



**WISCONSIN LEGISLATIVE COUNCIL  
REPORT TO THE LEGISLATURE**

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**Legislation Recommended by the Special  
Committee on State-Tribal Relations**

- 2001 Assembly Joint Resolution 90, Relating to Policy of Executive Branch Consultation With Tribal Governments
- 2001 Assembly Joint Resolution 91, Relating to State Recognition of the Sovereign Status of Federally Recognized American Indian Tribes and Bands
- 2001 Assembly Bill 771, Relating to Creation of the Wisconsin Tribal-State Council and Making an Appropriation
- 2001 Assembly Bill 772, Relating to Preparation of Tribal Impact Statements for Bills That Would Have an Impact on Tribal Governments or American Indians
- 2001 Assembly Bill 773, Relating to Representations Made Regarding Wild Rice Sold or Offered for Sale in This State, Granting Rule-Making Authority, and Providing a Penalty

February 7, 2002

RL 2001-14



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**LEGISLATION RECOMMENDED BY THE  
SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS**

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February 7, 2002

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## **PART I**

### **KEY PROVISIONS OF LEGISLATION**

The Joint Legislative Council has introduced the following legislation based on the recommendations of the Special Committee on State-Tribal Relations:

#### **2001 ASSEMBLY JOINT RESOLUTION 90, RELATING TO POLICY OF EXECUTIVE BRANCH CONSULTATION WITH TRIBAL GOVERNMENTS**

2001 Assembly Joint Resolution 90 provides that the Legislature encourages the Governor to develop a consultation policy under which state executive branch agencies solicit input from tribal officials in developing state policies and programs that affect American Indians or American Indian tribes or that affect the relationship between state government and tribal governments. Under the policy, executive branch agencies also would identify personnel to meet regularly with tribal officials. The Governor is encouraged to promote positive government-to-government relations between the state and the tribes.

#### **2001 ASSEMBLY JOINT RESOLUTION 91, RELATING TO STATE RECOGNITION OF THE SOVEREIGN STATUS OF FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBES AND BANDS**

2001 Assembly Joint Resolution 91 provides that the Legislature: (1) affirms state recognition of the sovereign status of federally recognized American Indian tribes and bands; (2) encourages all state agencies to respect tribal sovereignty; and (3) encourages all state agencies to continue to reevaluate and improve the implementation of laws that affect American Indian tribal rights.

#### **2001 ASSEMBLY BILL 771, RELATING TO CREATION OF THE WISCONSIN TRIBAL-STATE COUNCIL**

2001 Assembly Bill 771 creates a Wisconsin tribal-state council, consisting of equal numbers of tribal and state representatives, to facilitate communications between the state government and tribal governments. The bill provides funding from tribal gaming revenues paid to the state for council operations and for three staff positions.

#### **2001 ASSEMBLY BILL 772, RELATING TO PREPARATION OF TRIBAL IMPACT STATEMENTS FOR BILLS THAT WOULD HAVE AN IMPACT ON TRIBAL GOVERNMENTS OR AMERICAN INDIANS**

2001 Assembly Bill 772 requires that statements be prepared regarding legislation that has an impact on American Indians or tribal governments that is different from the impact on other individuals or other governments or entities. The bill establishes procedures for such tribal impact statements that are substantially similar to the procedures that exist for the preparation of legislative fiscal estimates.

**2001 ASSEMBLY BILL 773, RELATING TO REPRESENTATIONS MADE REGARDING WILD RICE SOLD OR OFFERED FOR SALE IN THIS STATE**

Current law contains limited provisions regarding the labeling of wild rice offered for sale. 2001 Assembly Bill 773 replaces those provisions with a more comprehensive statute that requires that labels, signs, and other representations regarding wild rice offered for sale inform consumers if the wild rice is cultivated, if it is a blend of wild-grown and cultivated wild rice, and if it is machine harvested. The bill also requires disclosure of the proportion of wild-grown wild rice that is contained in mixes and the state or province where the wild rice was grown. The bill creates penalties for violations of the labeling requirements.

## PART II

### COMMITTEE ACTIVITY

#### ASSIGNMENT

The Special Committee on State-Tribal Relations is a permanent committee of the Joint Legislative Council (JLC) established under s. 13.83 (3), Stats. The committee is directed by statute to:

. . . study issues related to American Indians and the American Indian tribes and bands in this state and develop specific recommendations and legislative proposals relating to these issues.

The membership of the committee, appointed by the JLC, consists of not fewer than six nor more than 12 legislator members of the Senate and Assembly, including at least one member of the majority party and at least one member of the minority party from each house, and not fewer than six nor more than 11 members selected from names submitted by the federally recognized American Indian tribes and bands in this state (tribes) or the Great Lakes Inter-Tribal Council (GLITC). The committee is assisted by a Technical Advisory Committee (TAC) composed of a representative of each of the following state departments: Health and Family Services; Workforce Development; Justice; Natural Resources; Public Instruction; Revenue; and Transportation. A list of the JLC membership, the committee membership, and the TAC membership are included as **Appendices 2, 3, and 4**, respectively.

#### SUMMARY OF MEETINGS

The committee held six meetings during the period covered by this report<sup>1</sup> on the following dates:

**March 12, 2001.** The committee heard presentations from representatives of the National Conference of State Legislatures and the National Congress of American Indians, who had helped plan and present the Leadership Conference on State-Tribal Relations, which was held in Madison in February 2001. The speakers presented a summary of ideas for improving communications and relations between tribal governments and state government that had been discussed at the Leadership Conference. The committee and many tribal chairs attending the meeting then discussed these ideas. The committee asked staff to prepare a memorandum describing legislative options to implement many of these ideas.

Many tribal leaders continued to express strong interest in tribal delegates to the Legislature, and they asked about the extent of legislative support for the concept. Chair

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<sup>1</sup> The committee meetings that were held October 17, 2000, November 15, 2000, and December 14, 2000, were described in RL 2001-03 in connection with the committee's March 14, 2001 report to the JLC.

