



## Legislative Fiscal Bureau

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May 23, 2001

Joint Committee on Finance

Paper #167

### *Tribal Gaming Revenue Allocations*

## **Reversion of Unencumbered Tribal Gaming Revenue (DOA -- Division of Gaming)**

[LFB 2001-03 Budget Summary: Page 82, #2]

### **CURRENT LAW**

Indian gaming receipts are statutorily defined as moneys received by the state from any of the following: (a) tribal reimbursement for state costs of regulation of Indian gaming under Indian gaming compacts; (b) payments by Indian gaming vendors and persons proposing to be Indian gaming vendors as reimbursement for state costs of certification and background investigations; (c) tribal reimbursement for state costs of gaming services and assistance provided by the state at the request of a tribe; and (d) tribal payments pursuant to an Indian gaming compact.

The Indian gaming receipts program revenue appropriation in the Department of Administration (DOA) receives all Indian gaming receipts, less the amounts appropriated to DOA for general program operations relating to Indian gaming and the Department of Justice (DOJ) for Indian gaming law enforcement. It is from the Indian gaming receipts appropriation that the allocations are made to various state agencies. In 2000-01, \$22,735,200 is allocated to 12 agencies and 38 program areas. In all but two instances, these allocations are statutorily credited to program revenue appropriations; any unexpended or unencumbered revenue at the end of each fiscal year is retained in that appropriation.

### **GOVERNOR**

Provide that, for annual appropriations under the bill (with one exception) receiving tribal gaming revenue from the Indian gaming receipts appropriation, any unencumbered balance on

June 30 of each year would revert to the Indian gaming receipts appropriation. Provide that, for biennial and continuing appropriations under the bill (with two exceptions) receiving tribal gaming revenue, any unencumbered balance on June 30 of each odd-numbered year would revert to the Indian gaming receipts appropriation from which tribal gaming revenue is transferred. Appropriation language relating to one of the continuing appropriations exempted from the provision requires a technical correction.

## DISCUSSION POINTS

1. Except for a transfer to the fish and wildlife account of the conservation fund and an allocation to the Committee's program supplemental PR appropriation for Badger Care, the tribal gaming revenue allocations, under current law, are made to program revenue appropriations as follows: (a) 33 allocations are made to annual appropriations; (b) two allocations to biennial appropriations; and (c) three allocations to continuing appropriations. Once credited to a program revenue appropriation, unencumbered balances at the end of a fiscal year are retained in that appropriation. However, the appropriation types differ, as follows:

a. *Annual appropriations.* Annual appropriations are expendable only up to the amount shown in the schedule and only for the fiscal year for which made. Any unencumbered balances at the end of either year of the biennium remain in the respective appropriations, but may not be expended in a subsequent year unless expenditure authority is provided. This may be done through the passage of an appropriation bill or by the Secretary of DOA with the approval of the Joint Committee on Finance under s. 16.515 of the statutes. The Legislature, or the Joint Committee on Finance under certain conditions, could also transfer such funds to address other purposes.

b. *Biennial appropriations.* Under a biennial appropriation, the dollar amounts shown in the appropriation schedule represent the most reliable estimates of the amounts which will be expended in each fiscal year. However, the total or combined amount for both years constitute a biennial appropriation, from which an agency may expend, in the second year of the biennium, the unencumbered balance remaining at the close of the first year. At the end of the biennium any unencumbered balance is retained in the appropriation account. However, an agency cannot expend these remaining funds in future years unless provided the necessary expenditure authority in subsequent budget deliberations. It is also possible for the Legislature to transfer any unencumbered balances at the end of the biennium to other appropriations for other purposes.

c. *Continuing appropriations.* Under a continuing appropriation, an agency may make authorized expenditures until the available revenues credited to the appropriation are fully depleted or the appropriation is repealed by subsequent action of the Legislature. Thus, agencies may utilize the unexpended revenue at the end of a fiscal year in a subsequent year. The dollar amounts shown in the appropriation schedule for a continuing appropriation from program revenues represent the most reliable estimates of the amounts which will be expended during any fiscal year.

2. The Governor's provisions, with three exceptions, would return unencumbered balances to the Indian gaming receipts appropriation in DOA, thus making this revenue available for other allocations. An argument could be made that unencumbered balances should be retained in some or all of the various appropriations receiving tribal gaming revenue because future needs relating to these approved purposes may arise that could be addressed by the unobligated revenue retained in the appropriations. With the exception of the continuing appropriations, the necessary authority for making such additional expenditures in subsequent years would require the approval of the Committee or the Legislature.

3. On the other hand, if unencumbered balances are reverted, future needs in both existing and new program areas could be addressed by the Legislature in its biennial budget deliberations. It could be argued, then, that the reversion provisions under the bill provide the Legislature with greater flexibility in addressing changing needs.

4. The Governor's provision for reverting unencumbered balances from annual appropriations would not include a Department of Commerce annual appropriation that would be created under the bill for Forward Wisconsin, Inc., business recruitment. Forward Wisconsin is required by statute to have its marketing expenditures approved by the Secretary of Commerce. When the Governor's budget bill was being prepared, there was concern that the reversion provision, if applied to the Forward Wisconsin appropriation, would require funds to be lapsed before expenditures were approved. Forward Wisconsin staff now indicate that the reversion requirement would not affect their activities. The Committee could, therefore, apply the reversion requirement to this appropriation.

5. The two exceptions to the reversion provision relating to continuing appropriations that receive tribal gaming revenue are: (a) a continuing appropriation for the Department of Health and Family Services (DHFS) interagency and intra-agency aids that receives tribal gaming revenue for medical assistance state-match purposes; and (b) a continuing appropriation, created under the bill, for the Department of Transportation for West Canal street reconstruction, service funds (which would receive tribal gaming funds in the 2001-03 biennium only). [A third continuing appropriation under current law relates to farmland tax relief payments from gaming revenue paid to the state by any tribe operating a casino located at certain pari-mutuel racetracks would also not contain the reversion provision. However, this appropriation is not currently active (no tribe operates a casino in association with a pari-mutuel racetrack) and, if active, would not produce an unencumbered balance.]

6. DOA officials indicate that the DHFS appropriation was excluded from being subject to the reversion provision under the bill because it is an interagency/intra-agency appropriation receiving funds from more than one source. This fact prevents the application of the reversion provision to this appropriation. It should also be noted that the appropriation language under the Indian gaming receipts appropriation, which allocates the funding to this DHFS appropriation, requires a technical correction relating to the specification of fiscal years and the amounts to be transferred.

7. Some modifications of the Governor's provisions could be considered. With regards to the two continuing appropriations that would be subject to the reversion provision (Commerce Physician Loan Assistance Program and Tourism marketing), the reversion of unencumbered balances on June 30 of each odd-numbered year would, in its practical effect, treat these appropriations as biennial appropriations. Given this effect, an alternative to the Governor's treatment of these continuing appropriations would be to adopt the reversion provision, but convert the appropriations to biennial appropriations. This would more accurately reflect the type of appropriation that would result if the reversion provision is approved.

8. As noted above, the Governor's recommendation would exclude applying the reversion requirement to a DHFS continuing appropriation for medical assistance state-match purposes because the funding is allocated to an interagency/intra-agency appropriation that receives funds from more than one source. However, tribal gaming revenue for this purpose would not need to be made to this appropriation. A separate program revenue, biennial appropriation specifically for these medical assistance state-match purposes could be created with the reversion provision included. This would be consistent with other tribal gaming revenue allocations and would allow any unencumbered balances to be utilized for other purposes, if the Legislature chooses to do so.

9. The Governor estimates that the unencumbered balances in appropriations receiving tribal gaming revenue would total \$2.5 million annually in 1999-00, 2000-01 and 2001-02. By assuming these reversion amounts, the Governor estimates a closing balance in the Indian gaming receipts appropriation of \$49,500 on June 30, 2003. No breakdown of these estimated annual totals is provided in terms of which appropriations would provide the estimated balances.

10. The Governor also assumes that: (a) the 1999-00 and 2000-01 estimated balances (totaling \$5.0 million, under the bill) would revert to the Indian gaming receipts appropriation in 2001-02; and (b) the 2001-02 estimated unencumbered balances (\$2.5 million, under the bill) would revert to the appropriation in 2002-03. However, the effective date of these provisions, which would be after July 1, 2001, would not immediately affect the unencumbered balances in these appropriations on June 30, 2001. These balances would remain in the respective annual appropriations until June 30, 2002, before reverting to the Indian gaming receipts appropriation in 2002-03. In addition, unencumbered balances in biennial and continuing appropriations would remain in the respective appropriations until June 30, 2003, before reverting to the Indian gaming receipts appropriation in 2003-04. In order to effectuate a more timely reversion of unencumbered balances, a nonstatutory provision would need to be included in the bill specifying that these unencumbered balances in 1999-00 and 2000-01 would revert to the Indian gaming receipts appropriation on the effective date of the bill.

11. The estimated unencumbered balances under the bill (\$2.5 million annually) require revision. There are 13 annual appropriations receiving tribal gaming revenue that had unencumbered balances at the end of 1999-00 or are projected to have unencumbered balances at the end of 2000-01, as shown in the following table:

<u>Department</u>	<u>Unencumbered Balances</u>	
	<u>1999-00</u>	<u>2000-01</u>
Administration (OJA): County Law Enforcement Services	\$50,000	\$61,300
Administration (OJA): Tribal Law Enforcement Services	0	879,600
Commerce: American Indian Economic Development Liaison Program	28,635	0
Commerce: Economic Development Grants and Loans	2,017,783	500,000
DHFS: Cooperative American Indian Health Projects	3,996	5,400
DHFS: Medical Relief Block Grants to Tribes	36,648	81,000
Historical Society: Northern Great Lakes Center	2,013	0
Natural Resources: Lac du Flambeau Payments	100,000	98,500
Natural Resources: Management of Fishery Resources	31,386	24,800
Natural Resources: Wild Crane Management	13,225	0
Tourism: Tourist Information Assistant	23,500	3,500
Veterans Affairs: Grants to Assist American Indian Veterans	15,000	2,500
Veterans Affairs: Indian Services Coordinator	<u>46,364</u>	<u>11,800</u>
<b>Total</b>	<b>\$2,368,550</b>	<b>\$1,668,400</b>

12. The unencumbered balances in 1999-00 in these appropriations may reflect, in part, the fact that many of these tribal gaming revenue allocations represented new funding and agencies were not yet prepared to take full advantage of the funding. The major share (\$2.0 million or 85%) of the 1999-00 unencumbered balances was related to the Commerce economic development grants and loans appropriation. In 2000-01, however, the appropriation is projected to have a balance of only \$500,000. In addition, five of the appropriations had unencumbered balances at the end of 1999-00 primarily on the salary and fringe benefit lines. This may reflect the fact that staff were only in place for part of the fiscal year (1999-00 was the first year tribal gaming revenue was allocated to agencies).

13. The two allocations made to biennial appropriations are for the Higher Educational Aids Board (HEAB): (a) an Indian student assistance grant program for Native American undergraduate or graduate students; and (b) a Wisconsin Higher Education Grant (WHEG) program for tribal college students. Both appropriations had small unencumbered balances at the end of 1999-00. HEAB is authorized to expend the balance of these funds over the two years of the 1999-01 biennium and no unencumbered balances are projected in these biennial appropriations on June 30, 2001.

14. Of the three continuing appropriations receiving tribal gaming revenue, only one is estimated to have unencumbered funding on June 30, 2001: the DHFS appropriation for state match of certain medical assistance-funded activities and services, with \$18,300 remaining. As noted above, this DHFS appropriation would not be required to revert unencumbered balances under the bill.

15. One other allocation bears on the issue of unspent revenue. A DHFS allocation for

Badger Care premiums (\$300,000 in 1999-00 and \$400,000 in 2000-01) was placed in the Joint Committee on Finance supplemental appropriation for program revenue. Under certain circumstances, DHFS may request this funding, under a 14-day passive review, to supplement a GPR continuing appropriation under DHFS for the Badger Care program. DHFS did not request this funding in 1999-00; however, because the Committee's supplemental appropriation is a sum sufficient appropriation, it would be possible for the Department to request the entire \$700,000 tribal gaming allocation in 2000-01. If DHFS does not request the Committee to release the funding in 2000-01, this allocation would remain credited to the Indian gaming receipts appropriation in DOA because it was not transferred to a DHFS appropriation. DHFS officials indicate that the Department does not plan to request these funds in 2000-01. Therefore, the \$700,000 is reflected in the 2001-02 estimated opening balance for the Indian gaming receipts appropriation.

