

1993 Senate Bill 721

Date of enactment: **April 16, 1994**  
Date of publication\*: **April 29, 1994**

## 1993 WISCONSIN ACT 349

AN ACT *to amend* 15.07 (1) (b) (intro.), 20.370 (3) (mu), 20.505 (4) (h), 23.50 (1), 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58, 23.62 (intro.), 29.05 (2) and 144.85 (5) (a) 1. (intro.); and *to create* 15.07 (1) (b) 20, 15.07 (5) (y), 15.105 (23), 16.07, 16.21, 20.505 (4) (dp), 20.505 (4) (dq), 20.505 (4) (ip), 20.505 (4) (ir), 20.923 (6) (ai), 227.01 (13) (zq) and 230.08 (2) (yn) of the statutes, **relating to:** creating a Kickapoo valley reserve and a Kickapoo valley governing board, providing an exemption from rule-making procedures, making appropriations, granting rule-making authority and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 15.07 (1) (b) (intro.) of the statutes, as affected by 1993 Wisconsin Act 75, is amended to read:

15.07 (1) (b) (intro.) For each board not covered under par. (a), the governor shall appoint the members of the board, other than the members serving on the board because of holding another office or position and except as otherwise provided, for terms prescribed by law except that ~~the all~~ members of the following boards, ~~or all members of the following boards specified in this paragraph.~~ other than the members serving on a board because of holding another office or position, shall be nominated by the governor, and with the advice and consent of the senate appointed, for terms provided by law:

**SECTION 2.** 15.07 (1) (b) 20. of the statutes is created to read:

15.07 (1) (b) 20. The 3 members of the Kickapoo valley governing board appointed under s. 15.105 (23) (b) 3.

**SECTION 3.** 15.07 (5) (y) of the statutes is created to read:

15.07 (5) (y) Members of the Kickapoo valley governing board, \$25 per day.

**SECTION 4.** 15.105 (23) of the statutes is created to read:

15.105 (23) KICKAPOO VALLEY GOVERNING BOARD.  
(a) Creation. There is created a Kickapoo valley governing board which is attached to the department of administration under s. 15.03.

(b) *Membership.* The board consists of the following members appointed to serve for 3-year terms:

1. Four members who are residents of the area composed of the villages of La Farge and Ontario, the towns of Stark and Whitestown and the school districts encompassing the villages of La Farge and Ontario.

2. Two members who are residents of that portion of the Kickapoo river watershed, as determined by the department of natural resources, that lies outside of the area specified in subd. 1.

3. Three members who are not residents of the watershed specified in subd. 2, one of whom shall be an advocate for the environment, one of whom shall have a demonstrated interest in education and one of whom shall represent recreation and tourism interests.

(c) *Vacancies.* If any member ceases to retain the status required for his or her appointment under par. (b), the member vacates his or her office.

(d) *Recommendations for membership.* 1. The governor shall appoint the members specified in par. (b) 1. from a list of individuals recommended by the governing bodies of the municipalities and school boards of the school districts specified in par. (b) 1.

2. The governor shall appoint the members specified in par. (b) 2. from a list of individuals recommended by the governing bodies of each town, village and city which includes territory located within the area specified in par. (b) 2.

3. Each municipality or school district specified in this paragraph may recommend no more than 3 members. At the request of the governor, a municipality or school district shall recommend additional members if an individual who is recommended by the municipality or school district declines to serve.

(e) *Liaison representatives.* The secretary of agriculture, trade and consumer protection, the secretary of natural resources, the secretary of transportation, the secretary of development, the director of the state historical society and the chancellor of the university of Wisconsin–extension, or their designees, shall serve as liaison representatives to the board. The board shall request the Winnebago tribal council to appoint a liaison representative to the board. The board may request any other Indian tribal council which expresses an interest in the governance of the Kickapoo valley reserve to appoint a liaison representative to the board. The liaison representatives are not board members and have no voting power.