Musser indicated that he would, independently of the committee, introduce legislation relating to tribal delegates to gauge the extent of legislative support.

**April 27, 2001.** The committee began discussing Memo No. 00-9, *Legislative Options for Improving Communications Between the State Government and Tribal Governments* (April 20, 2001) and agreed that it would continue this discussion at its next meeting.

The committee also heard presentations from invited speakers from the Menominee Indian Tribe of Wisconsin, Shawano County, and Menominee County regarding jurisdiction over an American Indian juvenile who is alleged to have committed a delinquent act while off the juvenile's reservation under a tribal court order. Specifically, the speakers discussed issues related to which court--that is, state court, tribal court, or both--should exercise jurisdiction and how this should be determined. The committee also reviewed Memo No. 00-10, *Jurisdiction Over an American Indian Juvenile Who is Alleged to Have Committed a Delinquent Act While Off the Reservation Under a Court Order* (April 20, 2001). Chair Musser directed staff to work with interested parties to develop a recommendation on this topic to present to the committee in the future.

**June 11, 2001.** The committee reviewed materials and Memo No. 00-11, *Negotiation of Tribal-State Gaming Compacts and Allocation of Tribal Gaming Revenues Paid to the State* (June 1, 2001). The committee also continued its discussion of models of communication and relations between the state and tribal governments. It heard reports from public members of the committee that tribal governments around the state were discussing Memo No. 00-9 outlining legislative options on this topic. In particular, it was noted that the Oneida Tribe was close to developing a specific proposal for legislation based on these options.

**September 10, 2001.** The committee discussed a proposal by the Oneida Business Committee regarding methods to improve communications and relations between the state and tribal governments. The committee requested that a bill draft be prepared to establish a tribal-state council that would consist of representatives of tribal governments and various state and local government officials.

The committee also requested a bill draft that would require the preparation of tribal impact statements regarding legislation that would affect tribal governments or American Indians differently than other governments or individuals.

In addition, the committee requested information about the policies of consultation with tribes that had been developed at the federal level and in Oregon.

The committee requested a draft resolution, similar to that adopted in California, formally recognizing the sovereignty of American Indian tribes in Wisconsin.

The committee also discussed various government-to-government protocols listed in the Oneida proposal including: having the Senate and Assembly recognize tribal officials who may be in the audience during a floor session; periodically inviting tribal officials to address the Assembly and Senate; and having special event days at the Capitol which could

include having informational booths set up by tribal governments, special recognition ceremonies, or receptions. Chair Musser indicated that he would talk to various people about these proposals, as they would not necessarily require legislation.

The committee also discussed inviting tribal leaders or elders to offer a blessing or prayer at the beginning of a day in the Assembly or Senate. Chair Musser volunteered to write a letter to the Assembly Chief Clerk and Senate Chief Clerk asking them to notify tribes of this opportunity, and he subsequently did so.

In addition, the committee discussed the Oneida suggestion to display art exhibits or permanent fixtures recognizing American Indians or tribes in the Capitol. Information was provided to the committee about current exhibits. No specific suggestions for art exhibits were made, but committee members expressed interest in a proposal to have all of the tribal flags displayed in the Capitol. Chair Musser volunteered to check on any necessary arrangements for this to occur.

The committee recommended that state legislators and legislative staff be offered training about state-tribal relations and tribal governments.

Representative Boyle requested that the committee hold hearings on bills that are pending in the Legislature relating to a school's use of American Indian mascots and logos. Chair Musser offered to write a letter to the chairs of the standing committees to which these bills had been referred to request that they hold public hearings on the bills, and he subsequently did so.

**October 15, 2001.** The committee reviewed a bill draft (WLC: 0195/1), relating to creation of an American Indian council. After requesting various changes to the draft, including naming it the Wisconsin Tribal-State Council, the committee voted to recommend the revised draft to the JLC for introduction.

The committee next discussed the bill draft (WLC: 0197/1), relating to the preparation of tribal impact statements for bills that would have an impact on tribal governments or American Indians. After requesting various modifications, the committee voted to recommend the revised draft to the JLC for introduction.

The committee discussed the draft resolution (WLC: 0196/1), relating to state recognition of the sovereign status of federally recognized American Indian tribes and bands. After requesting various minor modifications, the committee voted to recommend the revised draft to the JLC for introduction.

The committee next reviewed Memo No. 00-13, *Selected Materials Describing Government-to-Government Consultation Policies of the Federal Government and the States of Oregon and Washington* (October 5, 2001). The committee then directed staff to prepare a draft joint resolution urging the Governor to develop and implement a consultation policy.

The committee also reviewed Memo No. 00-12, *Labeling of Wild Rice Offered For Sale* (October 5, 2001). The committee discussed options for legislation and requested that staff prepare a bill draft.

**November 13, 2001.** The committee reviewed the draft joint resolution (WLC: 0213/1), relating to a policy of executive branch consultation with tribal governments. Due to the lack of a quorum, Chair Musser indicated that the draft would be submitted to the committee on a mail ballot.

The committee also reviewed a bill draft (WLC: 0215/1), relating to representations made regarding wild rice being sold or offered for sale in this state. Committee members requested various modifications to the draft. Again, the lack of a quorum prevented the committee from taking action on the draft, and Chair Musser indicated that the revised draft would be submitted to the committee for consideration on a mail ballot.

## **PART III**

### **RECOMMENDATIONS**

#### **LEGISLATION REGARDING COMMUNICATIONS BETWEEN THE STATE GOVERNMENT AND TRIBAL GOVERNMENTS**

The resolutions and bills described in this section are the culmination of nearly three years of study and discussion by the Special Committee on State-Tribal Relations and by its predecessor, the American Indian Study Committee (AISC). From May 1999 through March 2000, the AISC discussed the idea of tribal delegates to the Legislature, although it did not make any recommendation on this topic.