16. In total, the difference between the 1999-00 unencumbered balances (\$2,368,600) and the projected balances the end of 2000-01 (\$1,668,400) is \$700,200, which represents a 29.6% decline between 1999-00 and 2000-01. It is likely this steep decline in the amount of unencumbered balances will continue in the 2001-03 biennium.

17. As a budget practice, allocating tribal gaming revenue on the basis of assumed reversions of future unencumbered balances could be viewed as questionable. If the estimated unencumbered balances are not realized, the available revenue would be insufficient to fully fund the allocations. It could be argued that the principle of reverting unencumbered balances to the Indian gaming receipts appropriation is sound; however, these moneys should not be allocated until they materialize. The unencumbered balances relating to 1999-00 are known and could be reverted and allocated to agencies in the 2001-03 biennium. It could also be argued that the estimated unencumbered balances relating to 2000-01 should be fairly accurate given that ten months of data for the fiscal year are available. It would be reasonable, therefore, to also allocate this estimated amount.

18. However, concerns could be raised in projecting a 9.5% lapse from 2001-02 appropriations. This amount is larger than what would typically be anticipated through normal budget practice. The reversion provision could be viewed as giving the Governor the responsibility to lapse a certain amount of funds from any of over 40 appropriations, which in effect, provides authorization for the Governor to adjust legislatively-established funding levels without legislative oversight. This appears to have occurred already in that 53% of the estimated unencumbered balance in 2000-01 (\$879,600) is attributable to one appropriation, the OJA tribal law enforcement services grant program. According to OJA, the unencumbered balance resulted because DOA informed OJA that those funds were needed for reprogramming under the Governor's budget bill. As a result, tribes were not provided with law enforcement grants in 2000-01 in the amounts provided by the Legislature.

19. If one was to assume that the unencumbered balances in 2001-02, which would revert to the Indian gaming receipts appropriation in 2002-03, would be an amount equal to 2% of the total allocations in 2001-02, the estimated lapse amount would be \$552,000 under the bill. The 2% assumption one that is generally used to estimate annual lapses from state operations

appropriations.

20. Assuming that a nonstatutory provision to clarify the timing of the reversions is adopted, the 2001-02 reverting amount would total approximately \$4.0 million (\$2.4 million relating to unencumbered balances in 1999-00 and \$1.7 million in 2000-01). The 2002-03 reversion amount is estimated at \$552,000 (relating to the 2001-02 unencumbered balances) assuming an amount equal to 2% of the allocations in that year under the bill. These revised estimates and the allocation of tribal gaming revenue to agencies under the bill would result in a deficit totaling \$2.1 million on June 30, 2003. This is shown in the following condition statement:

**Indian Gaming Receipts Appropriation Condition Statement  
Reestimated**

	<u>2001-02</u>	<u>2002-03</u>
Opening Balance	\$1,178,500	\$1,746,900
<b>Revenue</b>		
Compacts -- original	\$350,000	\$350,000
Compacts -- amended	24,025,000	24,525,000
Vendor certifications	175,000	125,000
Reversion of unencumbered balances	<u>4,037,000</u>	<u>552,000</u>
Total Revenue	\$28,587,000	\$25,552,000
 Total Available	 \$29,765,500	 \$27,298,900
<b>Expenditures/Transfers</b>		
DOA general operations for Indian gaming	\$1,616,500	\$1,616,500
DOJ law enforcement for Indian gaming	103,900	105,600
Allocations to other agencies	<u>26,268,800</u>	<u>27,598,500</u>
Total Expenditures	\$27,989,200	\$29,320,600
 Total Reserves (DOA and DOJ)	 \$29,400	 \$61,800
 Closing Balance	 \$1,746,900	 -\$2,083,500

21. In summary, the Governor's allocation of tribal gaming revenue under the bill would result in a projected deficit of \$2,083,500 on June 30, 2003, assuming reestimated reverting amounts of \$4.0 million in 2001-02 and \$552,000 in 2002-03. If the Governor's recommendation to revert the unencumbered balances is not approved, the allocations under the bill would result in a projected deficit of \$6,672,500 on June 30, 2003.

## ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide that, for annual appropriations (with one exception) receiving tribal gaming revenue from the Indian gaming receipts appropriation, any unencumbered balance on June 30 of each year would revert to the Indian gaming receipts appropriation. Provide that, for biennial and continuing appropriations (with two exceptions) receiving tribal gaming revenue, any unencumbered balance on June 30 of each odd-numbered year would revert to the Indian gaming receipts appropriation from which tribal gaming revenue is transferred. Correct the appropriation language in the Indian gaming receipts appropriation to reflect the correct fiscal years and amounts transferred to the DHFS continuing interagency, intra-agency aids appropriation for the purpose of state match of certain medical assistance-funded activities.

2. Modify the Governor's recommendation, as corrected, in one or more of the following ways:

a. Provide nonstatutory language clarifying that the unencumbered balances in the applicable appropriations on June 30, 2001, would revert to the Indian gaming receipts appropriation in 2001-02 on the effective date of the bill.

b. Provide that any unencumbered balance on June 30 of each year in the annual appropriation for Forward Wisconsin, Inc., business recruitment, be required to revert to the Indian gaming receipts appropriation.

c. Convert the following two continuing appropriations to biennial appropriations, subject to the reversion of unencumbered balances provision for biennial appropriations under the bill: (1) the Commerce appropriation for the Physician Loan Assistance Program; and (2) the Tourism marketing appropriation.

d. Provide that the DHFS allocation for state match of certain medical assistance-funded activities be transferred to a new biennial appropriation for this purpose, subject to the reversion of unencumbered balances provision for biennial appropriations under the bill. Modify the Indian gaming receipts appropriation language that allocates this funding to DHFS to reflect this change.

3. Maintain current law.

Prepared by: Art Zimmerman



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May 23, 2001

Joint Committee on Finance

Paper #168

### *Tribal Gaming Revenue Allocations*

### **Management Assistance Grant Program (DOA -- General Agency Provisions)**

#### **CURRENT LAW**

1999 Act 9 (the biennial budget) created the management assistance grant program. The program is intended to provide financial assistance to counties to fund public security (public safety), public health, public infrastructure, public employee training and economic development. Grants are to be provided to any county that does not contain any incorporated municipalities and has a geographic area of less than 400 square miles. In addition, the county is required to maintain its financial records in accordance with accounting procedures established by the Department of Revenue (DOR). Finally, the county must submit a detailed expenditure plan that identifies how the funds are proposed to be expended and how those expenditures meet the program's goals. The Department of Administration (DOA) administers the program. Act 9 established grant amounts at \$500,000 annually for each eligible county.

#### **GOVERNOR**

No provision. However, the Department of Administration has submitted a budget errata report indicating that the Governor intended to repeal the program's appropriation at the end of the 2000-01 biennium.

#### **DISCUSSION POINTS**

1. Grants are limited to Menominee County, because it is the only county that does not contain any incorporated municipalities and has a geographic area of less than 400 square miles.

Since its creation in 1961, Menominee County has had difficulty meeting its financial needs due to a limited property tax base. In response to this concern, the Legislative Audit Bureau (LAB) evaluated the County's financial condition in 1998. The evaluation highlighted a series of financial problems faced by Menominee County.

2. The LAB evaluation was followed by a statutorily authorized task force that reviewed the County's management practices in 1999. The task force was directed to report its findings to the Joint Committee on Finance and to make recommendations regarding additional aid for Menominee County. The task force recommended creating a management assistance grant program and providing \$500,000 annually for at least five years to be used in the areas of public safety, health, infrastructure, employee training and economic development.

3. Later that year, the Legislature created the management assistance grant program as part of 1999 Act 9, the biennial budget. Act 9 established grant amounts at \$500,000 annually for each eligible county and set aside \$500,000 in tribal gaming revenue for each year of the 1999-01 biennium in the PR appropriation of the Joint Committee on Finance. The authorized amounts were to be transferred to DOA's management assistance grant appropriation under the s. 13.10 process upon request from DOA and a finding that a county has met the eligibility criteria of the grant program.

4. At its meeting on May 3, 2000, under s. 13.10 of the statutes, the Joint Committee on Finance released \$500,000 from its appropriation to the management assistance grant program for distribution to Menominee County. The funds were to be used for computer-related expenses and the purchase of equipment for the highway and sheriff's departments. Subsequently, DOA staff indicated that the funds had been expended in a manner consistent with the County's initial request.

5. At its meeting on April 24, 2001, under s. 13.10 of the statutes, the Joint Committee on Finance released an additional \$500,000 from its appropriation to the management assistance grant program for distribution to Menominee County. The grant monies are to be used to purchase equipment for the highway department, replace two minivans of the human services department, pave and repair roads, purchase two voting machines, fund a full-time deputy position in the sheriff's department and escrow funds for constructing an office and maintenance facility for the highway department. The Committee placed \$133,500 of the \$500,000 in unallotted reserve and instructed DOA to conduct an independent evaluation of the condition of the office and maintenance facility of the County's highway department. DOA must release the \$133,500 if it finds that the condition of the buildings warrants their replacement.

6. The Joint Committee on Finance has reviewed grant requests on two occasions. If the Committee believes the program is not achieving its intended objectives, the appropriation for the program could be repealed, as recommended by the Governor. If the Committee selects this alternative (Alternative 1), provisions authorizing the program and directing the Committee to review DOA grant requests also could be repealed. However, if the Committee believes the program is achieving its objectives, funding for the program could be continued. Depending on the level of the Committee's satisfaction, the Committee could continue to review requests under the s.

13.10 process (Alternative 2) or that process could be eliminated (Alternative 3).

### ALTERNATIVES TO BILL

1. Approve the Governor's recommendation, submitted after the budget was introduced, to repeal the appropriation for the management assistance grant program. In addition, remove the statutory provision regarding the release of funding for the appropriation by the Joint Committee on Finance and the statutory provision authorizing the program. Specify that these provisions shall become effective on June 30, 2001, or on the effective date of the bill, whichever is later.

2. Place \$500,000 annually in tribal gaming revenues in the PR appropriation of the Joint Committee on Finance to be transferred under s. 13.10 to the management assistance grant program appropriation upon request by DOA and a finding that a county has met the eligibility criteria of the grant program.

<b>Alternative 2</b>	<b>PR</b>
2001-03 FUNDING (Change to Bill)	\$1,000,000

3. Appropriate \$500,000 PR annually in tribal gaming revenues to the management assistance grant program appropriation. Remove the statutory provision regarding the release of funding for the appropriation by the Joint Committee on Finance.

<b>Alternative 3</b>	<b>PR</b>
2001-03 FUNDING (Change to Bill)	\$1,000,000

Prepared by: Rick Olin



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May 23, 2001

Joint Committee on Finance

Paper #169

### *Tribal Gaming Revenue Allocations*

## **County, County-Tribal and Tribal Law Enforcement Grant Programs (DOA -- Office of Justice Assistance and Justice)**

[LFB 2001-03 Budget Summary: Page 84, #2 and Page 434, #4]

### **CURRENT LAW**

The Department of Justice (DOJ) is responsible for administration of a cooperative county-tribal law enforcement program. In order to receive funding under the program, a county that has one or more federally-recognized Indian reservations within or partially within its boundaries must enter into an agreement with an Indian tribe located in the county to establish a cooperative county-tribal law enforcement program. The county and tribe must also develop and annually submit to DOJ a joint program plan and report on the performance of law enforcement activities on the reservation in the previous fiscal year. The adjusted base for the DOJ program is \$761,400 PR (\$708,400 for grant awards and \$53,000 and 1.0 position for program administration), provided from tribal gaming revenues.

The Department of Administration's Office of Justice Assistance (OJA) is responsible for administering both a county law enforcement services grant program and a tribal law enforcement assistance grant program. Under the county grant program, a county is eligible to participate if: (a) the county borders one or more federally-recognized Indian reservations; (b) the county has not established a cooperative county-tribal law enforcement program under DOJ's grant program with each federally recognized Indian tribe or band that has a reservation bordering the county; (c) the county demonstrates a need for the law enforcement services to be funded with the grant; and (d) the county submits an application for a grant and a proposed plan that shows how the county will use the grant money to fund law enforcement services. Grants are limited by statute to no more than \$50,000 annually to any county. The adjusted base for

county law enforcement services grant awards is \$250,000 PR, provided from tribal gaming revenues.