**SECTION 5.** 16.07 of the statutes is created to read:

**16.07 Kickapoo land acquisition; reserve designation.** The department may acquire land from the federal government adjacent to the Kickapoo river, and may determine the boundaries of the Kickapoo valley reserve under s. 16.21 (2).

**SECTION 6.** 16.21 of the statutes is created to read:

**16.21 Kickapoo valley reserve. (1) DEFINITION.** In this section:

(a) “Board” means the Kickapoo valley governing board.

(b) “Mining” means operations or activities for the commercial extraction from the earth of merchantable metallic or nonmetallic minerals or the exploration or prospecting for such minerals and includes operations, processes or activities related to that extraction.

(2) **CREATION.** There is created a Kickapoo valley reserve adjacent to the Kickapoo river, consisting of state–owned land that is acquired by the department from the federal government or acquired by the board under sub. (7) and is designated as the Kickapoo valley reserve by the department.

(3) **OBJECTIVES.** The board shall manage land in the Kickapoo valley reserve to preserve and enhance its unique environmental, scenic and cultural features, to provide facilities for the use and enjoyment of visitors to the reserve and to promote the reserve as a destination for vacationing and recreation.

(4) **POLICY RESPONSIBILITY AND COOPERATION.** (a) The board is the policy–making body responsible for the Kickapoo valley reserve.

(b) The department shall provide staff within the classified service to assist the board in performing the payroll, accounting and related management functions of the board.

(c) The department of agriculture, trade and consumer protection, the department of natural resources, the department of transportation, the department of development, the state historical society and the university of Wisconsin–extension shall cooperate with and assist the board in matters related to its functions.

**(5) BOARD DUTIES.** The board shall:

(a) Appoint an executive secretary outside the classified service.

(b) Publish a map and description of the Kickapoo valley reserve.

(c) Manage the land in the Kickapoo valley reserve in conformity with this section.

(d) Promote to the recreational users of the Kickapoo valley reserve an appreciation of the environmental, scenic and cultural features of the reserve.

(e) Consult and cooperate with the department of agriculture, trade and consumer protection, the department of natural resources, the department of transportation, the department of development, the state historical society, the university of Wisconsin–extension, the Winnebago tribe and any other Indian tribe which appoints a liaison representative to the board regarding the management of the Kickapoo valley reserve.

(f) Seek the advice and assistance of and cooperate with local governmental units having jurisdiction of and in the vicinity of the Kickapoo valley reserve.

(g) Conduct one or more public hearings prior to trading land located in the Kickapoo valley reserve or acquiring land for the reserve.

(h) Actively solicit bids for construction, materials, supplies, equipment and contractual services required by the board from bidders located in the region surrounding the Kickapoo valley reserve.

(i) Recognize and honor preexisting highway and utility easements on land that becomes a part of the Kickapoo valley reserve or land that is acquired by the board.

**(6) BOARD RESTRICTIONS.** The board shall not:

(a) Sell land in the Kickapoo valley reserve.

(b) Exercise jurisdiction over land that is not a part of the Kickapoo valley reserve unless that land has been acquired by the board.

**(7) BOARD POWERS.** The board may:

(a) Delegate responsibility for administration of the Kickapoo valley reserve to the executive secretary.

(b) Lease land that is part of the Kickapoo valley reserve to any person for purposes consistent with the management of the reserve under sub. (3), or for agricultural purposes, and lease other land that is acquired by the board for any lawful purpose.

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(c) Subject to approval of the governor under s. 20.914 (1), purchase a parcel of land any portion of which is approved by the department for inclusion in the Kickapoo valley reserve.

(d) Sell land that is not a part of the Kickapoo valley reserve.