When the Special Committee on State-Tribal Relations commenced its work in October, 2000, it engaged in a broader discussion of improving communications between the state government and tribal governments. Under the sponsorship of the four legislative caucus leaders and the 11 tribal chairs, and with technical and financial assistance from the National Conference of State Legislatures and the National Congress of American Indians, Chair Musser helped to organize the Leadership Conference on State-Tribal Relations, which was held in Madison in February 2001. The conference identified many mechanisms that the state could pursue to improve communications between the state government and tribal governments. It also provided state and tribal leaders an opportunity to discuss issues and concerns regarding communications between their respective governments.

Following the Leadership Conference, the committee studied the ideas identified or generated by the conference and developed legislative recommendations based on those ideas.

#### **1. Consultation Policy**

##### ***a. Background***

The committee received background information describing consultation policies of the federal government and other states. The Bureau of Indian Affairs has established a government-to-government consultation policy to promote dialogue between the Bureau of Indian Affairs and tribes regarding proposed federal actions affecting tribes so that meaningful and timely input is received from tribal officials about proposed federal actions. Oregon enacted legislation, effective January 1, 2002, providing that a state agency must develop and implement a policy to promote communication between the state agency and tribes and must make a reasonable effort to cooperate with tribes in developing and implementing programs of the state agency that affect tribes. Washington has developed government-to-government implementation guidelines which, among other things, formalize the requirement for the State of Washington to seek consultation and participation by representatives of tribal governments in developing policy and program activities.

After reviewing this information, the committee recommended a joint resolution endorsing a consultation process.

***b. 2001 Assembly Joint Resolution 90***

2001 Assembly Joint Resolution 90 states that the Legislature encourages the Governor to develop and implement a consultation policy under which state executive branch agencies do all of the following:

(1) Ensure meaningful and timely input by representatives of tribal government in developing state policies and programs that have a substantial and direct effect on: (a) one or more tribes in the state; (b) American Indians in the state; or (c) the relationship between state government and the tribes in the state.

(2) Identify key personnel in the agency who are responsible for coordination with tribal governments and have them meet on a regular basis with tribal officials regarding issues of mutual interest.

Under the joint resolution, the Legislature also encourages the Governor to promote positive government-to-government relations between the state and the tribes in Wisconsin.

**2. Recognition of the Sovereign Status of Tribes**

***a. Background***

The sovereign status of tribes is established as a matter of federal and tribal law. The sovereignty that a tribe possesses is inherent, which means that it comes from within the tribe itself, and existed before the founding of the United States. However, the U.S. Supreme Court has held that tribal sovereignty is not absolute but, rather, is subject to certain limits resulting from the unique relationship of the tribes to the United States. In general, under federal law, tribes retain those attributes of their original sovereignty that have not been given up in a treaty, divested by an act of Congress, or divested by implication as a result of their status as, to use the term adopted by the U.S. Supreme Court, “domestic dependent nations.”

Tribal sovereignty is not dependent on state action. Nonetheless, the committee recommended that, in order to promote a better understanding of tribal sovereignty and better relations with the tribes, the state formally recognize the sovereign status of the tribes in the state. The committee recommended using as a pattern the resolution adopted by the California Legislature in 2000 to recognize the sovereignty of tribes in California.

***b. 2001 Assembly Joint Resolution 91***

2001 Assembly Joint Resolution 91 states that the Legislature does the following:

(1) Affirms state recognition of the sovereign status of tribes as separate and independent political communities within the territorial boundaries of the United States.

(2) Encourages all state departments and agencies, when engaging in activities or developing policies affecting American Indian tribal rights or trust resources, to do so in a knowledgeable manner that is respectful of tribal sovereignty.

(3) Encourages all state departments and agencies to continue to reevaluate and improve the implementation of laws that affect tribal rights.

### **3. Wisconsin Tribal-State Council**

#### ***a. Background***

More than 30 states have created some structure in their executive branch to address state-tribal relations. These include most of the states that contain substantial American Indian populations and many states with smaller American Indian populations, including some states in which no state recognized or federally recognized tribal governments are located. Some states have created these structures through legislation, while others have done so through executive orders or less formal executive actions. The organization and functioning of these entities vary greatly. A common feature, however, is that councils, commissions, and offices of Indian affairs typically either bring state and tribal representatives together or establish liaison between the governments. As a result, these entities facilitate communications and help inform the functioning of state government on matters involving American Indians and tribal governments.

At the Leadership Conference, it was observed that Wisconsin is perhaps the only state with a substantial American Indian presence--11 federally recognized American Indian tribes and bands and over 47,000 American Indian state residents--that does not have an executive branch institution designed to address state-tribal relations or to facilitate communications between state government and tribal governments.

#### ***b. 2001 Assembly Bill 771***

2001 Assembly Bill 771 creates a new council composed of 11 representatives of the American Indian tribes and bands in this state and 11 representatives of state and local governments. It directs the council to elect two cochairs, one from among the tribal representatives and one from among the state and local representatives. The council is attached to the Department of Administration (DOA) for administrative purposes, but is designed to function autonomously. In particular, it determines its own times and locations of meetings and submits its reports to the Governor and the Legislature, rather than to the Secretary of Administration. The bill requires all state agencies to provide assistance to the council, upon request.

The bill assigns a number of functions to the council that relate to facilitating communications and sharing information between the state and tribal governments. In addition, it directs the council to monitor those actions of the executive and legislative branches of state government that may affect tribal governments and American Indians and to make policy recommendations regarding those matters. Specifically, Assembly Bill 771 directs the council to do all of the following:

(1) 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.

(2) Serve as an information clearinghouse regarding state-tribal relations and state programs that affect tribal governments and American Indians.

(3) Serve as a resource to state agencies, authorities, and the Legislature on matters involving state-tribal relations, including providing staff support to task forces or committees.

(4) Monitor state executive branch policies and practices that affect tribal governments and American Indians.