OJA also administers the tribal law enforcement assistance grant program under which OJA provides grants to tribes for tribal law enforcement operations. To be eligible for a grant, a tribe must submit an application that includes a proposed plan for expenditure of the grant moneys. OJA is required to develop criteria and procedures in administering this program. The adjusted base for the tribal law enforcement assistance grant program is \$1,050,000 PR, provided from tribal gaming revenues.

## **GOVERNOR**

Make the following changes to the county, county-tribal and tribal law enforcement grant programs: (a) delete statutory authority and \$63,600 PR and 1.0 PR position annually and eliminate the cooperative county-tribal law enforcement program in DOJ; (b) transfer \$708,400 PR annually in adjusted base local assistance funding for the county-tribal law enforcement grant program from DOJ to OJA; (c) delete statutory authority for OJA's county law enforcement services grant program; (d) create a new cooperative county-tribal law enforcement grant program, funded at the same level as the combined adjusted base funding levels for the two deleted programs (\$708,400 PR annually from DOJ's cooperative county-tribal law enforcement program and \$250,000 PR annually from OJA's county law enforcement grant program); and (e) eliminate the appropriation for OJA's tribal law enforcement assistance program and transfer funding of \$1,050,000 PR annually to a modified county and tribal law enforcement assistance appropriation. [A technical correction is needed to the combined county and tribal law enforcement assistance appropriation to reflect that funding is transferred from another DOA appropriation.]

Provide the following concerning the new county-tribal law enforcement grant program:

a. Provide that a county would only be eligible to participate in the grant program if: (1) the county has one or more federally-recognized American Indian reservations within or partially within its boundaries or the county borders on one or more federally recognized American Indian reservations; (2) the county board adopts a resolution entering into an agreement with a federally recognized American Indian reservation to establish a cooperative county-tribal law enforcement grant program; and (3) the county submits to OJA a proposal for expenditure of grant moneys.

b. Authorize OJA to require that a county include the following in any grant application: (1) a description of any cooperative county-tribal law enforcement program or law enforcement service for which the county requests funding; (2) a description of the population and geographic area that the county proposes to serve; (3) the county's need for funding under the program and the amount of funding requested; (4) identification of the county governmental unit that would administer any aid received under the program and a description of how that

governmental unit would disburse any aid received; and (5) any other information required by OJA or considered relevant by the county submitting the application.

c. Require OJA to develop criteria and procedures for use in administering the program, which would not have to be promulgated as administrative rules.

## **DISCUSSION POINTS**

### **History of Tribal-Related Law Enforcement Grant Programs**

1. In 1955, legislation was enacted to provide funds to counties that had law enforcement responsibilities on reservations within their boundaries. Counties could apply annually to DOJ to receive \$2,500 per year. The law required a county applying for funds to "show that a problem exists." The \$2,500 per year funding limit was not increased for nearly 30 years.

2. In 1982-83, the Legislature's American Indian Study Committee undertook an examination of the provision of county law enforcement services on Indian reservations. In response to the study, the Legislature increased the amount of law enforcement aid available to counties from \$2,500 to \$7,500 per year and also created a three-year pilot program to fund two cooperative law enforcement efforts between counties and tribes. Each of the two pilot programs could receive up to \$20,000 per year for a period of three years and was required to provide \$5,000 per year in nonstate matching funds. Funding for the pilot projects terminated on July 1, 1986, but the two pilot county-tribal programs continued to operate.

3. In 1988, legislation was enacted to recreate the county-tribal cooperative law enforcement program in DOJ as an ongoing program and expand it to include counties and tribes in addition to those that participated in the original pilot.

4. In 1999 Act 9, the 1999-01 biennial budget act, the funding source for DOJ's cooperative county-tribal law enforcement program was changed from penalty assessment and general purpose revenues to tribal gaming revenue. Act 9 also created two new tribal-related law enforcement grant programs, OJA's county law enforcement services and tribal law enforcement assistance grant programs, funded with tribal gaming revenue.

### **DOJ's Cooperative County-Tribal Law Enforcement Grant Program**

5. Under current law, in determining whether to approve a program plan under DOJ's cooperative county-tribal law enforcement program and, if approved, how much aid the program shall receive, DOJ must consider the following factors: (a) the population of the reservation area to be served by the program; (b) the complexity of the law enforcement problems that the program proposes to address; and (c) the range of services that the program proposes to provide.

6. During the 1999-00 legislative session, the American Indian Study Committee (now named the Special Committee on State-Tribal Relations) reviewed DOJ's grant program and

concluded that the allocation of grant funds only partially reflected the statutory guidelines and that historical participation in the program had a significant impact on the size of grants. As a result of Committee input, beginning with 2000 grants DOJ revised its allocation of funding to use three equally weighted factors -- tribal population, tribal unemployment and county crime rate -- to determine eligible grant awards. Once formal requests and amounts available for each plan were considered, remaining funds were used to supplement those plans facing the greatest decrease in funding from the prior year.

7. The following table identifies the amounts awarded in 2000-01 for calendar year 2001 grants. While funds are awarded for the benefit of both the county and the tribe, the county is the administrative entity that receives the funds, which may be passed to the tribe.

### 2001 Cooperative County-Tribal Law Enforcement Grant Program

<u>County/Tribe</u>	<u>Award Amount</u>	<u>Purpose</u>
Ashland/Bad River	\$61,900	Funds one sheriff's deputy
Bayfield/Red Cliff	74,200	Supports tribal police department
Brown/Oneida	26,250	Split evenly between the Brown County Sheriff's Department and the Oneida Police Department
Forest/Potawatomi	46,700	Supports Forest County Sheriff's Department
Forest/Sokaogon	40,400	Supports Forest County Sheriff's Department
Jackson/Ho Chunk	38,000	Supports Jackson County Sheriff's Department
Juneau/Ho Chunk	47,000	Funds one Native American officer in Juneau County Sheriff's Department
Menominee/Menominee	42,520	Funds personnel costs of tribal and county law enforcement
Monroe/Ho Chunk	28,000	Tribe-related programming and services of Monroe County Police Department
Polk/St. Croix	24,235	Tribe-related programming and services of Polk County Sheriff's Department
Sauk/Ho Chunk	27,365	Tribe-related programming and services of Sauk County Sheriff's Department
Sawyer/Lac Courte Oreilles	79,615	Funds one Lac Courte Oreilles deputy in Sawyer County Sheriff's Department
Shawano/Stockbridge-Munsee	70,700	Partially funds four tribal deputies in Stockbridge-Munsee Police Department
Vilas/Lac du Flambeau	80,045	Supports tribal police department
Wood/Ho Chunk	<u>21,470</u>	Tribe-related programming and services of Wood County Sheriff's Department
Total	\$708,400	

8. DOJ is required to annually report to the Governor, Legislature and the Special Committee on the performance of the programs. The reports have not assessed the performance of specific programs, but have been more general in nature. In its January 8, 2001, report, DOJ indicates that the calendar year 2000 grants have been used for a variety of law enforcement services to Indian communities, including "the costs of patrol, investigation, crime prevention, law enforcement training, alternatives to drug abuse and gang involvement, diversity training and cultural awareness education, computer technology and water rescue and other emergency equipment. Several grants are awarded to programs that include tribal police departments, while most generally help pay for services provided by county sheriffs to Indian reservations and communities."

## OJA's County Law Enforcement Services Grant Program

9. 1999 Act 9 provided \$250,000 PR annually for the new county law enforcement services grant program. Because of the delay in passage of the 1999-01 biennial budget act and the time needed to develop criteria and procedures for awarding grants under this new program, OJA combined 1999-00 and 2000-01 monies, issued one request for applications and awarded two-year grants to successful applicants, with a maximum award of \$100,000. In evaluating grant applications, OJA considered: (a) the demonstrated need for law enforcement services related to tribal lands and tribal member activities within the county's jurisdiction; (b) the feasibility of the proposed plan for addressing the demonstrated problems and its likelihood of success; (c) the extent to which resources were unavailable to address the demonstrated problem; and (d) the feasibility of the county's plan for managing, coordinating and evaluating its proposed plan to address the problem. Application kits were sent to 15 potentially eligible counties and four submitted applications. All four received the full amount requested. The following table identifies the counties that received grant funding in 1999-01.

### 1999-01 County Law Enforcement Services Grant Program

<u>County</u>	<u>Award Amount</u>	<u>Purpose</u>
Burnett	\$100,000	Tribal liaison officer, supplies, vehicle
Oconto	88,744	Officer overtime to patrol Menominee border, supplies
Oneida	100,000	Deputy, liaison to Lac du Flambeau, vehicle
Shawano	<u>100,000</u>	Investigator, supplies and vehicle
Total	\$388,744	

## OJA's Tribal Law Enforcement Assistance Program

10. In 1999 Assembly Bill 133 (the 1999-01 biennial budget bill), the Governor recommended creation of the tribal law enforcement assistance program, with funding of \$200,000 in 1999-00 and \$600,000 in 2000-01. In Enrolled AB 133, the Legislature added \$450,000 in funding annually, with the additional resources earmarked for three tribes (Stockbridge-Munsee, \$175,000 annually; St. Croix Chippewa, \$150,000 annually; and Lac Courte Oreilles Chippewa, \$125,000 annually). In 1999 Act 9, the Governor vetoed the statutory earmarks but left the funding unchanged. As a result, 1999 Act 9 provided \$650,000 in 1999-00 and \$1,050,000 in 2000-01 for the tribal law enforcement assistance program.

11. As with the county grant program, OJA combined grant funding for the tribal program, issued one request for applications and awarded 16-month grants. In evaluating grant applications, OJA considered the demonstrated need for law enforcement operations and services by tribes, the feasibility of the proposed plan for addressing the demonstrated problems, the extent to which resources were unavailable and, the extent to which a tribe had provided, or had made good faith efforts to provide, full compensation to units of local government for services provided to the

tribe. In addition, tribes that signed Memoranda of Understanding (MOU) regarding government-to-government matters that featured law enforcement or public safety as a concern were to be given additional consideration, if their proposals appeared to address those concerns (the Red Cliff, Bad River, Stockbridge-Munsee and St. Croix MOU contain law enforcement or public safety initiatives).

12. All nine tribal applicants received grant funding. However, although the application kit indicated that a total of \$1,700,000 was available for grants over the 1999-01 biennium and OJA received grant applications totaling \$2,080,928, only \$820,445 in grants was awarded. The following table identifies the tribes that were awarded 16-month grants in 1999-01.

**1999-01 Tribal Law Enforcement Assistance Grant Program**

<u>Tribes</u>	<u>Award Amount</u>	<u>What Funded</u>
Bad River Band	\$162,052	Two officers, vehicle and related costs
Ho Chunk Nation	103,872	Two community officers, training and related supplies
Lac Courtes Oreilles	61,813	Warden, training and related supplies
Lac du Flambeau	71,533	Investigator
Menominee	70,200	Two equipped vehicles, maintenance
Oneida	117,373	DARE and school liaison officers, training, equipment and supplies
Red Cliff Band	67,508	Personnel, overtime, related equipment and supplies
St. Croix	89,896	Two officers and related supplies
Stockbridge-Munsee	<u>76,198</u>	Investigator, training and related equipment
Total	\$820,445	

13. On December 6, 2000, Representative Terry Musser, Chair of the Special Committee on State-Tribal Relations, sent a letter to the OJA executive director expressing the Committee's concern that the available funding for tribal law enforcement aids was not fully awarded. The letter indicated that "the funding available for reservation law enforcement aids does not meet current needs and that the loss of the funds not awarded in the first round of grants would be a blow to efforts to build law enforcement capabilities on Indian reservations. For these reasons, the committee directed me to urge you strongly to proceed with a second round of grants to award the remaining funds before the end of the current fiscal year."

14. The OJA executive director has indicated that the remaining \$879,555 in unawarded grant funding will not be disbursed in 2000-01, because DOA informed OJA that these funds have been reprogrammed in the Governor's 2001-03 budget recommendations (discussed further below).