(e) Subject to approval by the governor in the same manner that purchases are approved under s. 20.914 (1), trade a parcel of land that is part of the Kickapoo valley reserve for another parcel of land any portion of which is approved by the department for inclusion in the reserve if the land traded is comparable in value to the land received and any of the following applies:

1. The land received is more suitable to the purposes of the Kickapoo valley reserve than the land traded.

2. The trade serves to consolidate the land in the Kickapoo valley reserve.

3. The trade serves to settle a boundary dispute or encroachment.

(f) Authorize, license and regulate private concessions in the Kickapoo valley reserve for purposes consistent with the management of the reserve under sub. (3) and receive revenue from the concessions.

(g) Subject to ss. 13.48 (10), 16.85 (1) and 20.924 (1), plan, design, construct and maintain facilities in the Kickapoo valley reserve for purposes consistent with the management of the reserve under sub. (3).

(h) Issue orders directing compliance with this section or the rules of the board.

(i) Accept and administer gifts, grants and bequests.

(j) Charge fees for use of the land and facilities in the Kickapoo valley reserve.

(k) Promulgate rules that are applicable only to land in the Kickapoo valley reserve and other land acquired by the board, facilities on that land and waters adjacent to that land establishing restrictions on use of the land, waters and facilities.

(L) Cooperate with and provide matching funds to any nonstock, nonprofit corporation described under section 501 (c) (3) or (4) of the internal revenue code (26 USC 501 (c) 3 or (4)) and exempt from taxation under section 501 (a) of the internal revenue code (26 USC 501 (a)) that is organized to raise moneys for and provide assistance to the Kickapoo valley reserve.

(m) Raise moneys from private donors by selling memberships in the Kickapoo valley reserve or by other similar means.

(n) Grant easements for highway or utility purposes on land that is a part of the Kickapoo valley reserve or land that has been acquired by the board.

**(8) ZONING.** Notwithstanding ss. 13.48 (13) (a), 59.97 (4), 60.61 (2), 60.62 (1), 61.35 and 62.23 (7), the Kickapoo valley reserve is not subject to the zoning ordinance of any county or municipality, except that any ordinance enacted under s. 59.971, 61.351, 62.231 or 87.30 governing the zoning of floodplains, shorelands or wet-

lands in shorelands and any ordinance that is required by law under s. 59.974, 61.354 or 62.324 governing construction site erosion control or stormwater management applies in the reserve.

**(9) STATE NATURAL AREAS.** The board shall dedicate as a state natural area under s. 23.27 any land that is a part of the Kickapoo valley reserve and any land that has been acquired by the board if the department of natural resources identifies the land as appropriate for dedication.

**(10) AIDS EQUIVALENT TO PROPERTY TAXES.** (a) In this section:

1. “Estimated value”, for the year following the year in which the department acquires land within the Kickapoo valley reserve or the board acquires land under sub. (7), means the full value of the land determined by the department of revenue and, for each later year, means the value that was used for calculating the aid payment under this subsection on the land for the prior year increased or decreased to reflect the annual percentage change in the equalized valuation of all real property, excluding improvements, in the taxation district in which the land is located, as determined by comparing the most recent determination of equalized valuation under s. 70.57 for all real property to the next preceding determination of equalized valuation under s. 70.57 for all real property.

2. “Taxation district” means a city, village or town, except that if a city or village lies in more than one county, “taxation district” means each portion of the city or village that lies within a separate county.

3. “Taxing jurisdiction” means any entity authorized by law to levy taxes on general property, as defined in s. 70.02, that are measured by the property’s value.

(b) Each year, the department shall ascertain from the clerk of each taxation district in which the reserve or any land acquired by the board is located the aggregate gross general property tax rate for the taxation district, exclusive of the rate that applies under s. 70.58 and without respect to the school levy tax credit under s. 79.10.