(5) Develop recommendations for state executive branch policies.

(6) Monitor agreements between state government and tribal governments.

(7) Support and coordinate communication between state agency and authority liaisons who work with tribes, to promote the smooth delivery of state services to tribal governments and American Indians and to avoid the duplication of effort. The bill directs the council to review the adequacy of existing state liaison positions and to recommend any changes in the number of liaison positions as it deems necessary.

(8) Monitor state legislation that potentially may affect tribal governments or American Indians.

(9) Develop recommendations for state legislation.

(10) Provide training to state officials and employees concerning the legal status of American Indian tribes and bands, legal and practical aspects of relations between tribal governments and the state and federal governments, and issues affecting state-tribal relations. The bill directs the council to provide training to state executive branch officials and employees at least once per year and to provide training to state legislators and legislative employees at least once at the start of each legislative session.

(11) Submit a biennial report on the council's activities to the Governor, to the Special Committee on State-Tribal Relations, and to the Chief Clerk of each house of the Legislature for distribution to the appropriate standing committees.

The bill appropriates \$214,300 in fiscal year 2002-03 for the operation of the council and authorizes three full-time equivalent positions: an executive director, a policy analyst, and a support position. The appropriation is from gaming revenues paid by the tribes to the state. Of the amount appropriated, \$15,000 is for one-time start-up costs; the balance (\$199,300) would be the council's base funding for purposes of future budgeting.

#### **4. Tribal Impact Statements**

##### ***a. Background***

It is not uncommon for legislation to have impacts on American Indians or tribal governments that are different from the impacts on other individuals or on other units of government. Differential impacts can arise from a variety of sources but primarily from the

unique legal status of reservations and land held in trust by the federal government for tribes or tribal members and from federal law relating to activities on those lands. In addition, these impacts may not be intended or anticipated by the authors of the legislation. In the past, this has led to legislation of general applicability that has had unanticipated adverse impacts on American Indians or tribal governments, for example, in the design of the state's economic development programs.

The preparation of a report describing any impact of legislation on American Indians or tribal governments that is different from the impact on other individuals or governmental units is one mechanism to help inform the legislative process and prevent the enactment of legislation with unintended impacts on American Indians or tribal governments.

***b. 2001 Assembly Bill 772***

2001 Assembly Bill 772 requires the preparation of statements describing the impact of legislation on tribal governments and American Indians. The requirements of the bill are designed to parallel the current requirements contained in the statutes and the joint rules of the Legislature for the preparation of statements describing the fiscal impact of legislation.

Assembly Bill 772 directs the Legislative Reference Bureau (LRB) to identify bills for which tribal impact statements are required and authorizes either house of the Legislature to request one. In addition, the chair or either cochair of the Special Committee on State-Tribal Relations may request a tribal impact statement. If the Wisconsin tribal-state council is created (2001 Assembly Bill 771), Assembly Bill 772 permits either cochair or the executive director of the council to request a tribal impact statement. It directs the DOA to assign the task of preparing a statement to the appropriate agency or agencies. It establishes a deadline for the preparation of a statement and requirements for its distribution. The bill prohibits a standing committee from holding a public hearing on, or reporting a bill for which a tribal impact statement is required, prior to receipt of the statement.

**LEGISLATION REGARDING THE LABELING OF WILD RICE OFFERED FOR SALE**

**1. Background**

Wild rice is a very important resource for several American Indian tribes in Wisconsin for cultural, historical, and economic reasons. Many members of these tribes harvest wild rice by traditional methods, for their own use and to sell. Some non-Indian individuals also use traditional harvest methods.

Wild rice that is offered for sale comes to market through three different channels: some is harvested by hand from wild stands; some is cultivated on farms and harvested by combine (largely in California and Minnesota); and some is harvested mechanically from wild stands (a practice in Canada). Because the traditional process of harvesting wild rice by hand is much more labor intensive than mechanized cultivation and harvesting, the cost of production, and so the retail price, of hand-harvested, wild-grown wild rice is several times greater than that of cultivated wild rice or of wild rice that is mechanically harvested from the wild. The price difference puts sellers of wild rice that is hand-harvested from the wild at a

competitive disadvantage to the sellers of cultivated and mechanically-harvested wild rice, especially where the buyer does not have information regarding the source of the wild rice.

Current law contains some requirements for the labeling of wild rice that is offered for sale. Specifically, a wholesaler or supplier is required to label cultivated wild rice as being “paddy-grown” unless the wild rice is blended with wild-grown wild rice. In addition, a wholesaler or supplier is prohibited from labeling wild rice as “100% natural wild rice” unless it is 100% wild-grown wild rice. However, current law does not indicate how blends of wild-grown and cultivated wild rice may be labeled or address the method of harvesting or the place of origin of the wild rice. In addition, current law does not apply to retail sales.

## **2. 2001 Assembly Bill 773**

2001 Assembly Bill 773 repeals and recreates the existing statute relating to the labeling of wild rice offered for sale in this state.

The bill requires that the label of any wild rice that is sold or offered for sale in this state, at retail or wholesale, and any sign, advertisement, or other representation regarding such wild rice must inform consumers if the wild rice is cultivated, if it is a blend of wild-grown and cultivated wild rice, and if it is machine harvested. If the wild rice is a blend, the label must indicate the proportions making up the blend. If the wild rice is in a packaged food product that contains at least 40% other food products and that is labeled or marketed as a wild rice product, the label must indicate the proportion of the product that is wild rice. The bill also requires that labels and representations regarding wild rice indicate the state or province in which the wild rice was grown.

The labeling requirements do not apply to wild rice that is cooked and ready to eat. Wild rice that is identified as cultivated or blended, and packaged wild rice products are not required to be identified as machine harvested.

The bill does not make any requirements regarding the labeling of or representations regarding wild rice that is 100% wild-grown or that is harvested by traditional methods, except to require that the state or province of origin be identified.

