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# WISCONSIN LEGISLATIVE COUNCIL

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## STATE-TRIBAL RELATIONS

Room 411 South  
State Capitol

March 1, 2013  
10:00 a.m. – 3:15 p.m.

[The following is a summary of the March 1, 2013 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>.]

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### Call to Order and Roll Call

Chair Mursau called the committee to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Jeffrey Mursau, Chair; Sen. Kathleen Vinehout, Vice-Chair [via telephone]; Reps. Janet Bewley and Nick Milroy; Sen. Dale Schultz; and Public Members Dee Ann Allen, Marvin Defoe, Gregg W. Duffek, Gus Frank, Jon Greendeer, Chris McGeshick, and William Morrow.

COMMITTEE MEMBER EXCUSED: Reps. Jim Steineke and Duey Stroebel; and Public Members Gary Besaw, Melinda Danforth, and Jordan Martinson.

TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT: David O'Connor, Department of Public Instruction (DPI); Margaret McGrath, Department of Workforce Development; Quinn Williams, Department of Natural Resources; and Thomas Ourada, Department of Revenue (DOR).

TECHNICAL ADVISORY COMMITTEE MEMBER EXCUSED: Tom Bellavia, Department of Justice; Kelly Jackson, Department of Transportation; and John Tuohy, Department of Children and Families.

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

APPEARANCES: Tom Ourada, DOR; William Morrow, Vice-Chairman, Lac Courte Oreilles Band of Chippewa Indians; Tim DeBrot, Chief, Lac Courte Oreilles Tribal Police Department; Kris Goodwill, Attorney, Lac Courte Oreilles Tribal Government; Bob Conlin, Secretary, Department of Employee Trust Funds; and David O'Connor and Jennifer Kammerud, DPI.

## **Opening Remarks**

Chair Mursau welcomed the committee members to the meeting and asked committee members and others participating in committee discussion to introduce themselves. Greg Matson, Vice-Chair of the Oneida Nation, stated that he was attending on behalf of Public Member Melinda Danforth. Myrna Warrington, Menominee Tribal Legislator, said that she was attending on behalf of Public Member Gary Besaw.

## **Federal Tax Incentives for Businesses in Indian Country; Briefing**

### ***Tom Ourada, Department of Revenue***

Mr. Ourada provided an overview of the concept of depreciation and differences between federal law and Wisconsin law with respect to calculating depreciation for tax purposes. Mr. Ourada explained that depreciation is a way of deducting the purchase cost of a major capital asset over a fixed period of time. Accelerated depreciation permits businesses to deduct the cost of the asset more quickly than the value of the asset actually declines. Current federal law allows for the accelerated depreciation in a variety of circumstances; however, Mr. Ourada explained that accelerated depreciation is generally implemented as a temporary policy. One circumstance in which the federal government currently authorizes the use of accelerated depreciation is for qualified property on an Indian reservation. The business does not need to be Indian owned or operated to qualify for accelerated depreciation.

Wisconsin law does not track federal accelerated depreciation provisions. Mr. Ourada explained that if it were to do so, revenue would be reduced in the near term as taxpayers claimed higher depreciation deductions. Several committee members expressed the opinion that adopting the federal accelerated depreciation rules for qualified property on an Indian reservation would spur economic development. Mr. Ourada noted that one concern that has been raised within DOR is that if this were done, a business could claim a Wisconsin deduction even though its qualified property is located on a reservation in another state.

*Representative Milroy moved, seconded by Senator Schultz, to draft a letter to the Joint Committee on Finance recommending that Wisconsin adopt the accelerated provisions related to qualified property on Indian reservations, limiting its applicability to qualified property in Indian country located in Wisconsin. The motion passed on a vote of Ayes, 11; Noes, 1.*

## **Participation in the Wisconsin Retirement System by Tribal Law Enforcement Officers**

***Memo No. 4, Enrollment of Tribal Police Officers in the Wisconsin Retirement System (February 19, 2013)***

***William Morrow, Vice-Chairman, Tim DeBrot, Chief of Police, and Kris Goodwill, Attorney, Lac Courte Oreilles Band of Lake Superior Chippewa***