(c) 1. Except as provided in par. (d), on or before each January 31, the department shall pay to the treasurer of each taxation district specified in par. (b), with respect to all land in the Kickapoo valley reserve and all land acquired by the board on or before January 1 of the preceding year, an amount determined by multiplying the estimated value of the land equated to the average level of assessment in the taxation district by the aggregate gross general property tax rate, exclusive of the rate that applies under s. 70.58 and without respect to the school levy tax credit under s. 79.10, that would apply to the land in that taxation district for that year if it were taxable.

2. On or before February 15, the treasurer of each taxation district receiving a payment under subd. 1 shall pay to the treasurer of each taxing jurisdiction, from the amount received under subd. 1, the taxing jurisdiction’s

proportionate share of the payment in lieu of the tax that would be levied on the land if it were taxable.

(d) The department shall make payments under par. (c) on January 31 of any year with respect to land that is a part of the Kickapoo valley reserve as a result of a transfer of ownership from the United States if the land is a part of the reserve on January 1 of that year. Payments under this paragraph shall be made based on the full value of the land on January 1 of that year as determined by the department of revenue.

(11) COMMERCIAL MINING FOR MINERALS PROHIBITED. No person may conduct mining on any land that is a part of the Kickapoo valley reserve or any property acquired by the board. The board shall not authorize any person to conduct mining on any such property.

(12) ENFORCEMENT; PENALTY. (a) The department of natural resources shall have police supervision over the Kickapoo valley reserve, other land acquired by the

board and all publicly owned rights-of-way adjacent thereto, and its duly appointed agents may arrest, with or without warrant, any person on that property committing an offense against the laws of the state or in violation of any rule of the board in force on that property, and deliver the person to circuit court for the county where the offense is committed and make and execute a complaint charging the person with the offense committed. The district attorney of the county where the offense is committed shall appear and prosecute all actions arising under this paragraph. This paragraph does not preclude exercise of concurrent law enforcement jurisdiction in or adjacent to the reserve, or on other land acquired by the board, by any authority to whom jurisdiction is granted by law.

(b) A person who violates any provision of this section or any rule promulgated or order issued under this section may be required to forfeit not more than \$100.

SECTION 7. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

<b>1993-94</b>	<b>1994-95</b>
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**20.505 Administration, department of**

(4) ATTACHED DIVISIONS, BOARDS, COUNCILS AND COMMISSIONS

(dp) Kickapoo valley governing board; general program

operations	GPR A	-0-	-0-
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SECTION 8. 20.370 (3) (mu) of the statutes is amended to read:

20.370 (3) (mu) *General program operations — state funds.* The amounts in the schedule for law enforcement operations under ss. 16.21 (12), 23.09 to 23.11 and 166.04 and chs. 29 and 30 and for review of environmental impact requirements under ss. 1.11 and 23.40.

SECTION 9. 20.505 (4) (dp) of the statutes is created to read:

20.505 (4) (dp) *Kickapoo valley governing board; general program operations.* The amounts in the schedule for the general program operations of the Kickapoo valley governing board under s. 16.21.

SECTION 10. 20.505 (4) (dq) of the statutes is created to read:

20.505 (4) (dq) *Kickapoo valley reserve; aids in lieu of taxes.* A sum sufficient to pay aids to taxing jurisdictions for the Kickapoo valley reserve under s. 16.21 (10).

SECTION 11. 20.505 (4) (h) of the statutes is amended to read:

20.505 (4) (h) *Program services.* The amounts in the schedule to carry out the responsibilities of divisions, boards and commissions attached to the department of administration, other than the board on aging and long-term care, the arts board, the public records and forms board, the Kickapoo valley governing board and the Wisconsin conservation corps board. All moneys received from fees which are authorized by law or administrative

rule to be collected by any division, board or commission attached to the department, other than the board on aging and long-term care, the arts board, the public records and forms board, the Kickapoo valley governing board and the Wisconsin conservation corps board, shall be credited to this appropriation account and used to carry out the purposes for which collected.