Assembly Bill 773 requires the Department of Agriculture, Trade, and Consumer Protection to promulgate rules for implementation of the requirements created by the bill.

The bill provides that a person who violates the labeling and advertising requirements must forfeit not less than \$50 nor more than \$500 for the first violation and not less than \$200 nor more than \$1,000 for subsequent violations.

**Committee and Joint Legislative Council Votes**

- **2001 Assembly Joint Resolution 90, Relating to Policy of Executive Branch Consultation With Tribal Governments**

By mail ballot dated November 30, 2001, the committee voted to recommend WLC: 0213/1 to the JLC for introduction in the 2001-02 Session of the Legislature. It was subsequently drafted by the LRB as LRB-4263/1. The vote on WLC: 0213/1 was as follows: **Ayes, 13** (Reps. Musser, Ainsworth, Boyle, Coggs, La Fave and Sherman; Sen. Breske; and Public Members Bichler, Biermeier, Gordon, Ninham, Puskarenko and Thompson); **Noes, 0**; and **Not Voting, 4** (Sen. George; Rep. Pettis; and Public Members Bigboy and gaiashkibos).

At its January 30, 2002 meeting, the JLC voted to introduce LRB-4263/1 by a vote of **Ayes, 14** (Sens. Risser, Baumgart, Darling, Grobschmidt, Panzer, Robson and Zien; and Reps. Rhoades, Black, Gard, Huber, Jensen, Meyerhofer and Stone; **Noes, 0**; and **Absent, 8** (Sens. Burke, Chvala, George and Welch; and Reps. Bock, Foti, Freese and Lehman).

[Rep. Bock asked that the record reflect that had he been present during the roll call, he would have voted in favor of introducing the above draft.]

- **2001 Assembly Joint Resolution 91, Relating to State Recognition of the Sovereign Status of Federally Recognized American Indian Tribes and Bands**

At its October 15, 2001 meeting, the committee voted to recommend WLC: 0196/1, as modified by committee discussion, to the JLC for introduction in the 2001-02 Session of the Legislature. It was subsequently drafted as WLC: 0196/2 and redrafted by the LRB as LRB-4264/1. The vote on WLC: 0196/2 was as follows: **Ayes, 11** (Reps. Musser, Ainsworth, Boyle, Coggs, La Fave, Pettis, and Sherman; Sen. Breske; and Public Members Ninham, Puskarenko, and Thompson); **Noes, 0**; and **Absent, 6** (Sen. George; and Public Members Bichler, Biermeier, Bigboy, gaiashkibos, and Gordon).

At its January 30, 2002 meeting, the JLC voted to introduce LRB-4264/1 by a vote of **Ayes, 14** (Sens. Risser, Baumgart, Darling, Grobschmidt, Panzer, Robson and Zien; and Reps. Rhoades, Black, Gard, Huber, Jensen, Meyerhofer and Stone; **Noes, 0**; and **Absent, 8** (Sens. Burke, Chvala, George and Welch; and Reps. Bock, Foti, Freese and Lehman).

[Rep. Bock asked that the record reflect that had he been present during the roll call, he would have voted in favor of introducing the above draft.]

- **2001 Assembly Bill 771, Relating to Creation of the Wisconsin Tribal-State Council**

At its October 15, 2001 meeting, the committee voted to recommend WLC: 0195/1, as modified by committee discussion, to the JLC for introduction in the 2001-02 Session of the Legislature. It was subsequently redrafted as WLC: 0195/2 and redrafted by the LRB as

LRB-4265/2. The vote on WLC: 0195/2 was as follows: *Ayes, 11* (Reps. Musser, Ainsworth, Boyle, Coggs, La Fave, Pettis, and Sherman; Sen. Breske; and Public Members Ninham, Puskarenko, and Thompson); *Noes, 0*; and *Absent, 6* (Sen. George; and Public Members Bichler, Biermeier, Bigboy, gaiashkibos, and Gordon).

At its January 30, 2002 meeting, the JLC voted to introduce LRB-4265/2 by a vote of *Ayes, 14* (Sens. Risser, Baumgart, Darling, Grobschmidt, Panzer, Robson and Zien; and Reps. Rhoades, Black, Gard, Huber, Jensen, Meyerhofer and Stone; *Noes, 0*; and *Absent, 8* (Sens. Burke, Chvala, George and Welch; and Reps. Bock, Foti, Freese and Lehman).

[Rep. Bock asked that the record reflect that had he been present during the roll call, he would have voted in favor of introducing the above draft.]

- **2001 Assembly Bill 772, Relating to Preparation of Tribal Impact Statements for Bills That Would Have an Impact on Tribal Governments or American Indians**

At its October 15, 2001 meeting, the committee voted to recommend WLC: 0197/1, as modified by committee discussion, to the JLC for introduction in the 2001-02 Session of the Legislature. It was subsequently redrafted as WLC: 0197/2 and redrafted by the LRB as LRB-4266/2. The vote on WLC: 0197/2 was as follows: *Ayes, 11* (Reps. Musser, Ainsworth, Boyle, Coggs, La Fave, Pettis, and Sherman; Sen. Breske; and Public Members Ninham, Puskarenko, and Thompson); *Noes, 0*; and *Absent, 6* (Sen. George; and Public Members Bichler, Biermeier, Bigboy, gaiashkibos, and Gordon).

At its January 30, 2002 meeting, the JLC voted to introduce LRB-4266/2 by a vote of *Ayes, 14* (Sens. Risser, Baumgart, Darling, Grobschmidt, Panzer, Robson and Zien; and Reps. Rhoades, Black, Gard, Huber, Jensen, Meyerhofer and Stone; *Noes, 0*; and *Absent, 8* (Sens. Burke, Chvala, George and Welch; and Reps. Bock, Foti, Freese and Lehman).

[Rep. Bock asked that the record reflect that had he been present during the roll call, he would have voted in favor of introducing the above draft.]

