy property tax credit (suggested as remedial legislation by the Department of Revenue), for passage.

Aye   X   No           

**MOTION**

**Recommend Senate Bill 595**, relating to: obtaining, selling, or soliciting a telephone record that pertains to another person without the person's consent and providing a penalty, for passage.

Aye            No   X  

**MOTION**

**Recommend Senate Joint Resolution 61**, relating to: senate approval of certain agreements negotiated by the governor (first consideration), for adoption.

Aye   X   No           

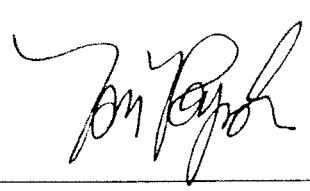
**MOTION**

**Adoption of Senate Amendment 1 to Senate Bill 623**  
(See Attachment)

Aye   X   No           

**Recommend Senate Bill 623**, relating to: damages to rental vehicles, and granting rule-making authority, for passage as amended.

Aye   X   No           

Signature                     

Date   3/2/2006

**MOTION**

**Recommend Senate Bill 407**, relating to: eliminating an outdated reference regarding the calculation of the school levy property tax credit (suggested as remedial legislation by the Department of Revenue), for passage.

Aye   X                        No           

**MOTION**

**Recommend Senate Bill 595**, relating to: obtaining, selling, or soliciting a telephone record that pertains to another person without the person's consent and providing a penalty, for passage.

Aye   X                        No           

**MOTION**

**Recommend Senate Joint Resolution 61**, relating to: senate approval of certain agreements negotiated by the governor (first consideration), for adoption.

Aye   X                        No           

**MOTION**

**Adoption of Senate Amendment 1 to Senate Bill 623**  
(See Attachment)

Aye   X                        No           

**Recommend Senate Bill 623**, relating to: damages to rental vehicles, and granting rule-making authority, for passage as amended.

Aye   X                        No           

Signature   *Ted Vumm*  

Date

**MOTION**

**Recommend Senate Bill 407**, relating to: eliminating an outdated reference regarding the calculation of the school levy property tax credit (suggested as remedial legislation by the Department of Revenue), for passage.

Aye  No

**MOTION**

**Recommend Senate Bill 595**, relating to: obtaining, selling, or soliciting a telephone record that pertains to another person without the person's consent and providing a penalty, for passage.

Aye  No

**MOTION**

**Recommend Senate Joint Resolution 61**, relating to: senate approval of certain agreements negotiated by the governor (first consideration), for adoption.

Aye  No

**MOTION**

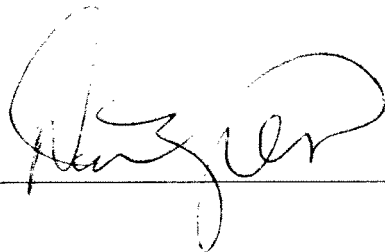
**Adoption of Senate Amendment 1 to Senate Bill 623**  
(See Attachment)

Aye  No

**Recommend Senate Bill 623**, relating to: damages to rental vehicles, and granting rule-making authority, for passage as amended.

Aye  No

Signature



Date

3/2/06

**MOTION**

**Recommend Senate Bill 407**, relating to: eliminating an outdated reference regarding the calculation of the school levy property tax credit (suggested as remedial legislation by the Department of Revenue), for passage.

Aye   X   No           

**MOTION**

**Recommend Senate Bill 595**, relating to: obtaining, selling, or soliciting a telephone record that pertains to another person without the person's consent and providing a penalty, for passage.

Aye   X   No           

**MOTION**

**Recommend Senate Joint Resolution 61**, relating to: senate approval of certain agreements negotiated by the governor (first consideration), for adoption.

Aye            No   X  

**MOTION**

**Adoption of Senate Amendment 1 to Senate Bill 623**  
(See Attachment)

Aye   X   No           

**Recommend Senate Bill 623**, relating to: damages to rental vehicles, and granting rule-making authority, for passage as amended.

Aye   X   No           

Signature   Julie Lassa  

Date   3-2-06



**MOTION**

**Recommend Senate Bill 407**, relating to: eliminating an outdated reference regarding the calculation of the school levy property tax credit (suggested as remedial legislation by the Department of Revenue), for passage.

Aye  \_\_\_\_\_ No \_\_\_\_\_

**MOTION**

**Recommend Senate Bill 595**, relating to: obtaining, selling, or soliciting a telephone record that pertains to another person without the person's consent and providing a penalty, for passage.

Aye  \_\_\_\_\_ No \_\_\_\_\_

**MOTION**

**Recommend Senate Joint Resolution 61**, relating to: senate approval of certain agreements negotiated by the governor (first consideration), for adoption.

Aye \_\_\_\_\_ No  \_\_\_\_\_

**MOTION**

**Adoption of Senate Amendment 1 to Senate Bill 623**  
(See Attachment)

Aye \_\_\_\_\_ No  \_\_\_\_\_

**Recommend Senate Bill 623**, relating to: damages to rental vehicles, and granting rule-making authority, for passage as amended.

Aye \_\_\_\_\_ No  \_\_\_\_\_

Signature     *Ken Decker*    

Date     3-2-06



# **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.

**P.O. Box 365 • Oneida, WI 54155**  
**Telephone: 920-869-4364 • Fax: 920-869-4040**

To: Senate Committee on Job Creation, Economic Development and Consumer Affairs.

From: Nathan King, State Tribal Liason, Oneida Tribe of Indians of Wisconsin.