15. The bill makes no changes to the statutory provisions concerning the tribal grant program. The appropriation for the tribal law enforcement assistance grant program would, however, be eliminated under the bill, with the tribal grant program's funding of \$1,050,000 PR annually combined under a modified county and tribal law enforcement grant appropriation that would provide funding for the new county-tribal law enforcement grants as well as the tribal grant

program. OJA would, therefore, have discretion as to the allocation of grant funds between the two grant programs.

16. An advantage to combining appropriations would be that OJA would be able to fund applications that identified the greatest need under either grant program. In addition, if some of the grant funding for one of the programs went unused, OJA would have the flexibility to apply those funds to applications in the other grant program.

17. A disadvantage to combining appropriations would be that the Legislature would have less control in regards to specifying the level of funding for each grant program, and that the purposes for which tribal revenues are utilized would be obscured. An alternative to maintain separate appropriations could, therefore, be considered.

### **Proposed Cooperative County-Tribal Law Enforcement Grant Program**

18. Under the bill, two separate grant programs relating to county-tribal law enforcement in two agencies would be eliminated and replaced with one new grant program. Unlike OJA current county program but similar to DOJ's current county-tribal program, a county board would be required to adopt a resolution entering into an agreement with a federally recognized American Indian reservation to establish a cooperative county-tribal law enforcement program in order to be eligible for a grant under the new program.

19. Currently, law enforcement grant programs benefiting tribes are located both in DOJ and OJA. The bill would end this duplication and locate all such programs in OJA, which is responsible for administering a wide range of justice-related grant programs, utilizing both federal and state funds. Currently, OJA administers 16 separate grant programs and may be considered to have more expertise in administering grant programs.

20. However, dating back to 1955, DOJ has been responsible for administering tribal law enforcement grant programs. Some might argue that the program should remain in DOJ where it has traditionally been placed. Concerns could also be raised about OJA's administration of the tribal grant program in that 52% of funds appropriated by the Legislature for this program were never awarded.

21. The new grant program would not have certain program elements that are a part of DOJ's current county-tribal law enforcement program. This would include: (a) a requirement that the county and tribe develop and annually submit a joint program plan; (b) a requirement that the county and tribe submit an annual report to the office regarding the performance of law enforcement activities on the reservation in the previous year; (c) a requirement that the office annually report on the performance of the grant programs to the Chief Clerk of each house of the Legislature, the Governor and the Special Committee on State-Tribal Relations; and (d) specified statutory factors that must be considered in determining how much aid an approved plan should receive.

22. When OJA was developing the criteria for its tribal grant program, the American Indian Study Committee (now the Special Committee on State-Tribal Relations) urged OJA to

coordinate its grants with DOJ's grant program. The Committee recommended that the DOJ statutory criteria, as well as other Committee-identified issues, also be considered by OJA in determining whether, and in what amount, to fund tribal grant requests. These criteria and issues included: (a) the population of the reservation area to be served by the program; (b) the complexity of the law enforcement problems that the program would propose to address, including jurisdictional issues; (c) the range of services that the program would propose to provide; (d) the size and location of the reservation to be served; and (e) other sources of support for reservation law enforcement. While these recommendations addressed the tribal grant program, the criteria could be applied to the proposed county-tribal program as well.

### **Other Bill Provisions**

23. Under the bill, 1.0 budget and policy analyst position in DOJ would be eliminated. The position is responsible for administration of DOJ's cooperative county-tribal law enforcement program but also has broader department-wide budget responsibilities. DOJ has indicated that if the cooperative county-tribal law enforcement program was to be retained in DOJ, it would need to retain the administrative position deleted under the bill.

24. Under current law, unencumbered balances at the end of a fiscal year in a program revenue annual appropriation are retained in the appropriation, but may not be expended in a subsequent year unless expenditure authority is provided. A provision under the bill, discussed in Issue Paper #167, Reversion of Unencumbered Tribal Gaming Revenue, would provide that, generally, for annual appropriations receiving tribal gaming revenue, any unencumbered balance on June 30 of each year would revert to the Indian gaming receipts appropriation. All three current grant programs have annual appropriations. Therefore, under the bill, it is estimated that \$111,300 in OJA county law enforcement services grant money and \$879,600 in OJA tribal law enforcement services grant money would revert to the Indian gaming receipts appropriation for allocation for other purposes in 2001-03. (DOJ's grant program is not estimated to have an unencumbered balance on June 30, 2001.)

25. The bill identifies the recommended county and tribal law enforcement assistance appropriation as a program revenue appropriation. A technical correction is needed to properly identify this appropriation as a program revenue-service appropriation as it receives funding from DOA's Indian gaming receipts appropriation.

## **ALTERNATIVES TO BILL**

### **A. County-Tribal Law Enforcement Grant Program**

1. Approve the Governor's recommendation to: (a) delete statutory authority and \$63,600 and 1.0 position annually and eliminate the cooperative county-tribal law enforcement program in DOJ; (b) transfer \$708,400 annually in adjusted base local assistance funding for the county-tribal law enforcement grant program from DOJ to OJA; (c) delete statutory authority for OJA's county law enforcement services grant program; and (d) create a new cooperative county-

tribal law enforcement grant program, funded at the same level as the combined adjusted base funding levels for the two deleted programs (\$708,400 annually from DOJ and \$250,000 annually from OJA's county law enforcement grant program). Create the following statutory provisions for the new grant program: (a) provide that a county would only be eligible to participate in the program if: (1) the county has one or more federally-recognized American Indian reservations within or partially within its boundaries or the county borders on one or more federally recognized American Indian reservations; (2) the county board adopts a resolution entering into an agreement with a federally recognized American Indian reservation to establish a cooperative county-tribal law enforcement grant program; and (3) the county submits to OJA a proposal for expenditure of grant moneys; (b) authorize OJA to require that a county include the following in any grant application under the program: (1) a description of any cooperative county-tribal law enforcement program or law enforcement service for which the county requests funding; (2) a description of the population and geographic area that the county proposes to serve; (3) the county's need for funding under the program and the amount of funding requested; (4) identification of the county governmental unit that would administer any aid received under the program and a description of how that governmental unit would disburse any aid received; and (5) any other information that would be required by OJA or considered relevant by the county submitting the application; and (c) require OJA to develop criteria and procedures for use in administering the program that would not have to be promulgated as administrative rules. In addition, technically correct the county and tribal law enforcement assistance services appropriation funding source designation.

2. Approve alternative 1. In addition, provide that any of the following be added to the requirements under OJA's county-tribal law enforcement grant program:

a. To be eligible to receive a grant, require a county and tribe to develop and submit a joint program plan to OJA for approval.

b. Provide that in developing criteria for evaluating applications for funding under the program, OJA must consider the following factors: (1) the population of the reservation area to be served by the program; (2) the complexity of law enforcement problems the program proposes to address, including jurisdictional issues; (3) the range of services the program proposes to provide; (4) the size and location of the reservation to be served; (5) other sources of support for reservation law enforcement; and (6) any other factors OJA may develop.

c. Require a county and tribe, prior to the receipt of grant funds for the 2<sup>nd</sup> and any subsequent grant award, to jointly submit a report to OJA regarding the performance of law enforcement activities on the reservation under the previous grant.

d. Require OJA to report annually to the Governor, the Legislature and the Special Committee on State-Tribal Relations on the performance of cooperative county-tribal law enforcement programs receiving grants under the county-tribal law enforcement program,

including the percent of appropriated county-tribal grant moneys OJA awarded in the prior fiscal year.

3. Maintain current law, which would: (a) maintain the cooperative county-tribal law enforcement program in DOJ; and (b) maintain both the county law enforcement services grant and tribal law enforcement assistance grant programs in OJA, funded in separate appropriations. In addition, technically correct the county law enforcement services appropriation funding source designation.

<b>Alternative A3</b>	<b>PR</b>
2001-03 FUNDING (Change to Bill)	\$127,200
2002-03 POSITIONS (Change to Bill)	1.00

**B. Tribal Law Enforcement Assistance Grant Program Appropriation [to be considered if Alternatives A1 or A2 are selected]**

1. Approve the Governor's recommendation, as technically corrected, to repeal OJA's tribal law enforcement assistance appropriation and transfer the tribal law enforcement assistance grant funding of \$1,050,000 annually to the renamed county and tribal law enforcement assistance appropriation.

2. Retain a separate appropriation for the tribal law enforcement assistance grant program, with funding of \$1,050,000 annually.

Prepared by: Paul Onsager



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May 23, 2001

Joint Committee on Finance

Paper #170

### *Tribal Gaming Revenue Allocations*

### **Travel Information Center LTE Funding (Tourism)**

[LFB 2001-03 Budget Summary: Page 645, #6]

#### **CURRENT LAW**

The Department operates 13 Wisconsin travel information centers (WTICs), which are intended to offer highway and urban travelers a convenient source of information concerning Wisconsin tourism. Individual communities and attractions may provide promotional literature to one or more WTICs for distribution, with Tourism approval. The centers also distribute information produced by the Department, such as calendars of events and general promotional brochures. Ten WTICs are located on major state highways at entry points to the state near Kenosha, Genoa City, Beloit, Kieler, Prairie du Chien, La Crosse, Hudson, Superior, Hurley and Marinette. Other centers are located in Chicago and Madison. The newest WTIC, which opened in Bloomington, Minnesota in June 2000, is located in Minnesota's Mall of America. The 1999-01 biennial budget bill provided 1.0 PR position from tribal gaming revenues to staff the center.

#### **GOVERNOR**

Provide \$84,000 annually from tribal gaming revenues for 8,000 hours of limited-term employees (LTE) to operate the Wisconsin travel information center located in the Minnesota Mall of America.

#### **DISCUSSION POINTS**

1. The Department rents space for four WTICs (Bloomington, Chicago, Madison and Prairie du Chien) and has an agreement with the Department of Transportation for space at another eight centers (the City of Marinette owns its facility, although it is staffed by Tourism). In 1999-00, the Department expended \$125,400 for rent and other costs associated with the four privately rented

spaces and approximately \$428,300 for costs associated with the eight DOT travel center spaces. Rent at the Mall of America is anticipated to cost \$100,000 in 2000-01 and may increase significantly, depending on contract negotiations, for future years. Of the 2000-01 estimated amount, \$75,000 is from the Department's marketing appropriation and \$25,000 is from Tourism's general program operations appropriation. Total operations (including rent) for the WTIC's cost approximately \$1.55 million in 1999-00.

2. Since the Mall of America WTIC opened in June, 2000, Tourism has been using marketing appropriation funding for LTE salaries to staff the center. Further, the agency only requested additional LTE funding for 2002-03. The Department indicates that if additional LTE funding is not provided in the bill, they will again reallocate funding from other marketing activities to staff the Minnesota WTIC. Under the bill, Tourism is allocated nearly \$7.1 million GPR and \$4.0 million in tribal gaming revenues annually for marketing activities. As the main focus of a WTIC is to promote state tourism, it could be argued that using currently provided marketing funds would again be appropriate. However, funding for other WTICs (outside of the Mall staff position funded by tribal gaming revenue in 1999 Act 9) currently is provided primarily from the Department's general program operations appropriation. Since Minnesota WTIC costs are currently funded from marketing appropriations, one alternative would be to provide tribal gaming revenues for operation of the Minnesota WTIC and delete a corresponding amount of GPR marketing funding.

3. Since July, 2000 (the first full month the Minnesota WTIC was open), the thirteen WTICs reported an average of over 3,200 visits per site by groups or individuals per month at all open WTICs. In comparison, the Minnesota WTIC received nearly 1,800 visits per month. On average, the Mall of America WTIC received fewer visits than most centers in summer months and more visits than most other open facilities during winter months. The following table provides information on visits to Wisconsin WTICs. It should be noted that four facilities are open on a seasonal basis only.