Mr. Morrow explained that the Lac Courte Oreilles Tribe would like the opportunity to enroll its tribal law enforcement officers in the Wisconsin Retirement System (WRS) because the tribe has difficulty retaining law enforcement officers who are drawn to positions within the state system that

offer WRS enrollment as a benefit. Tim DeBrot, Chief of the Lac Courte Oreilles Tribal Police Department, echoed Mr. Morrow's sentiments. Kris Goodwill, Attorney for the Lac Courte Oreilles tribal government, told the committee that most tribal law enforcement officers receive essentially the same training and carry out the same functions as state law enforcement officers. She expressed the opinion that tribal law enforcement officers should therefore be afforded the benefits provided to state law enforcement officers.

***Bob Conlin, Secretary, Department of Employee Trust Funds***

Secretary Conlin provided a brief overview of the WRS and various considerations for authorizing tribal entities to participate in the WRS. He said that a threshold consideration involves ascertaining whether including tribal governmental entities within the plan would jeopardize the Internal Revenue Service's (IRS) designation of the plan as a "governmental plan." Assuming the IRS approved participation by tribal governmental entities, Secretary Conlin noted that other considerations include: (1) whether tribal governments would be treated like other participating governmental units; (2) which tribal employees would be eligible to participate in the WRS; (3) whether tribal governments would grant credit for past service; and (4) in which WRS category tribal entities would participate.

David Lovell, Legislative Council Senior Analyst, summarized a bill draft that had been prepared for the 2006 Special Committee on State-Tribal Relations on this topic. The committee directed staff to prepare a new version of that draft for consideration at its next meeting.

**Implementation of 1989 Wisconsin Act 31 Update; Briefing**

***David O'Connor, Department of Public Instruction***

Mr. O'Connor provided an overview of certain provisions of 1989 Wisconsin Act 31 and described various resources and materials available through DPI related to the Act's requirements. Generally, Act 31 requires each school board to include, as part of the social studies curriculum, instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in Wisconsin. This instruction must occur at least twice in the elementary grades and at least once in the high school grades. Mr. O'Connor explained that DPI offers various instructional resources and informational materials to assist school boards in complying with Act 31 on the department's American Indian Studies Program website. Jennifer Kammerud, Legislative Liaison, DPI, responded to questions, with Mr. O'Connor, from the committee.

A number of members of the committee expressed interest in remaining engaged with DPI as it continues its efforts to facilitate curriculum development relating to the history, culture, and sovereignty of American Indian tribes and bands in Wisconsin. Chair Mursau asked Mr. O'Connor and Ms. Kammerud to notify the committee if they become aware of an area in which legislation might be necessary to improve Act 31.

**Discussion of Committee Assignment**

Chair Mursau told the committee that he was notified that various public members identified three issues of special concern to the tribes that they would like the committee to study. Mr. Lovell stated that these issues are: (1) tribal membership on regional planning commissions; (2) funding

assistance for tribal colleges; and (3) establishing a state procedure for retroceding P.L. 280 jurisdiction. Chair Mursau directed committee staff to begin preparing these issues for the next committee meeting.

### **Other Business**

*Mr. McGeshick moved that Chair Mursau direct committee staff to prepare a letter requesting the Assembly to refrain from voting on 2013 Senate Bill 1, relating to regulation of ferrous mining, until all tribal concerns with regard to government-to-government consultation on Senate Bill 1 have been resolved.*

Mr. Lovell informed the committee that no vote could be held on this matter because the issue was not noticed for business. Senator Schultz stated that the issue of tribal consultation extends beyond the mining issue, and that it would be worthwhile for the committee to add the issue of tribal consultation to its agenda for future meetings. He requested that a copy of this agenda be forwarded to the President of the Senate and the Speaker of the Assembly.

### **Plans for Future Meetings**

The next meeting will be held at the call of the chair.

### **Adjournment**

The meeting was adjourned at 3:15 p.m.

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