- **2001 Assembly Bill 773, Relating to Representations Made Regarding Wild Rice Sold or Offered for Sale in This State**

By mail ballot dated November 30, 2001, the committee voted to recommend WLC: 0215/2 to the JLC for introduction in the 2001-02 Session of the Legislature. It was subsequently redrafted by the LRB as LRB-4441/1. The vote on WLC: 0215/2 was as follows: *Ayes, 13* (Reps. Musser, Ainsworth, Boyle, Coggs, La Fave, and Sherman; Sen. Breske; and Public Members Bichler, Biermeier, Gordon, Ninham, Puskarenko, and Thompson); *Noes, 0*; and *Not Voting, 4* (Sen. George; Rep. Pettis; and Public Members Bigboy and gaiashkibos).

At its January 30, 2002 meeting, the JLC voted to introduce LRB-4441/1 by a vote of *Ayes, 14* (Sens. Risser, Baumgart, Darling, Grobschmidt, Panzer, Robson and Zien; and Reps.

Rhoades, Black, Gard, Huber, Jensen, Meyerhofer and Stone; *Noes, 0*; and *Absent, 8* (Sens. Burke, Chvala, George and Welch; and Reps. Bock, Foti, Freese and Lehman).

[Rep. Bock asked that the record reflect that had he been present during the roll call, he would have voted in favor of introducing the above draft.]



## APPENDIX 2

### JOINT LEGISLATIVE COUNCIL s. 13.81, Stats.

Cochair  
FRED A. RISSER  
*Senate President*  
5008 Risser Road  
Madison, WI 53705-1365

JAMES BAUMGART  
1419 North 16th Street  
Sheboygan, WI 53081-3257

BRIAN BURKE  
*Cochair, Joint Comt. on Finance*  
2029 North 51<sup>st</sup> Street  
Milwaukee, WI 53208-1747

CHARLES J. CHVALA  
*Senate Majority Leader*  
1 Coach House Drive  
Madison, WI 53714-2718

ALBERTA DARLING  
*Ranking Minority Member, Joint  
Comt. on Finance*  
1325 West Dean Road  
River Hills, WI 53217-2537

SPENCER BLACK  
5742 Elder Place  
Madison, WI 53705-2516

PETER BOCK  
4710 West Bluemound Road  
Milwaukee, WI 53208-3648

STEVEN M. FOTI  
*Assembly Majority Leader*  
1117 Dickens Drive  
Oconomowoc, WI 53066-4316

STEPHEN J. FREESE  
*Speaker Pro Tempore*  
310 East North Street  
Dodgeville, WI 53533-1200

SENATORS  
GARY R. GEORGE  
*President Pro Tempore*  
1100 West Wells St., #1711  
Milwaukee, WI 53233-2326

RICHARD GROBSCHMIDT  
912 Lake Drive  
South Milwaukee, WI 53172-1736

MARY PANZER  
*Senate Minority Leader*  
635 Tamarack Drive West  
West Bend, WI 53095-3653

REPRESENTATIVES  
JOHN GARD  
*Cochair, Joint Comt. on Finance*  
481 Aubin St., PO Box 119  
Peshtigo, WI 54157-0119

GREGORY HUBER  
*Ranking Minority Member, Joint  
Comt. on Finance*  
406 South 9th Avenue  
Wausau, WI 54401-4541

SCOTT R. JENSEN  
*Assembly Speaker*  
850 South Springdale Road  
Waukesha, WI 53186-1402

Cochair  
KITTY RHOADES  
*Representative*  
708 4<sup>th</sup> Street  
Hudson, WI 54016-1643

JUDITH ROBSON  
2411 East Ridge Road  
Beloit, WI 53511-3922

PEGGY ROSENZWEIG  
6236 Upper Parkway North  
Wauwatosa, WI 53213-2430

DAVID ZIEN  
1716 63rd Street  
Eau Claire, WI 54703-6857

SHIRLEY KRUG  
*Assembly Minority Leader*  
6105 West Hope Avenue  
Milwaukee, WI 53216-1226

MICHAEL LEHMAN  
1317 Honeysuckle Road  
Hartford, WI 53027-2614

JEFF STONE  
7424 West Forest Home Ave.  
Greenfield, WI 53220-3358

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the cochairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.



## APPENDIX 3

### STATE-TRIBAL RELATIONS, SPECIAL COMMITTEE ON

Chair  
TERRY MUSSER  
Representative  
W13550 Murray Road  
Black River Falls, WI 54615-5102

Vice Chair  
GARY R. GEORGE <sup>(1)</sup>  
Senator  
1100 W. Wells Street #1711  
Milwaukee, WI 53233-2341

#### SENATOR

ROGER BRESKE  
8800 State Highway 29  
Eland, WI 54427

#### REPRESENTATIVES<sup>(6) (7)</sup>

JOHN AINSWORTH  
W6382 Waukechon Road  
Shawano, WI 54166-7042

G. SPENCER COGGS  
3732 North 40th Street  
Milwaukee, WI 53216-3027

MARK PETTIS <sup>(5)</sup>  
3830 State Road 70, P.O. Box 257  
Hertel, WI 54845-0257

FRANK BOYLE  
4900 East Tri-Lakes Road  
Superior, WI 54880-8637

JOHN LA FAVE <sup>(2)</sup>  
7237 West Wabash Avenue  
Milwaukee, WI 53223-0410

GARY SHERMAN  
P.O. Box 157  
Port Wing, WI 54865-0157

#### PUBLIC MEMBERS<sup>(8)</sup>

HOWARD J. BICHLER  
St. Croix Tribe  
P.O. Box 287  
Hertel, WI 54845-0287

GAIASHKIBOS<sup>(4)</sup>  
Lac Courte Oreilles Band of Lake  
Superior Chippewa Indians  
9888 W. Chippewa Flowage Road  
Couderay, WI 54828

PAUL NINHAM  
Oneida Tribe of Indians of WI  
P.O. Box 365  
Oneida, WI 54155-0365