#### Visits to Wisconsin Travel Information Centers July 2000 to February 2001

WTIC	July-October		November-February		TOTAL	Avg/Month
	TOTAL	Avg/Month	TOTAL	Avg/Month		
Beloit	57,683	14,421	15,493	3,873	73,176	9,147
Kenosha	40,744	10,186	7,189	1,797	47,933	5,992
Prairie du Chien	17,555	4,389	0	0	17,555	4,389
La Crosse	25,732	6,433	5,181	1,295	30,913	3,864
Grant County	15,306	3,827	0	0	15,306	3,827
Genoa City	13,375	3,344	0	0	13,375	3,344
Hudson	19,909	4,977	4,208	1,052	24,117	3,015
Hurley	15,899	3,975	2,990	748	18,889	2,361
Superior	15,407	3,852	1,965	491	17,372	2,172
<i>Mall of America</i>	8,978	2,245	5,357	1,339	14,335	1,792
Marinette	6,471	1,618	0	0	6,471	1,618
Chicago	7,999	2,000	2,494	624	10,493	1,312
Madison	5,195	1,299	2,223	556	7,418	927
<b>TOTAL</b>	<b>250,253</b>	<b>4,813</b>	<b>47,100</b>	<b>1,308</b>	<b>297,353</b>	<b>3,232</b>

4. Many centers depend on limited-term employee staff to serve as support during peak seasons. In 1999-00, in addition to funding 20.25 permanent staff in WTICs, approximately nine full time equivalent LTEs were funded. Thus, about 2.25 staff are used to fully operate the average WTIC. Under the bill, over 4.75 staff would be used to operate the Minnesota WTIC. The state's lease agreement with the Mall of America requires the Department to staff the site during all regular mall hours. With the Governor's recommendation, funding is provided for the WTIC to have 2.5 employees (including the currently authorized permanent staff position) in the store during all business hours. Since visitor numbers have been lower at the Mall of America WTIC than at other centers, it could be argued that a reduced level of staffing may be adequate. Providing \$63,500 annually rather than \$84,000 annually would allow the Department to have an average of two employees staffing the Mall of America WTIC during all business hours.

5. Tourism officials indicate that LTE funding is more desirable than permanent staff because of the extra flexibility limited-term employees provide. The Department has used short-term lease agreements at the Mall of America and has yet to decide whether to remain at the site long-term. Therefore, the Committee could choose to provide any LTE funding on a one-time basis. Since the Minnesota WTIC has been open less than a year, it may be too early to project whether the number of visitors at the site will increase and whether the state will receive an adequate rate of return on its promotion at the Mall. Further, providing one-time funding would allow the Legislature to evaluate the effectiveness of the site next biennium before granting additional funding.

**ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to provide \$84,000 annually from tribal gaming revenues for 8,000 hours of limited-term employees (for an average of 2.5 staff during all operating hours) to operate the Wisconsin travel information center located in the Minnesota Mall of America.

2. Provide \$63,500 annually from tribal gaming revenues for 6,054 hours of limited-term employees (for an average of 2.0 staff during all operating hours) to operate the Wisconsin travel information center located in the Minnesota Mall of America.

<b>Alternative 2</b>	<b>PR</b>
2001-03 FUNDING (Change to Bill)	- \$41,000

3. In addition to any other alternative, delete \$84,000 annually from the Department's GPR marketing appropriation.

<b>Alternative 3</b>	<b>GPR</b>
2001-03 FUNDING (Change to Bill)	- \$168,000

4. In addition to Alternative 1 or 2, provide that funding is one-time.

5. Maintain current law.

**Alternative 6**

**PR**

**2001-03 FUNDING (Change to Bill)**

**-\$168,000**

Prepared by: David Schug



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May 23, 2001

Joint Committee on Finance

Paper #171

### *Tribal Gaming Revenue Allocations*

### **Reconstruction of West Canal Street in Milwaukee (DOT -- State Highway Program)**

[LFB 2001-03 Budget Summary: Page 662, #2]

#### **CURRENT LAW**

West Canal Street is a City of Milwaukee street that runs in an east-west direction to the south of I-94 in the vicinity of the Menomonee River. The street runs from 6<sup>th</sup> Street on the east to 40<sup>th</sup> Street on the west, although it is not contiguous throughout this length.

#### **GOVERNOR**

Transfer \$3,500,000 PR in 2001-02 and \$1,500,000 PR in 2002-03 from the continuing appropriation for Indian gaming receipts to a new, continuing PR appropriation for making a grant to the City of Milwaukee for the reconstruction of West Canal Street. Require DOT to make grants totaling \$5,000,000 to the City from this appropriation if the City contributes \$10,000,000 toward the West Canal Street reconstruction project. Require DOT to make an additional grant to the City of not more than \$5,000,000 in federal interstate cost estimate (ICE) funds received by the state. Specify that this additional grant would be for the reconstruction of West Canal Street to serve as a transportation corridor for the purpose of mitigating traffic associated with the reconstruction of the Marquette Interchange and would be made only if the City contributes the \$10,000,000 toward the project and all of the following also apply: (a) the City makes another contribution toward the project from the City's share of federal ICE funds that is equal to the amount of the state ICE funds grant; and (b) the federal Department of Transportation approves the use of federal ICE funds for the reconstruction project. Specify that the state ICE funds grant would be made from a FED appropriation for the reconstruction of the Marquette Interchange. Specify that the provisions requiring DOT to make grants to the City of

Milwaukee would not apply after December 31, 2005. Delete the provision that would transfer funds from the Indian gaming receipts appropriation to the West Canal Street reconstruction appropriation, effective July 1, 2003.

## DISCUSSION POINTS

1. The Forest County Potawatomi Community, which operates the Potawatomi Casino on West Canal Street, has sponsored a study of the expansion of West Canal Street, with the goal of improving traffic flow and encouraging economic development in the Menomonee River Valley. The proposed reconstruction of the street would remove railroad tracks from the street's right-of-way, relocate and reconfigure a rail yard to accommodate an extension of the street, widen the street from two lanes to four lanes and extend the street westward to USH 41 at Miller Park.

2. The following table shows the funding identified in the bill for the project, by source, during the 2001-03 biennium.

### Funding for West Canal Street Reconstruction Identified in the Bill (In Millions)

<u>Source</u>	<u>Amount</u>
City of Milwaukee General Funds	\$10.0
Federal Interstate Cost Estimate (ICE) Funds	
City Share	5.0
State Share*	5.0
Tribal Gaming Revenue	<u>5.0</u>
Total	\$25.0

\*From funds provided for the reconstruction of the Marquette Interchange.

3. As shown in the table, the amount of funds identified by the bill for the project is \$25.0 million. However, the City of Milwaukee estimates that the cost of the project would be about \$30 million, although this estimate excludes the cost of some potential environmental remediation and right-of-way acquisition related to this project as well as other infrastructure projects in the vicinity. DOA indicates that it is expected that the remaining funds would be provided through other sources.

4. Before construction can begin, the project must go through an environmental investigation process, which would involve, among other things, testing for the presence of soil contamination and developing strategies to mitigate any such environmental problems. Following this stage, the acquisition of real estate would be required for both the relocation of railroad tracks

and the rail yard and the expansion of the street. For these reasons, the City expects that actual construction would not begin until 2003 and at least a portion of the project could occur after that time.

5. Although the bill would not identify all of the funding to complete the project, it may be possible to construct the project in phases, making it unnecessary to provide all of the funding in the 2001-03 biennium. The source of additional funding could be state funds, additional federal funds provided to the state, federal funds provided to the City specifically for the project, additional City funds, additional tribal gaming revenue or private funds. It should be noted, however, that if the completion of the project is delayed until after 2003 because of a lack of funds or for other reasons, the project's utility as an alternate route for traffic during the reconstruction of the Marquette Interchange, which is a principal reason cited by DOA for providing a grant for the West Canal Street project, would be reduced. The reconstruction of the core of the Marquette Interchange is tentatively scheduled to start in 2004 and be completed in 2007.

6. The appropriations for making grants to the City of Milwaukee are continuing appropriations, which means that any funding that is provided in 2001-02 or 2002-03 in these appropriations would not lapse if it is not used. However, the provisions requiring DOT to make grants to the City of Milwaukee for the project would not apply after December 31, 2005. Consequently, if the City has not met the conditions for receiving the grants by this time, no grants would be made.

7. The decision of whether it is appropriate to provide state assistance for the West Canal Street project may depend upon the extent to which West Canal Street serves as an alternate route for traffic during the interchange work. DOT is currently conducting a study of design alternatives for the Marquette Interchange, but no traffic modeling has been conducted to determine the precise impacts on traffic that the project will have on specific local streets.

8. Some have argued that the improvement of West Canal Street will increase economic development in the Menomonee Valley. Since the reconstruction of the Marquette Interchange may have a negative impact on businesses in the downtown area and the Menomonee River Valley, it may be appropriate for the state to assist in the improvement of West Canal Street to help mitigate the negative economic impacts of the interchange construction. For this reason, it may be appropriate for the state to contribute to the West Canal Street project even if West Canal Street does not serve as a significant alternate route for traffic during the interchange project.

9. Of the \$25.0 million in funds identified by the bill, \$10.0 million would be federal interstate cost estimate (ICE) funds. A 1999 agreement between Governor Thompson and the City and County of Milwaukee allocated a total of \$241 million in ICE funds available to the state among various transportation projects in southeastern Wisconsin. The agreement, which was approved by the U.S. Department of Transportation, allocated \$75.2 million to the reconstruction of the Marquette Interchange, but no funds were specifically allocated to the West Canal Street project.

10. In compliance with federal law, the agreement allocated one-half of the ICE funds to

the state and the other half to the local governments. Although the bill refers to ICE funds received by the City, the 1999 agreement did not distinguish between ICE funds received by the City and ICE funds received by the County. If the Committee decides to retain the bill's use of local ICE funds for the reconstruction of West Canal Street, this provision would need to be modified to specify that these funds would be ICE funds allocated to the local governments under the agreement, instead of ICE funds received by the City.

11. The ICE funds agreement divided the local share of ICE funds (\$121.5 million) between three projects: the reconstruction of the Sixth Street Viaduct (\$14.45 million), the demolition of the Park East Freeway and related surface street improvements (\$14.45 million) and the remainder (\$92.6 million) to constructing transit improvements that are recommended as the result of a study of downtown transit options being sponsored by the Wisconsin Center District. Since the transit project would receive any ICE funds that are not used in the Sixth Street or Park East Freeway projects, any amendment to the ICE funds agreement to use savings from these projects for the West Canal Street project would reduce the amount of funds that would otherwise be available for the transit project under the terms of the agreement.

12. Since the ICE funds agreement did not allocate funds for the West Canal Street project, an amendment to the agreement would be needed to utilize these funds on that project. Such an amendment would require all of the parties to that agreement to consent to the change and would also require the approval of the U.S. DOT. However, both the City of Milwaukee and Milwaukee County have objected to the use of local ICE funds for the project. In this case, under the provisions of the bill, the City could still receive \$5.0 million in tribal gaming revenue for the project (as long as the City contributes \$10.0 million of other funds toward the cost of the project), but would not receive the additional \$5.0 million in ICE funds.

13. If the Committee decides to contribute a total of \$10.0 million towards the cost of the project, an alternate financing mechanism could be adopted. One alternative would be to specify that the City must provide at least \$15.0 million toward the cost of the project, without specifying the source of funds, in order to receive \$10.0 million from the state. Under this alternative, the same total amount of funds would be provided from both the state and from the City as under the bill, but the City would not be required to contribute local ICE funds. If this alternative is chosen, the Committee could retain the use of \$5.0 million in tribal gaming revenue for the project, but specify that that the other \$5.0 million could be provided with any funds appropriated for the reconstruction of the Marquette Interchange, instead of restricting this amount to federal ICE funds.

14. Of the funds identified for the project, \$5.0 million would be provided through an allocation of tribal gaming revenue. The Forest County Potawatomi Community have a memorandum of understanding (MOU) with the state as part of its gaming compact that states that the Governor shall undertake his best efforts to assure that the gaming funds paid to the state be used in Milwaukee and Forest Counties for, among other things, economic development initiatives in regions around casinos. Some have argued that the West Canal Street project would help encourage economic development in the Menomonee Valley, which is where the Potawatomi

Casino is located. For this reason, the Forest County Potawatomi Community is in support of the use of tribal gaming revenue for the reconstruction project. Under their gaming compact, the Potawatomi make payments of \$6,375,000 annually.

