

# STATE OF WISCONSIN

SENATE CHAIR  
**ALBERTA DARLING**

317 East, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
Phone: (608) 266-5830



ASSEMBLY CHAIR  
**JOHN NYGREN**

309 East, State Capitol  
P.O. Box 8953  
Madison, WI 53708-8953  
Phone: (608) 266-2343

August 19, 2019

## JOINT COMMITTEE ON FINANCE

Dear Attorney General Kaul:

This letter is to continue our communication regarding the Joint Finance Committee (JFC) review of certain Department of Justice settlements. We will also respond to issues raised by your Division of Legal Services Administrator Charlotte Gibson in her August 16, 2019 email.

On Tuesday, August 13, we sent you a letter explaining why we did not schedule potential settlements for a hearing at our last JFC meeting. We explained that the lack of information and inadequate time to review materials prevented the committee from properly examining settlements. To help ameliorate any potential miscommunication, we also included a checklist of the information the committee needs to make an informed decision.

We ask that you resubmit the previous cases with the requested, very basic information. Any new cases should also include accompanying documents outlined by the checklist. This includes the cases you sent via email today, August 19. If you contend that any of this information is confidential for some reason, please provide us with the remaining requested information, to which no plausible claim of confidentiality applies. Our next meeting will be held in the coming weeks. Like all other agencies, you will be notified ahead of time. Please send potential settlements to the co-chairs by no later than close of business, Thursday, August 22. If you need more time for any particular cases, let us know.

The Legislative Technology Service Bureau (LTSB) set up an email address ([doj.settlements@legis.wisconsin.gov](mailto:doj.settlements@legis.wisconsin.gov)) for you to send information about pending settlements to JFC. This email address will accept emails with large attachments or multiple attachments – at the moment the size limit is 20 MB. If your agency anticipates sending larger emails, please reach out to LTSB Director, Jeff Ylvisaker ([Jeff.Ylvisaker@legis.wisconsin.gov](mailto:Jeff.Ylvisaker@legis.wisconsin.gov) or 608-283-1834), who will be happy to increase the size limit or find another method of transmitting the attachments.

We would also like to address the issues raised in Ms. Gibson's email regarding confidentiality. We continue to believe a signed agreement is unnecessary for three reasons.

First, it is inherent in the existence of closed session that those discussions are confidential; that is the entire purpose of the committee going into closed session. Closed sessions were created so

committees could handle sensitive—often confidential—information, including negotiating union contracts. To our knowledge, no member has ever signed an agreement to keep that sensitive information confidential because it is understood that confidentiality is required by the very nature and design of closed session.

Second, it is our understanding that your department has shared confidential information with the Governor's office for decades, as part of the Governor's statutory right to a seat at the table in certain litigation decisions, including settlement. To our knowledge, your office has not typically required the Governor and his staff to sign confidentiality agreements with your department because, of course, confidentiality is understood to apply. It is not acceptable to treat the Legislature, a co-equal branch of Wisconsin government, with less trust and respect than has been given to the Governor and his staff.

Third, by signing this letter, we give our assurance that any confidential information disclosed in closed session will be kept in confidence. Under State law, our committee is a partner in reviewing these settlements and we also want to achieve "the best results for the state."

We are eager to consider potential settlements sent by your department. We are confident that this process will work smoothly and effectively if your staff would be kind enough to give us basic information about these cases, as we have specifically outlined, so we can make an informed decision. Again, please send requested information to us by Thursday, August 22. Any information you deem confidential can be discussed in *confidential* closed session.

Sincerely,

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Alberta Darling  
Senate Chair

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John Nygren  
Assembly Chair

cc: Robert Lang, Director, Legislative Fiscal Bureau  
Rick Champagne, Director, Legislative Reference Bureau  
Anne Sappenfield, Director, Legislative Council