Re: Opposition to SJR-61

Date: March 1, 2006

- ❑ In the past, the Oneida Nation has opposed efforts to involve the legislature in the compacting process and we must continue to do so, even though there are differences between this proposal and previous proposals. For instance:
- ❑ The impact of the federal Indian Gaming Regulatory Act, which governs the relationship between the State and the Tribes, must be considered. Any failure to adhere to federal law would very likely prolong the compact approval process creating a great deal of uncertainty for the 35,000 people employed by the Tribal gaming industry in Wisconsin.
- ❑ Federal law says that states cannot tax Tribal gaming revenues. The basis for Tribal payments in the current compacts is exclusivity, which was originally negotiated by Governor Thompson. It's very likely that the State Senate would be under enormous pressure from non Tribal gaming interests to consider agendas that would likely conflict with federal law and possibly undermine basis in federal law for the state collecting revenues from the Tribes.
- ❑ Finally, I'm sure you are aware that there is litigation pending concerning the constitutionality of Indian gaming in this state. An unfavorable ruling in the Dairyland case will probably lead to more litigation in other forums. We think it's more appropriate to wait until these legal issues are resolved before starting the process of amending the constitution with changes to the compacting process.

The Oneida Nation compact with the State of Wisconsin requires an annual payment of approximately \$20 million. That's nearly a four-fold increase in payments required under the compacts negotiated by Governor Thompson. In 2004, Tribal revenues paid to the State of Wisconsin increased by more than 300%, the largest increase in the country. Only two states receive more gaming revenue from Tribes than Wisconsin does. Many states with Tribal gaming receive only payments for regulatory costs. In Wisconsin Tribal payments are three to four times the corporate tax rate. By any objective measure, these compacts are good for the Tribes, the taxpayers of the State of Wisconsin, and the economies of the state and communities where Tribal gaming is located. We see no reason to change the compacting process and we hope you would agree.



# St. Croix Tribal Council

24663 Angeline Avenue • Webster, WI 54893 • (715) 349-2195 • Fax (715) 349-5768

## Statement Opposing Senate Joint Resolution 61

Submitted by the St. Croix Chippewa Indians of Wisconsin

March 1, 2006

### Senate Committee on Job Creation, Economic Development, Consumer Affairs

The St. Croix Tribal Council opposes SJR 61 because it requires Senate ratification of Indian gaming compacts, a power now held by the governor. In part, the resolution appears to preempt federal law as it applies to agreements that relate to gaming facilities on post-1988 tribal trust land. As a whole, SJR 61 if enacted further erodes tribal sovereignty by exposing tribal government operations to state legislative prerogative and extraneous interests.

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The *Indian Gaming Regulatory Act (IGRA)* was promulgated by the U.S. Congress in 1988 "to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self sufficiency, and strong tribal government."

Further, the IGRA specifies its intent "to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue..."

Federal authority over Indian affairs derives from the commerce clause of the U.S. Constitution and from treaty law. Central to this responsibility is the duty to protect tribes from the states, whose interests have too often shown a determination to exploit tribal lands and assets, and exert jurisdiction over tribal governments and members.

These federal obligations remain today but in some instances have been compromised. Public Law 280, governing law enforcement jurisdiction in Indian Country, and the IGRA itself are examples. It should come as no surprise that Nevada gaming interests originally inspired the Indian Gaming Regulatory Act; hence, the IGRA derogates tribal sovereignty by requiring state-tribal compacts to enable gaming to take place on *tribal* lands.

Nowhere, however, does the IGRA *require* that state legislatures be involved formally in the compact process, although their members are free to state their views and bring public pressure to bear on the outcome. *In fact, the Wisconsin Legislature gave away its negotiating authority in 1990 by a landslide vote, and since then on numerous occasions has attempted to reverse the decision at the behest of special interests or partisan conflict.*

In no instance have these efforts represented a friendly outreach to the tribal governments in Wisconsin. We recognize them as a desire to meddle in Indian affairs and welfare, and to obstruct the compacting process to serve a variety of interests.

David "Maabin" Merrill  
Tribal Chairman  
Round Lake Community

Michael L. Bearhart  
Vice-Chairman  
Maple Plain Community

Leo Butler  
Secretary/Treasurer  
Sand Lake Community

Gloria E. Benjamin  
Member  
Danbury Community

Lewis Taylor  
Member  
Sand Lake Community

The IGRA is not silent on other gaming decisions and in the instance of a gaming facility that requires a fee-to-trust acquisition, the IGRA accords state governors the explicit authority to approve or reject the proposal. That provision would be preempted by this constitutional amendment, and if enacted would prompt legal action.

Specifically, the St. Croix Chippewa and the Bad River Band of Lake Superior Chippewa are partners in siting a casino and related development in Beloit. Together, our tribal governments have seven years and several million dollars invested in this project's land options, studies, contractors and staff time. If the U.S. Secretary of Interior and governor approve this project, further delay caused by senate ratification of a new compact could increase these costs and possibly destroy tribal investments to date.

Pervasive poverty still exists on the majority of reservations in Wisconsin. The tribal economic development purpose laid out in the IGRA's intent clause is still a goal unrealized in Indian Country, nationally and in Wisconsin. Yet tribal revenues shared with the State of Wisconsin now exceed the amount other Wisconsin businesses pay in corporate taxation. [The rate is based on net win, or what other businesses would consider gross revenue.]

To provide services and secure loans to build infrastructure for tribal communities, compacts must be negotiated and approved expeditiously, and endure for a period of time that supports common lending practices.

Legal action over the 2003 compacts demonstrate the legislature's intent to obstruct economic development on reservation and its willingness to interfere with tribal governance. The unresolved *Dairyland* case further blocks business plans. Legislative ratification of compacts would bring only further delays, interference with tribal governance, and more potential litigation.

For these reasons, we oppose SJR 61.

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Contact:  
Ann Jablonski  
Legislative Liaison  
608-251-0702