15. Since there is a possibility that not enough money would be provided in the bill to complete all phases of the project, one alternative would be to provide additional tribal gaming revenue for the project in the 2003-05 biennium. DOT could be required to request that up to \$5.0 million in additional tribal gaming revenue be provided for the project in its budget request for the 2003-05 biennium, if it is determined that additional funds are necessary to complete the project. The Legislature could make a decision at that time to require the City of Milwaukee to contribute up to an additional \$5.0 million toward the project in the 2003-05 biennium to receive an additional grant of up to \$5.0 million from DOT from tribal gaming revenue. In this case, the bill could be modified to require the City of Milwaukee to contribute \$10.0 million toward the project to receive a grant of \$10.0 million from DOT (\$5.0 million of tribal gaming revenue and \$5.0 million of funds appropriated for the Marquette Interchange) in the 2001-03 biennium.

#### **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to provide \$3,500,000 PR in 2001-02 and \$1,500,000 PR in 2002-03 from tribal gaming revenue for making a grant to the City of Milwaukee for the reconstruction of West Canal Street. Modify the Governor's recommendation related to the use of federal ICE funds to specify that the City of Milwaukee must contribute \$5,000,000 in federal ICE funds that are allocated to the local governments under the ICE funds agreement, instead of \$5,000,000 in ICE funds received by the City, in order to receive a grant of \$5,000,000 from DOT from federal ICE funds appropriated for the reconstruction of the Marquette Interchange.

2. Modify the Governor's recommendation by requiring DOT to make a grant of \$5,000,000 to the City of Milwaukee for the reconstruction of West Canal Street from funds appropriated for the reconstruction of the Marquette Interchange, without specifying the source of the funds, if the City contributes \$15,000,000 toward the cost of the project, also without specifying the source of the funds. Under this alternative, DOT would make a grant of \$5,000,000 from tribal gaming proceeds if the City contributes \$10,000,000 toward the cost of the project and would make an additional grant of \$5,000,000 if the City contributes an additional \$5,000,000 for the project, for a total City share of \$15,000,000.

3. Modify the Governor's recommendation by requiring DOT to make a grant of \$10,000,000 to the City of Milwaukee for the reconstruction of West Canal Street (\$5,000,000 from tribal gaming revenue and \$5,000,000 from any funds appropriated for the reconstruction of the Marquette Interchange), if the City contributes \$10,000,000 toward the cost of the project, without specifying the source of the funds. Require DOT to request up to \$5,000,000 in additional tribal gaming revenue in its 2003-05 budget request, if the Department determines that additional funds are needed to complete the West Canal Street project, and to request a statutory provision requiring the City of Milwaukee to match the additional funds on a one-to-one basis in order to receive an

additional grant. Under this alternative, the City of Milwaukee would have to contribute less toward the project to receive a DOT grant, but only \$20,000,000 in total funds would be specifically identified for the project in the 2001-03 biennium, instead of \$25,000,000. However, DOT would be required to request additional tribal gaming revenue for the 2003-05 biennium if it is determined that additional funds are needed to complete the project.

4. **Maintain current law.**

<b>Alternative 4</b>	<b>PR</b>
<b>2001-03 Funding (Change to Bill)</b>	<b>-\$5,000,000</b>

Prepared by: Jon Dyck



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May 23, 2001

Joint Committee on Finance

Paper #172

### *Tribal Gaming Revenue Allocations*

### **Aquaculture Demonstration Facility (UW System)**

[LFB 2001-03 Budget Summary: Page 690, #29]

#### **CURRENT LAW**

Construction of the Aquaculture Demonstration Facility was approved under 1999 Act 9 along with two new, annual PR appropriations under the UW System, one for principal repayment and interest of construction costs and the other for operational costs. The PR funding for the UW appropriations is derived from tribal gaming revenues.

#### **GOVERNOR**

Provide \$300,000 PR and 2.0 positions beginning in 2002-03 for operations and maintenance of the UW aquaculture demonstration facility. Because the facility is not expected to open until the end of the 2002-03 fiscal year, funding is provided only for initial staffing and supplies expenses related to the establishment of the facility and would come from Indian gaming revenues.

#### **DISCUSSION POINTS**

1. According to the UW, the mission of the aquaculture facility is to promote and advance the development of commercial aquaculture in a northern climate, with specific emphasis on the state of Wisconsin. At the facility, workshops would be offered for potential aquaculturists, internships would be available for students from area technical colleges and universities, advanced workshops/seminars on new techniques and technologies would be designed for experienced members of the aquaculture industry, and applied research projects would be designed and

conducted based on problems posed by the industry.

2. Of the \$300,000 provided in the bill for UW aquaculture demonstration facility, \$130,000 would support the cost of salaries and fringe benefits for the 2.0 FTE staff positions starting in 2002-03. The salary and fringe benefits allocation would support an executive director and a program assistant. In addition, \$170,000 would be available for supplies and services; these funds could also be used for permanent property needed for the establishment of the facility.

3. Under 1999 Act 9, the UW Board of Regents was authorized \$3,000,000 in program revenue supported borrowing to build a full-scale aquaculture demonstration facility. In addition, two new, annual PR appropriations were created under the UW System for the payment of principal and interest costs incurred in financing the construction of the facility for the operational costs of the facility. The PR funding for the UW appropriations would be derived from tribal gaming revenues and would be transferred to the new UW appropriations from two appropriations created for this purpose under the Department of Administration. The use of tribal gaming revenue for the operating and construction costs was authorized for the aquaculture facility based on the original Building Commission recommendation because of the relationship of fishing to the traditional economic basis of Native American tribes.

4. The original proposal for the development of the aquaculture demonstration facility grew out of a study by the Ashland Area Development Corporation. Based on the plan, the Governor requested, and the Legislature approved, \$3,000,000 for the construction of the facility in the Ashland area and assigned oversight to the UW System. The UW System President has designated UW-Superior as the institution to administer the development of this project, in consultation with the other UW institutions, representatives of the aquaculture industry and representatives of other state and federal entities. A steering committee, consisting of representatives from UW-Superior, UW-Milwaukee Water Institute, UW-Extension, Wisconsin Sea Grant Institute, Wisconsin DNR, Wisconsin DATCP, City of Ashland, Lac du Flambeau Tribal Natural Resources, Bureau of Indian Affairs and the Wisconsin aquaculture industry, has been assembled to coordinate planning and development of the facility and its programming.

5. A site for the new facility was selected in March 2001, and the design and planning phase of the project has begun. The aquaculture facility would be located in Red Cliff, adjacent to the Red Cliff Indian Reservation in Bayfield County. Since the Department of Facilities Development (DFD) does not expect the aquaculture facility to be completed until the end of the 2002-03 fiscal year, the Governor's budget only provides partial funding for the operating expenses. If the center was not completed and the requested positions remained vacant during 2002-03, the funds would likely lapse.

6. According to executive budget staff, the funding provided in the budget would be sufficient to get staff in place to organize the completion and opening of the facility. In addition, the facility staff would be able to identify and secure grant funding for research and equipment expenditures prior to completion of the facility. The bill would only provide partial operating funding for the facility, so if federal grants were unavailable, the UW System would need to request

additional funding for ongoing operations or fund operations through a base reallocation in the 2003-05 biennium. The UW System projects that ongoing costs for the aquaculture facility would cost approximately \$1.1 million annually for facility staff and operating costs.

7. According to UW-Superior and the aquaculture steering committee, start-up costs for movable equipment needed for the research and day-to-day operations of the aquaculture facility would cost an estimated \$634,600. Movable equipment needed for the facility includes re-circulating tanks, hatching bins, monitoring equipment, computers and a water heat exchanger. The Act 9 project enumeration and bonding excluded funding for movable equipment and the Governor's proposal would not fund all of the equipment that, according to the UW, would be essential for operating the facility.

8. The Committee could increase the Act 9 project enumeration by \$350,000 and authorize \$350,000 of PR supported general obligation authority for the aquaculture facility in order to fund movable equipment with a longer asset life. The additional bonding, if authorized, would be supported by tribal gaming revenues. The project architect has expressed a need to purchase and install equipment such as tanks, oxygen equipment, re-circulating systems, water chillers and a water heat exchanger while the building is being constructed in order to facilitate design and installation. The remaining equipment could be funded using the \$170,000 provided in the Governor's budget for supplies and services or funded in subsequent biennia once the facility has been completed.

9. Given that the facility would not be completed until the fall, 2002, or spring, 2003, the Committee could decide not to fully fund the facility's operating costs and salaries during the 2001-03 biennium. Instead, the Committee could provide \$80,000 and 1.0 position in 2002-03 for a facility director that would be based at UW-Superior until the project is completed as well as \$170,000 in supplies and services funding for movable equipment or other costs. According to DFD and UW staff, a facility director hired prior to completion of construction would help the design team tailor the project to the users needs. The facility director could coordinate with researchers and employees at UW-Superior and other participating agencies to assist in the design phase of the facility and identify federal funding and grants for future research and operations at the aquaculture facility.

10. While the Board of Regents must first approve all construction projects proposed by the campuses, the Board does not require campuses to estimate the operating and maintenance costs associated with a new building or to indicate how such costs would be funded. In general, however, UW institutions are expected to pay for operating and maintenance costs associated with new buildings through base reallocations. One could argue that the Governor's proposal to separately fund the operating and maintenance costs for this particular facility could set a precedent for other campuses to request funding for similar purposes. However, it could be argued that it would be unreasonable to require UW-Superior or other UW campuses to fund operational costs for this particular facility through a base funding reallocation.

## ALTERNATIVES TO BILL

1. Approve Governor's recommendation to provide \$300,000 PR and 2.0 PR positions in 2002-03 for initial staffing and supplies expenses related to the establishment of an aquaculture demonstration facility.

2. Modify the Governor's recommendation by increasing the 1999 Act 9 project enumeration by \$350,000 and authorizing an additional \$350,000 in program revenue supported general obligation bonding for the purchase of movable equipment for the aquaculture facility. Debt service on the bonds would be paid with tribal gaming revenues beginning in 2003-04.

<u>Alternative 2</u>	<u>BR</u>
2001-03 FUNDING (Change to Bill)	\$350,000

3. Modify the Governor's recommendation by deleting \$50,000 and 1.0 position in 2002-03. The remaining funding would provide \$80,000 for an aquaculture facility director based at UW-Superior starting in 2002-03 as well as \$170,000 that could be used for movable equipment or other facility costs.

<u>Alternative 3</u>	<u>PR</u>
2001-03 FUNDING (Change to Bill)	- \$50,000
2002-03 POSITIONS (Change to Bill)	- 1.00

4. Maintain current law.

<u>Alternative 4</u>	<u>PR</u>
2001-03 FUNDING (Change to Bill)	- \$300,000
2002-03 POSITIONS (Change to Bill)	- 2.00

Prepared by: John Stott



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May 23, 2001

Joint Committee on Finance

Paper #173

### *Tribal Gaming Revenue Allocations*

### **Agricultural Development and Diversification Program (DATCP)**

[LFB 2001-03 Budget Summary: Page 100, #4]

#### **CURRENT LAW**

The agricultural development and diversification (ADD) program provides grants for up to three years to farmers or other entrepreneurs to develop agricultural crops and livestock products, value-added and other new uses for existing products and new business ventures. Total grants to any individual may not exceed \$50,000 and there are no match requirements. The ADD program base budget for grants is \$400,000 GPR annually.

#### **GOVERNOR**

Create an annual appropriation and provide \$325,000 in 2001-02 and \$485,000 in 2002-03 from tribal gaming revenues to increase agricultural development and diversification (ADD) program grant funding.

Further, expand the program to allow DATCP to make grants and provide technical assistance to agricultural producers and organizations to support preliminary research and investigations on potential business enterprises that may increase the value of raw agricultural commodities. However, prohibit DATCP from providing funding for more than two years or from awarding more than \$25,000 to a single business for research and investigations. Require DATCP to promulgate rules to administer the program expansion.

#### **DISCUSSION POINTS**

1. While the statutes set general eligibility standards and outcome goals for the ADD

program, actual selection criteria are guided by DATCP administrative rule. Proposals are selected on a competitive basis and evaluated based on the following criteria: (a) value to industry; (b) agriculture economic development potential measured in terms of job creation, capital investment, market expansion and near-term economic activity; (c) degree to which the project has a near-term practical or commercial application for the industry as a whole; (d) reasonableness and feasibility of the proposed approach, including adequacy of workplan and time frame; (e) demonstrated capacity of project leaders and staff to successfully carry out the proposed activity; (f) reasonableness of costs relative to the work to be performed, including cost effectiveness of project versus the product(s) to be delivered; and (g) follows the purposes and objectives outlined in the application and clearly defines the expected results.