SECTION 12. 20.505 (4) (ip) of the statutes is created to read:

20.505 (4) (ip) *Kickapoo valley governing board; program services.* All moneys received by the Kickapoo valley governing board from admissions, fees, leases, concessions, memberships, sales and other similar receipts authorized under s. 16.21 to be used for the general program operations of the board under s. 16.21.

SECTION 13. 20.505 (4) (ir) of the statutes is created to read:

20.505 (4) (ir) *Kickapoo valley governing board; gifts and grants.* All moneys received by the Kickapoo valley governing board from gifts, grants or bequests, to carry out the purpose for which received.

SECTION 14. 20.923 (6) (ai) of the statutes is created to read:

20.923 (6) (ai) Administration, department of; Kickapoo valley governing board: executive secretary and staff.

SECTION 15. 23.50 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

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23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable environmental assessments, applicable wild animal protection assessments, applicable natural resources assessments, applicable fishing shelter removal assessments, applicable snowmobile registration restitution payments and applicable natural resources restitution payments for violations of ss. 77.09, 134.60, 144.422 (2), (2m) (c) and (2r), 147.021, 159.07, 159.08, 159.81, 167.10 (3) and 167.31 (2), subch. VI of ch. 77, this chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated thereunder ~~and, violations of rules of the Kickapoo valley governing board under s. 16.21 (7) (k) or~~ violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

**SECTION 16.** 23.53 (1) of the statutes is amended to read:

23.53 (1) The citation created under this section shall, in all actions to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable environmental assessments, applicable wild animal protection assessments, applicable natural resources assessments, applicable fishing shelter removal assessments, applicable snowmobile registration restitution payments and applicable natural resources restitution payments for violations of those statutes enumerated in s. 23.50 (1) ~~and, any administrative rules promulgated thereunder, and any rule of the Kickapoo valley governing board under s. 16.21 (7) (k)~~ be used by any law enforcement officer with authority to enforce those laws, except that the uniform traffic citation created under s. 345.11 may be used by a traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 in enforcing s. 159.81. In accordance with s. 345.11 (1m), the citation shall not be used for violations of ch. 350 relating to highway use. The citation may be used for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

**SECTION 17.** 23.56 (1) of the statutes is amended to read:

23.56 (1) A person may be arrested for a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo valley governing board under s. 16.21 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, after a warrant that substantially complies with s. 968.04 has been issued. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action.

**SECTION 18.** 23.57 (1) (intro.) of the statutes is amended to read:

23.57 (1) (intro.) A person may be arrested without a warrant when the arresting officer has probable cause to believe that the person is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo valley governing board under s. 16.21 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77; and:

**SECTION 19.** 23.58 of the statutes is amended to read:

**23.58 Temporary questioning without arrest.**

After having identified himself or herself as an enforcing officer, an enforcing officer may stop a person in a public place for a reasonable period of time when the officer reasonably suspects that such person is committing, is about to commit or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo valley governing board under s. 16.21 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77. Such a stop may be made only where the enforcing officer has proper authority to make an arrest for such a violation. The officer may demand the name and address of the person and an explanation of the person's conduct. Such detention and temporary questioning shall be conducted in the vicinity where the person was stopped.

**SECTION 20.** 23.62 (intro.) of the statutes is amended to read:

**23.62 Issuance of a citation.** (intro.) Whenever an enforcing officer has probable cause to believe that a person subject to his or her authority is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo valley governing board under s. 16.21 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, the officer may proceed in the following manner:

**SECTION 21.** 29.05 (2) of the statutes is amended to read:

29.05 (2) **ADDITIONAL ARREST POWERS.** In addition to the arrest powers under sub. (1), a conservation warden who has completed a program of law enforcement training approved by the law enforcement standards board, has been certified as qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied with any applicable requirements under s. 165.85 (4) (bn) 1 while on duty and in uniform or on duty and upon display of proper credentials may assist another law enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at the request of the agency, may arrest a person pursuant to an arrest warrant concerning the commission of a felony or may arrest a person who has committed a crime in the presence of the warden. If the conservation warden makes an arrest without the pres-

ence of another law enforcement agency, the conservation warden shall cause the person arrested to be delivered to the chief of police or sheriff in the jurisdiction where the arrest is made, along with the documents and reports pertaining to the arrest. The conservation warden shall be available as a witness for the state. A conservation warden may not conduct investigations for violations of state law except as authorized in sub. (3) and s. ~~16.21 (12) and~~ 23.11 (4). A conservation warden acting under the authority of this subsection is considered an employe of the department and is subject to its direction, benefits and legal protection. The authority granted in this section does not apply to county conservation wardens or special conservation wardens.

**SECTION 22.** 144.85 (5) (a) 1. (intro.) of the statutes is amended to read:

144.85 (5) (a) 1. (intro.) Within Except with respect to property specified in s. 16.21 (11), within 90 days of the completion of the public hearing record, the department shall issue the mining permit if it finds:

**SECTION 23.** 227.01 (13) (zq) of the statutes is created to read:

227.01 (13) (zq) Designates the Kickapoo valley reserve under s. 16.21 (2).

**SECTION 24.** 230.08 (2) (yn) of the statutes is created to read:

230.08 (2) (yn) The executive secretary and staff of the Kickapoo valley governing board.

**SECTION 25. Nonstatutory provisions; Kickapoo valley governing board.** (1) **MEMBERSHIP; INITIAL TERMS.** Notwithstanding section 15.105 (23) of the statutes, as created by this act, the governor shall appoint 3 of the initial members to the Kickapoo valley governing board under that subsection for a term expiring on May 1, 1995, 3 of the initial members for a term expiring on May 1, 1996 and 3 of the initial members for a term expiring on May 1, 1997.

(2) **MEMBERSHIP; COMMENCEMENT OF SERVICE.** Notwithstanding section 15.07 (1) (b) 20 of the statutes, as created by this act, the 3 members of the Kickapoo valley governing board who are initially appointed under section 15.105 (23) (b) 3. of the statutes, as created by this act, may commence service on the board without action

upon their nominations by the senate immediately upon appointment by the governor and qualification for office, and may continue to serve until their successors are appointed and qualify, unless their nominations are withdrawn by the governor or rejected by the senate, in which case the governor may appoint other members in accordance with this subsection.

(3) **STAFF.** The authorized FTE positions for the department of administration are increased by 2.0 GPR positions, to be funded from the appropriation under section 20.505 (4) (dp) of the statutes, as created by this act, for the general program operations of the Kickapoo valley governing board.

(4) **AUDIT.** The legislative audit bureau shall conduct a performance evaluation audit of the Kickapoo valley governing board. The audit shall cover the period consisting of the first 3 years of operation of the board. The legislative audit bureau shall submit a report of its audit to the distributees specified in section 13.94 (1) (b) of the statutes within 6 months after completion of the first 3 years of operation of the board.

(5) **AUTHORIZATION FOR EXPENDITURE OF INITIAL APPROPRIATIONS.** Of the moneys appropriated to the joint committee on finance under section 20.865 (4) (a) of the statutes for the 1993–95 fiscal biennium, \$70,000 is designated for the general program operations of the Kickapoo valley governing board, as created by this act, which may be transferred by the committee to the appropriation account under section 20.505 (4) (dp) of the statutes, as created by this act, upon a finding by the committee that the United States government has deauthorized the Kickapoo valley dam project. Upon transfer of the moneys, the Kickapoo valley governing board may expend the moneys in accordance with section 20.505 (4) (dp) of the statutes, as created by this act.

**SECTION 26. Appropriation changes; joint committee on finance.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the joint committee on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1993, the dollar amount is increased by \$70,000 for fiscal year 1994–95 to finance the general program operations of the Kickapoo valley governing board.