CAROL BROWN BIERMEIER <sup>(3)</sup>  
Lac du Flambeau Band of Lake  
Superior Chippewa  
Brown & La Counte  
22 East Mifflin St., Suite 300  
Madison, WI 53703-4243

PHILIP C. GORDON  
Red Cliff Band of Lake Superior  
Chippewa  
Route 1, Box 88E  
Bayfield, WI 54814-9721

MYRNA THOMPSON  
Ho-Chunk Nation  
P.O. Box 667  
Black River Falls, WI 54615-0667

EUGENE BIGBOY  
Bad River Band of Lake  
Superior Tribe of Chippewa Indians  
P.O. Box 39  
Odanah, WI 54861-0039

THERESA PUSKARENKO <sup>(3)</sup>  
Stockbridge-Munsee Band of  
Mohicans  
W15227 Bierman Road  
Bowler, WI 54416-9231

STUDY ASSIGNMENT: The Committee is directed to study issues relating to American Indians and the American Indian tribes and bands in this state and develop specific recommendations and legislative proposals relating to these issues.

Established biennially, pursuant to s. 13.83 (3), Stats. Chair appointed by a June 13, 2000 mail ballot; members appointed by an August 31, 2000 mail ballot.

17 MEMBERS: 2 Senators; 7 Representatives and 8 Public Members.

LEGISLATIVE COUNCIL STAFF: David Lovell, Senior Analyst, Joyce Kiel, Senior Staff Attorney; and Tracey Uselman, Support Staff.

- (1) Appointed as Vice Chair of the Special Committee by an October 12, 2000 mail ballot.
- (2) Appointed as a Legislative Member of the Special Committee by a November 9, 2000 mail ballot.
- (3) Appointed as a Public Member of the Special Committee by a November 9, 2000 mail ballot.
- (4) Appointed to fill the vacancy created by the resignation of Margaret Diamond on December 15, 2000.
- (5) Appointed as a Legislative Member of the Special Committee by a January 25, 2001 mail ballot.
- (6) Rep. James Kreuser resigned from the Special Committee on August 3, 2001.
- (7) Rep. Joan Wade resigned from the Legislature on September 1, 2001.
- (8) Public Member Royal Warrington, Menominee Indian Tribe of Wisconsin, died on September 23, 2001.



STATE-TRIBAL RELATIONS, SPECIAL COMMITTEE ON

Technical Advisory Committee

JOHN GREENE  
Department of Justice  
Assistant Attorney General  
123 West Washington Avenue  
Madison 53702-0009

RACHELLE MILLER  
Department of Workforce  
Development  
Tribal Services Coordinator  
201 East Washington Avenue, Room  
E200  
Madison 53707-7935

EUGENE JOHNSON  
Department of Transportation  
Director, Office of Disadvantaged  
Business Enterprise Programs  
4802 Sheboygan Avenue, Room  
451  
Madison 53702-0002

TOM OURADA  
Department of Revenue  
Executive Assistant  
2135 Rimrock Road #624A  
Madison 53713-1443

J.P. LEARY  
Department of Public Instruction  
American Indian Studies  
Consultant  
125 South Webster Street  
Madison 53702-0008

NANCIE YOUNG  
Department of Health and Family  
Services  
Manager, Tribal Affairs Unit  
Office of Strategic Finance  
One West Wilson Street, Room 618  
Madison 53702-0007

MICHAEL LUTZ  
Department of Natural Resources  
Attorney, Bureau of Legal  
Services  
101 South Webster Street, LS/5  
Madison 53702-0005

ASSIGNMENT: Established pursuant to s. 13.83 (3) (f), Stats., to assist the Special Committee on State-Tribal Relations in performing its statutory functions.

7 MEMBERS: One representative designated by the following Departments: Health and Family Services; Justice; Natural Resources; Public Instruction; Revenue; Transportation; and Workforce Development.



*Committee Materials List*

**March 12, 2001 Meeting**

**Memo No. 1 to the Special Committee on Federally Tax-Exempt Lands, An Overview of Federal Tax-Exempt Lands in Wisconsin** (11-27-96)

**Letter, from gaiashkibos**, Tribal Chairman, Lac Courte Oreilles Tribal Governing Board, to Representative Terry Musser, relating to suggestions of topics for committee study (12-13-00)

**Handout, National Agenda Recommendations**, distributed by Judge James B. Mohr, Vilas County Circuit Court (12-14-00)

**Letter, to Tommy G. Thompson, Governor**, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to Director of State Courts--2001-03 Biennial Budget Request Relating to Wisconsin Federal/State/Tribal Court Forum Staff (1-2-01)

**Letter, from David D. Raasch**, President, Wisconsin Tribal Judge's Association, Inc., to Judge James B. Mohr, Vilas County Circuit Court, relating to the Wisconsin Federal/State/Tribal Court Forum (10-30-00)

**Letter, to Tommy G. Thompson, Governor**, from certain legislative members of the Special Committee on State-Tribal Relations, relating to the amended gaming compact between the state and the Menominee Indian Tribe of Wisconsin (1-3-01)

**Letter, to Tommy G. Thompson, Governor**, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to certain Department of Commerce biennial budget requests and reallocation of unexpended appropriations of Indian gaming revenues (1-3-01)

**Letter, from James E. Doyle, Attorney General, to Tommy G. Thompson, Governor**; Members of the Wisconsin State Legislature; and Members of the Special Committee on State-Tribal Relations, relating to the cooperative county-tribal law enforcement grant program (1-8-01)

**Informational Paper #78, Legal Gambling in Wisconsin**, Legislative Fiscal Bureau (1-01)

**Letter, from Brenda Blanchard**, Secretary, Department of Commerce, to Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to the Department of Commerce financial assistance programs and Indian gaming economic development and diversification programs (1-22-01)