2. Since its establishment in 1989, the ADD program has awarded \$3.3 million for 173 projects. As shown in the following table, the demand for grants has generally increased under the program. DATCP estimates a current economic return (including annual sales increases, added value from processing and other returns to resources) of over \$60 million from projects funded under the grant program. Providing additional grant funding may allow less viable projects to receive grants, thereby decreasing the Department's current rate of return on ADD grants. However, DATCP officials estimate that about 50% of grant proposals would meet program eligibility requirements and have a reasonable chance of success.

#### Recent ADD Grant Program Activity

<u>Year</u>	<u>Proposals</u>	<u>Funds Requested</u>	<u>Awards</u>	<u>Allocated Funds</u>
1996	68	\$1,798,692	12	\$200,000
1997	100	2,713,138	17	300,000
1998	110	3,359,995	24	500,000
1999	128	4,227,538	19	400,000
2000	107	3,389,578	17	400,000
2001	116	3,743,177		400,000

3. Under the bill, the amount available for ADD grants would more than double from \$800,000 to \$1,610,000. In its budget request to DOA, DATCP sought an increase of \$160,000 in the biennium for the ADD program, while the bill would provide an \$810,000 increase. Since the rate of return on investments could diminish as more proposals are funded, the Committee may wish to provide a lower amount of additional funding or to replace a portion of current GPR funding with tribal gaming revenues. If \$810,000 in tribal gaming revenues were provided as under the bill, reducing annual GPR allocations for the grant program by \$300,000 annually would provide an overall funding increase of 26%. Reducing GPR by \$200,000 annually would increase ADD grant funding by 51% and an annual GPR reduction of \$100,000 would increase funding by 76%.

4. The Department has received ADD proposals to fund preliminary research and

investigation into potential business enterprises, but DATCP states that these applications have not scored well against other grant proposals. The proposed types of earlier stage projects that would be allowed under the bill inherently carry more risk in terms of return on investment, since the projects are not as far along as other ADD grant recipient projects. Still, while fewer projects would probably reach fruition, those that do succeed may earn a greater return on investment. Further, this provision could be seen as supporting other state initiatives in the venture capital area by encouraging start-up business investment, job growth and the health of the agricultural economy in the state. On the other hand, since the Department believes many current proposals merit grants that are not awarded due to funding constraints, expanding the program could take additional grants from such projects to fund potentially riskier applicants.

5. Some may question whether using tribal gaming revenues for ADD grants is appropriate. The agreements with most tribes indicate funds should be used for economic development in areas where tribes are present. Further, while tribal gaming revenues provide funds for economic development programs statewide in the Department of Commerce, monies from these Commerce programs are awarded to businesses that are affected by Native American gaming operations. Thus, providing ADD grants from tribal gaming revenues could be seen as expanding on the current state uses of tribal gaming funds.

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to:

a. Create an annual appropriation and provide \$325,000 in 2001-02 and \$485,000 in 2002-03 from tribal gaming revenues to increase agricultural development and diversification (ADD) program grant funding.

<u>Alternative 1a</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$810,000
[Change to Bill]	\$0

b. Allow DATCP to make grants and provide technical assistance to agricultural producers and organizations to support preliminary research and investigations on potential business enterprises that may increase the value of raw agricultural commodities. Prohibit DATCP from providing funding for more than two years or from awarding more than \$25,000 to a single business for research and investigations. Require DATCP to promulgate rules to administer the expansion.

2. Create an annual appropriation and provide one of the following amounts annually from tribal gaming revenues to increase agricultural development and diversification (ADD) program grant funding:

a. \$100,000

<u>Alternative 2a</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$200,000
[Change to Bill]	- \$610,000]

b. \$200,000

<u>Alternative 2b</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$400,000
[Change to Bill]	- \$410,000]

c. \$300,000

<u>Alternative 2c</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$600,000
[Change to Bill]	- \$210,000]

3. Reduce current annual GPR funding of \$400,000 by one of the following amounts to partially offset funding provided from tribal gaming revenues:

a. \$350,000

<u>Alternative 3a</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base)	- \$700,000
[Change to Bill]	- \$700,000]

b. \$300,000

<u>Alternative 3b</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base)	- \$600,000
[Change to Bill]	- \$600,000]

c. \$200,000

<u>Alternative 3c</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base)	- \$400,000
[Change to Bill]	- \$400,000]

d. \$100,000

<u>Alternative 3d</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base)	- \$200,000
[Change to Bill]	- \$210,000]

4. Maintain current law.

<u>Alternative 4</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$0
[Change to Bill]	- \$810,000]

Prepared by: David Schug



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May 23, 2001

Joint Committee on Finance

Paper #174

### *Tribal Gaming Revenue Allocations*

## **Gaming Economic Development and Diversification Grant and Loan Program (Commerce -- Departmentwide and Economic Development)**

[LFB 2001-03 Budget Summary: Page 168, #5]

### **CURRENT LAW**

The gaming economic development and diversification grant and loan programs were created by 1999 Wisconsin Act 9 (the 1999-01 biennial budget) to provide financial assistance to businesses that are located in areas affected by Native American gaming operations. Funding for the programs is provided from tribal gaming revenue provided to the state under state-tribal gaming compact amendments. Commerce may not make an award to a business that is tourism-related unless the Department of Tourism concurs in the award. To be eligible for financial assistance under the programs, the claimant must be an existing business, including a Native American business, that is located or expanding in Wisconsin.

### **GOVERNOR**

Modify the gaming economic development and diversification grant and loan programs as follows: (a) consolidate, into one biennial program revenue appropriation, both the gaming economic development and economic diversification grant and loan programs and create a consolidated program revenue biennial repayments appropriation for both programs; (b) reduce funding for the combined economic development and diversification appropriation by \$2,500,000 PR in 2001-02 and \$1,500,000 in 2002-03; (c) beginning in 2001-02, transfer annual funding of \$120,700 and 1.0 gaming grants specialist position from the gaming economic development grants and loans appropriation to the Department's Native American Liaison appropriation; (d) provide that economic diversification grants and loans could be used for brownfields remediation projects; (e) expand the definition of a business that would be qualified

to receive gaming economic development and diversification grants and loans to specifically include start-up businesses; (f) authorize Commerce to make a gaming economic development grant of up to \$1,000,000 to the M7 Development Corporation for constructing a multipurpose center at Lincoln Park in the City of Milwaukee; and (g) authorize Commerce to make gaming economic development grants of up to \$250,000 in 2001-02 and 2002-03 to the Chippewa Valley Technical College for a health education center.

## DISCUSSION POINTS

1. Economic research generally finds that gambling operations have significantly improved the economic conditions of Native American communities and resulted in more self-sufficiency. Investment, employment and earnings have increased significantly in tribal economies. Moreover, the economies of the tribal communities and the areas around the gaming operations generally benefit in the aggregate. For example, a 1993 study sponsored by the Wisconsin Indian Gaming Association and the UW Cooperative Extension Service and conducted by economist James Murray determined that the gaming operations directly generated \$275 million in gross revenues, had payrolls of \$68.4 million, employed 4,500 persons and purchased \$56.4 million in goods from Wisconsin suppliers. The report concluded that the casinos directly generated 10,239 full time jobs (at the gaming operations and in other businesses), while a multiplier effect led to an additional 22,863 jobs. Murray also found that 1,400 of 2,000 tribal jobs in Wisconsin were the result of casino gambling and gaming revenues constituted between 40% to 90% of tribal revenues.

2. However, other studies have found the economic development effects of gaming operations to be uneven. In some cases, the development that occurs is limited to the casino and related service sectors with minimal spillover. Because casinos are often full-service complexes that offer food service, retail marketing, lodging and other services, local enterprises are vulnerable to competition in these areas. Even though gaming operations may cater to tourists, their effect on local service establishments may be detrimental because they draw some local customers away from existing retail trade and service providers in the same way regional shopping malls do. In a 1994 study in South Dakota, Robert Goodman (director of the U. S. Gambling Study) found that, a year after legalizing video gambling, there were significant declines in spending for clothing, recreation services, businesses, auto dealers and service stations. Essentially, gambling diverted money from other businesses to gaming operations. However, it is important to recognize that, in a market economy, individuals often adjust their spending patterns. For example, the opening of Miller Park in Milwaukee is expected to shift some consumer expenditures from local businesses to the ballpark area.

3. Another concern with the effects of gaming on local economies is that the employment effects, both positively and negatively, often occurs in the recreation, tourism and consumer service industries. In these cases, the jobs that are created or lost are mostly in restaurants, taverns, hotels and motels, food stores and in similar businesses in the industry. These types of jobs are frequently lower paying and seasonal. Few of the research studies indicate a significant increase in employment for manufacturers, professional services or high technology firms as a direct result of casino gambling. These industries tend to have higher paying full-time jobs and tend to adjust

better to long-term changes in economic growth. Thus, there is concern about the effect of gaming operations on the long-term economic stability and strength of the local economy and tribal community.

4. The types of financial assistance provided through the gaming economic development and diversification grant and loan programs include:

a. *Economic Impact Early Planning Grants.* Grants to provide funding for professional services necessary to evaluate the feasibility of a proposed project for starting, expanding, modernizing or improving a business. Awards can be made as business planning grants and special opportunity grants. Business planning grants are limited to funding the costs of obtaining comprehensive business plans from qualified independent third parties. Special opportunity grants are used for unique projects that have a statewide impact. The maximum business planning grant is \$3,000 while the maximum special opportunity grant is \$15,000.

b. *Economic Impact Loans.* Loans to provide financial assistance to businesses that have been negatively impacted by gaming. Awards can be used to provide funding for fixed asset financing related to modernizing and improving business operations. Eligible project costs include costs associated with land, new construction, remodeling, furniture and fixtures and equipment. The maximum award is \$100,000.

c. *Economic Diversification Loans.* Loans to provide financial assistance to businesses that are starting up or expanding to help diversify a community's economy so that it is less dependent upon revenue derived from gaming. Awards can be used to provide fixed asset financing for businesses to establish and expand operations. Awards can also finance the cost of land, new construction, remodeling, furniture and fixtures, and equipment. The maximum award is \$100,000.

5. The early planning grants and economic impact and diversification loans are designed to address concerns about the potential impact of gaming operations on local businesses and the local economy. The economic impact loan program targets financial assistance to businesses whose profits are affected by gaming operations. The program can be used to provide assistance to firms that lose business and income to gaming-related enterprises. Economic diversification loans are targeted to businesses that make significant capital investments and that create or retain jobs. The program can be used to assist businesses, such as manufacturing firms, that would contribute to the long-term stability of the local economy. The planning grants help ensure that projects funded with economic impact or diversification loans are successful.

6. Commerce staff view consolidation of the funding for the economic impact and diversification grant and loan programs into a single biennial appropriation as providing the Department with more administrative flexibility in awarding grants and loans. Consolidation recognizes the complementary objectives of the two loan programs and would allow the Department to consider more projects under either program. Similarly, a biennial appropriation would extend the period over which Commerce could evaluate projects. Funding for biennial appropriations is expendable during the biennium for which it is appropriated. The Department's other major financial assistance programs--the Wisconsin Development Fund (WDF), Rural Economic

Development program (RED), and Minority Business Finance program (MBF)--are all funded through biennial appropriations. Under the bill, the unencumbered balance in the consolidated appropriation at the end of the biennium would revert back to the Indian gaming receipts appropriation under DOA.

7. Another view is that retaining separate appropriations for economic impact and diversification grants and loans would ensure that the different types of gaming-related economic development projects would receive comparable funding. Equal emphasis would be placed on funding projects that addressed the current and the future effects of gaming on local economies. Maintaining the appropriations as annual would allow for more legislative oversight. Funding could only be expended in the year for which it is appropriated. The Department is experienced in budgeting the gaming economic development and diversification grants and loans on an annual basis. Current law provisions could be modified to require the unencumbered year-end balance in the appropriation to revert back to the DOA Indian gaming receipts appropriation. This would prevent unencumbered funds from accumulating in the appropriation.

8. The statutory provisions governing economic development grants and loans (economic impact early planning grants and economic impact loans) require that a business must be "negatively impacted by the existence of a casino" in order to receive a grant or loan. The Great Lakes Inter-Tribal Council (GLITC) argues that the inclusion of the word "negatively" in the eligibility requirements is "contentious language" and ignores the positive impact that Indian gaming operations have on businesses and communities. As a modification, the word "negatively" could be deleted, allowing businesses that are in any way impacted by a casino to be eligible for grants or loans.

9. Table 1 shows the amounts appropriated and awarded for gaming economic development and diversification grants and loans during the 1999-01 biennium. Amounts shown for fiscal year 2000-01 are for awards made through May 7, 2001. Total funding provided for economic development grants and loans includes \$114,000 PR in 1999-00 and \$125,900 PR in 2000-01 for a grant specialist position and related supplies and services funding to market and administer the gaming economic development and diversification grant and loan programs. Total funding for the economic diversification grant and loan program includes \$50,000 PR in supplies and services funding for marketing and administration. Also, 1999 Act 9 (the 1999-01 biennial budget) included a number of provisions that required Commerce to make awards from the gaming economic development and diversification grant and loan programs to specific projects or recipients including: (a) grants of \$500,000 in 1999-00 and \$1,000,000 in 2000-01 to Brown County to support construction of a new arena; (b) grants of up to \$900,000 to the Milwaukee Economic Development Corporation (MEDC) to fund a program for grants to persons for remediation and economic development projects in the Menomonee Valley; (c) grants of up to \$150,000 to the Northwest Regional Planning Commission to match federal or private funds for the purpose of establishing a community-based venture fund; (d) a grant of \$299,800 in 1999-00 to the City of Richland Center from the gaming economic development grant and loan program appropriation to replace the city well because of highway construction; and (e) a grant of \$1,000,000 from the gaming economic diversification program for construction of a Swiss cultural center in the Village of New Glarus.

**TABLE 1****Gaming Economic Development and Diversification  
Grants and Loans -- Appropriations and Amounts Awarded**

	<u>1999-00</u>	<u>2000-01</u>
Economic Development Appropriation	\$3,894,300 *	\$2,514,600 *
<b>Awards</b>		
Early Planning Grants		\$53,400
Economic Impact Loans		363,400
Legislative Awards		
Milw. Economic Development Corporation	\$900,000	
Brown County	500,000	1,000,000
N.W. Regional Planning Commission	150,000	
City of Richland Center	299,800	
<b>Total</b>	<b>\$1,849,800</b>	<b>\$1,416,800 ++</b>
Economic Diversification Appropriation	0	\$2,500,000 +
<b>Awards</b>		<b>\$1,068,600 ++</b>

\*Includes funding of \$114,000 in 1999-00 and \$125,900 in 2000-01 for a grants specialist position and related supplies and services funding for marketing and administration

+ Includes \$50,000 in supplies and services funding for marketing and administration.

++ Awards through May 7, 2001.

10. A total of \$3,894,300 in tribal gaming revenues was provided in 1999-00 for economic development grants and loans. Table 1 shows that \$1,849,800 was expended or encumbered for awards. In addition, \$26,717 was expended for the salary, fringe benefits and related supplies and services for the grants specialist position and administrative activities. Thus, a total of \$1,876,517 was expended or encumbered from the gaming economic development grant and loan appropriation in 1999-00. The remaining \$2,017,783 provided for 1999-00 was lapsed and is retained as an unappropriated balance in the appropriation. (Note that, under the bill, in future years the unencumbered balance in the consolidated gaming grant and loan appropriation at the end of a biennium would revert to the DOA Indian gaming receipts appropriation.) Commerce indicates that the large unencumbered balance is due, in part, to the delay until October, 1999, in enacting the 1999-01 biennial budget. As a result, staff felt they did not have adequate time to market and implement the program. The Department expects to award the total amounts appropriated in 2000-01 for economic diversification loans. However, staff expect that there will be an unencumbered year-end balance of \$500,000 in the economic development grant and loan program. As a result there will be an estimated \$2.5 million in the economic development grant and loan program

appropriation at the end of the fiscal year. Under the bill, this balance would be reverted back to DOA's Indian gaming receipts appropriation where the additional funding could be used for other purposes.

11. As noted, under the bill, total funding for the gaming economic development and diversification grant and loan programs would be reduced by \$2,500,000 in 2001-02 and by \$1,500,000 in 2002-03. The executive budget book indicates that this funding would be used for higher priority projects. In addition, Commerce would be authorized to make grants of up to \$1 million in 2001-02 to the M7 Development Corporation for construction of a multipurpose center in Lincoln Park in Milwaukee and grants of up to \$250,000 in each year of the biennium to Chippewa Valley Technical College for a health education center. Table 2 shows the funding that would be provided under the bill for gaming economic development and diversification grants and loans compared to the amount provided for 2000-01 under current law provisions. The amounts shown for 2000-01 do not include funding for the administrative positions and related expenses. Required legislative awards are also shown. The table shows that, net of legislative awards, total funding available for grants and loans would be less than \$1.1 million in 2001-02. As noted, Commerce staff expect to award over \$2.3 million in gaming economic development and diversification grants and loans in 2000-01. Moreover, Commerce staff anticipate that expanding the definition of eligible businesses to include start-up businesses would increase the number of Native American businesses that would apply for financial assistance. The situation would improve in 2002-03, when unrestricted funding would increase by \$2 million. In order to increase the funding available for financial assistance in 2001-02, the 2000-01 year-end balance (\$2.5 million) in the economic development grants and loans appropriation could be transferred to the grant and loan appropriation(s) in 2001-02.

**TABLE 2**

**Total Funding for Economic Development and Diversification Grants and Loans**

	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>
Economic Development Appropriation	\$2,388,700		
Economic Diversification Appropriation	<u>2,450,000</u>		
Consolidated Amount	\$4,838,700	\$2,338,700	\$3,338,700
<b>Legislative Awards</b>			
Brown County	1,000,000		
Swiss Cultural Center	1,000,000		
Lincoln Park Center		1,000,000	
Chippewa Valley Technical College		<u>250,000</u>	<u>250,000</u>
Net Total Funding	\$2,838,700	\$1,088,700	\$3,088,700

12. The Lincoln Park Center in Milwaukee would be a meeting and dining club that could be used for banquets, meetings and other events. The building would include meeting rooms, ballrooms, a restaurant, business and dining club, and gallery. The center would be managed as a private enterprise and provide employment for approximately 100 people. Services would be targeted to the African-American community.

The funding for Chippewa Valley Technical College would be used to help establish a learning center for career training in health care occupations for high school and college pupils. The monies provided would be used to construct and equip training facilities.

Both of these projects would contribute to economic development in areas that could benefit Native Americans and Native American businesses. Although some might question the direct connection between the projects and Native American economic development, projects such as municipal well replacement (Richland Center) and constructing municipal facilities (Brown County) have been funded with Indian gaming revenues in previous years. However, many similar projects have been funded from the WDF. For example, WDF funds have been previously provided to a consortium including Chippewa Valley Technical College to establish a distance education center for instruction in technology and engineering. Similarly, WDF funding has been provided for Reggie White's Wisconsin Urban Hope Initiative that provides entrepreneurial opportunities for individuals in Wisconsin's central cities. As an alternative, the Lincoln Park and Chippewa Valley projects could be funded with Wisconsin Development Fund (WDF) monies. Funding these projects from the WDF would increase the funding available for other gaming economic development or diversification projects. Conversely, the amount of funding available for other WDF projects would be reduced.

13. Under the bill, annual funding of \$120,300 PR and 1.0 PR grants specialist position would be transferred from the gaming economic development grant and loan program appropriation to the Department's Native American liaison appropriation. The grants specialist position underwrites, evaluates and makes funding recommendations for gaming economic development and diversification grant and loan programs. Other related activities include general administration, promotion and marketing of the programs. The Native American liaison appropriation funds the Department's economic liaison that is the main state government contact for Wisconsin's Native American tribes, tribal communities and entrepreneurs regarding business and economic development activities. The appropriation is funded with tribal gaming revenues. Centralizing the funding for these two positions would allow for more efficient use of the Department's funding for technical and financial assistance programs that directly benefit individual Native Americans, tribes and businesses.

14. Under current law, the Department is authorized to spend up to \$100,000 to market the gaming economic development and diversification programs. The funding for these activities is included as supplies and services in the grant and loan appropriations. The bill would transfer the grants specialist position and \$70,400 in annual supplies and services funding, as well as the authority to spend \$100,000 on marketing activities. However, an additional \$50,000 in annual supplies and services funding that is included in the economic diversification loan appropriation would remain in the consolidated grants and loans appropriation. The statutory appropriation

language for the appropriation limits expenditures from the appropriation to grants and loans. As a result, the Committee may wish to transfer the \$50,000 in annual supplies and services funding to the Department's Native American Liaison appropriation.

15. The bill would expand the eligible uses for economic diversification loans to include brownfield remediation projects. "Remediating" brownfields would be defined as abating, removing or containing environmental pollution at a brownfields facility or site, or restoring soil or groundwater at a brownfields facility or site. The Department indicates that this would allow it to fund remediation projects that would benefit businesses, including Native American businesses. An example would be the funding provided to MEDC for environmental remediation grants in the Menomonee Valley. This is viewed as beneficial to the operation of the Potawatomi Casino located in the area. On the other hand, the Department's brownfields grant program was created for the same purpose. The program has annual base level funding of \$6.4 million. In addition, under the gaming economic development and diversification grant and loan programs, environmental remediation projects would be tied to economic development and job creation projects. The Brownfields Study Group has recommended that funds should be available for projects that create green space, public property cleanups and other noneconomic development activities.

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to modify the gaming economic development and diversification grant and loan programs as follows: (a) consolidate, into one biennial program revenue appropriation, both the gaming economic development and economic diversification grant and loan programs and create a consolidated program revenue biennial repayments appropriation for both programs; (b) reduce funding for the combined economic development and diversification appropriation by \$2,500,000 PR in 2001-02 and \$1,500,000 in 2002-03; (c) beginning in 2001-02, transfer annual funding of \$120,700 and 1.0 gaming grants specialist position from the gaming economic development grants and loans appropriation to the Department's Native American Liaison appropriation; (d) provide that economic diversification grants and loans could be used for brownfields remediation projects; (e) expand the definition of a business that would be qualified to receive gaming economic development and diversification grants and loans to specifically include start-up businesses; (f) authorize Commerce to make a gaming economic development grant of up to \$1,000,000 to the M7 Development Corporation for constructing a multipurpose center at Lincoln Park in the City of Milwaukee; and (g) authorize Commerce to make gaming economic development grants of up to \$250,000 in 2001-02 and 2002-03 to the Chippewa Valley Technical College for a health education center.

<b>Alternative 1</b>	<b>PR</b>
<b>2001-03 FUNDING</b> (Change to Base)	- \$4,000,000
[Change to Bill]	\$0

2. Approve the Governor's recommendation. In addition, transfer the 2000-01 unencumbered balance (\$2,500,000) in the gaming economic development appropriation to the

gaming economic development and diversification programs in 2001-02.

<u>Alternative 2</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	- \$1,500,000
[Change to Bill]	\$2,500,000]

3. Transfer \$50,000 PR annually in supplies and services funding from the gaming economic diversification loan appropriation to the Native American economic development liaison appropriation [20.143 (1) (kg)]

4. Delete authority for Commerce to make a gaming economic development grant of \$1,000,000 to the M7 Development Corporation for constructing a multipurpose center at Lincoln Park in Milwaukee. Instead, provide authority for Commerce to make a grant from the WDF for this purpose.

5. Delete authority for Commerce to make annual gaming economic development grants of \$250,000 to Chippewa Valley Technical College for a health education center. Instead, provide authority for Commerce to make grants from the WDF for this purpose.

6. Delete authority for Commerce to make economic diversification loans for environmental remediation projects.

7. Retain separate appropriations for gaming economic development grants and loans [20.143(1)(kj)] and repayments [20.143(1)(ig)] and for economic diversification loans [20.143(1)(km)] and repayments [20.143(id)].

8. Delete requirement that a business must be "negatively" impacted by the existence of a casino to be eligible for economic development grants and loans.

9. Maintain current law.

<u>Alternative 9</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$0
[Change to Bill]	\$4,000,000]

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