**Letter, from Mike Allen, Executive Director, Great Lakes Inter-Tribal Council, and Mark Rogacki, Executive Director, Wisconsin Counties Association, to Scott McCallum, Governor**, relating to tribal/county position paper on the state's

Indian gaming compact revenues initiative (2-2-01)

### **March 14, 2001 Joint Legislative Council Meeting**

#### **Committee Report No. 3, Legislation Recommended by the Special Committee on State-Tribal Relations**

**LRB-1176/1**, relating to tribal administration of rehabilitation reviews for persons who otherwise may not operate, be employed at, contract with, or reside at an entity that provides care for children or adults and granting rule-making authority

### **Report to the Legislature**

#### **Report to the Legislature (RL-2001-03), Legislation Recommended by the Special Committee on State-Tribal Relations (3-23-01)**

#### **2001 Assembly Bill 223**

### **April 27, 2001 Meeting**

**Excerpts** relating to tribal gaming revenue allocations in the 2001-03 Biennial Budget Bill, Summary of Governor's Budget Recommendations, Legislative Fiscal Bureau (pages 78 to 83) (3-01)

**Letter, to Senator Brian Burke and Representative John Gard, Co-Chairs, Joint Committee on Finance**, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to including staff for the Wisconsin Federal/State/Tribal Court Forum Project in the 2001-03 Biennial Budget Bill (3-20-01)

**Letter, to Tribal Chairs**, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to payments made by tribes to various levels of state governments for various purposes (3-28-01)

**Memo No. 00-9, Legislative Options for Improving Communications Between the State Government and Tribal Governments (4-20-01)**

**Memo No. 00-10, Jurisdiction Over an American Indian Juvenile Who is Alleged to Have Committed a Delinquent Act While Off the Reservation Under a Tribal Court Order (4-20-01)**

**Letter, from Jon E. Litscher, Secretary, Department of Corrections**, to Representative Terry Musser, Chair, and Senator Gary George, Vice Chair, Special Committee on State-Tribal Relations, relating to jurisdiction of tribal courts over off-reservation delinquent acts (4-24-01)

### **June 11, 2001 Meeting**

**Letter, to Apesanahkwat, Tribal Chair**, Menominee Nation, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, regarding preparation for discussion of models of communication and relations between the state and tribal governments at the June meeting of the Special Committee (May 11, 2001). (Similar letters were sent to all tribal chairs.)

[Text of California legislative resolution \(ACR 185\)](#), relating to recognition of tribal sovereignty, distributed at the request of Public Member Royal Warrington (8-23-00)

[Memo No. 00-11](#), **Negotiation of Tribal-State Gaming Compacts and Allocation of Tribal Gaming Revenue Paid to the State** (6-1-01)

[Informational Paper No. 66](#), State Budget Process, Legislative Fiscal Bureau (1-01)

#### **September 10, 2001 Meeting**

[Memo](#) from **Representative Terry Musser**, Chair, Special Committee on State-Tribal Relations, regarding the rescheduled meeting (8-8-01)

[Chart](#) of election schedules and Wisconsin tribal council meeting schedules compiled by the Great Lakes Inter-Tribal Council (7-01)

[2001 Assembly Bill 478](#) and [2001 Senate Bill 230](#), relating to delegates from tribal governments to the legislature

[Recommendations of the Oneida Business Committee](#) for the Position Paper of the Special Committee on State-Tribal Relations (8-01)

#### **October 15, 2001 Meeting**

[WLC: 0195/1](#), relating to creation of an American Indian council and making an appropriation

[WLC: 0196/1](#), relating to state recognition of the sovereign status of federally recognized American Indian tribes and bands

[WLC: 0197/1](#), relating to preparation of tribal impact statements for bills that would have an impact on tribal governments or American Indians

[Memo No. 00-12](#), **Labeling of Wild Rice Offered for Sale** (10-5-01)

[Memo No. 00-13](#), **Selected Materials Describing Government-to-Government Consultation Policies of the Federal Government and the States of Oregon and Washington** (10-5-01)

[Text of California legislative resolution](#) (ACR 185), relating to recognition of tribal sovereignty

[Memorandum](#), **Tribal Gaming Revenue Allocations Under 2001 Act 16**, from Art Zimmerman, Fiscal Analyst, Legislative Fiscal Bureau, to Representative Terry Musser (10-3-01)

[Letter](#), to **Donald Schneider**, Senate Chief Clerk, and **John Scocos**, Assembly Chief Clerk, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to informing tribal elders of the opportunity to offer a blessing in the Senate and Assembly at the beginning of session days (10-4-01)

**Letter, to Representative Stephen Nass**, Chair, Assembly Committee on Education Reform, and **Senator Richard Grobschmidt**, Chair, Senate Committee on Education, from Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to 2001 Assembly Bill 92 and 2001 Senate Bill 25, relating to the use of ethnic names, nicknames, logos, and mascots by school boards (10-4-01)

#### **November 13, 2001 Meeting**

**WLC: 0195/2**, relating to creation of Wisconsin tribal-state council and making an appropriation

**WLC: 0196/2**, relating to state recognition of the sovereign status of federally recognized American Indian tribes and bands

**WLC: 0197/2**, relating to preparation of tribal impact statements for bills that would have an impact on tribal governments or American Indians

**WLC: 0213/1**, relating to policy of executive branch consultation with tribal governments

**WLC: 0215/1**, relating to representations made regarding wild rice sold or offered for sale in this state, granting rule-making authority, and providing a penalty

**Letter, from Representative Stephen Nass**, Chair, Assembly Education Reform Committee, to Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, relating to a request for a public hearing on Assembly Bill 92, which relates to the use of ethnic names, nicknames, logos, and mascots by public school districts (10-23-01)

#### **November 30, 2001 Mail Ballot**

**WLC: 0213/1**, relating to policy of executive branch consultation with tribal governments

**WLC: 0215/2**, relating to representations made regarding wild rice sold or offered for sale in this state, granting rule-making authority, and providing a penalty