

2003 DRAFTING REQUEST

Bill

Received: **01/31/2003**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Mukasa**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - law enforcement
Justice - criminal
Counties - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Mukasa - BB0467,

Topic:

County-tribal law enforcement appropriations

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mdsida 02/01/2003	chanaman 02/01/2003					
/1			chaugen 02/01/2003		sbasford 02/03/2003		S&L

FE Sent For:

<END>

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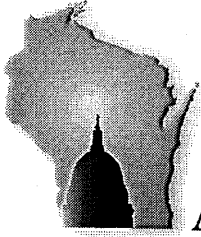
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/P1	mdsida	<i>mdh</i> 1	<i>mdh</i> 2-1	<i>mdh</i> 2-1 <i>Phm</i>			
FE Sent For:		2/01					

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JIM DOYLE
GOVERNOR

MARC J. MAROTTA
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: January 29, 2003

To: Steve Miller, LRB

From: Jim Johnston, DOA
266-3420

Subject: Biennial Budget Request Statutory Language Draft Transfer of
Indian Gaming Law Enforcement Grants

Please draft the language to transfer county-Tribal grants from the Department of Justice to the Office of Justice Assistance. This transfer includes shifting the entire grant program including staff, assets and obligations from DOJ to OJA.

Delete

1. s. 20.455 (kt) County tribal programs local assistance transfer to 20.505 (6)(kq)
2. s.20.455 (ku) County-tribal programs state operations.

Transfer

This should be the same language the Governor recommended in for the 2001-03 biennial budget attached.

Received

1-31-03

3:00 pm

JRM

BB0467

1887/1

2001 - 2002 LEGISLATURE

LRB-01001

RLR:ktg:rs

Muhasa (B30467)

+mgd

cmbr

DOA:.....Statz - Merging tribal law enforcement appropriations
FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

OK

don't see cat

the budget

1 AN ACT ...; relating to: grants for county and tribal law enforcement, providing
2 an exemption from rule-making procedures, and making an appropriation.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

AN. INS

Under current law, DOJ administers a grant program to fund cooperative county-tribal law enforcement programs. A county that has an Indian reservation within its boundaries and that has entered into a formal county-tribal law enforcement agreement may make a joint application with the tribe for funding under the DOJ grant program. The office of justice assistance (OJA) administers a similar grant program to fund county law enforcement programs that are not supported by the DOJ grant program in counties that border Indian reservations. A county need not enter into a formal county-tribal law enforcement agreement in order to receive aid under the OJA program. OJA also administers a grant program for tribal law enforcement operations. Each of the three programs is funded from a separate Indian gaming receipts appropriation.

This bill eliminates the appropriation that funds the DOJ cooperative county-tribal law enforcement grant program and consolidates that grant program with the OJA grant program for counties bordering Indian reservations. The consolidated grant program provides funding for law enforcement services to counties that have an Indian reservation within their boundaries or that border an

Indian reservation. A county must enter into a county-tribal law enforcement agreement in order to receive aid under the consolidated grant program. The bill also eliminates the separate appropriation for the OJA tribal law enforcement grant program and funds the tribal grant program out of the same appropriation that funds the consolidated grant program for counties. The bill maintains current program and eligibility requirements for the tribal law enforcement grant program.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 16.964 (1) of the statutes is renumbered 16.964 (1g).

2 SECTION 2. 16.964 (2) of the statutes is amended to read:

3 16.964 (2) All persons in charge of law enforcement agencies and other criminal
4 and juvenile justice system agencies shall supply the office with the information
5 described in sub. ~~(1)~~ (1g) (g) on the basis of the forms or instructions or both to be
6 supplied by the office under sub. ~~(1)~~ (1g) (g).

7 SECTION 3. 16.964 (6) (a) of the statutes is renumbered 16.964 (1d) and
8 amended to read:

9 16.964 (1d) In this subsection section, "tribe" means a federally recognized
10 American Indian tribe or band in this state.

INS
2-10

11 SECTION 4. 16.964 (7) of the statutes is repealed and recreated to read:

12 16.964 (7) (a) From the appropriation under s. 20.505 (6) (kq), the office of
13 justice assistance shall provide grants for cooperative county-tribal law enforcement
14 services to counties that have one or more federally recognized American Indian
15 reservations within or partially within their boundaries or that border on one or
16 more federally recognized American Indian reservations. In order to receive aid
17 under this subsection, a county must enter into an agreement in accordance with s.
18 59.54 (12) with an Indian tribe that is located in or borders on the county, to establish

1 a cooperative county-tribal law enforcement program. The office shall consider a
2 request for aid under this subsection from any county that meets the eligibility
3 criteria established under this paragraph and that submits to the office a proposal
4 for expenditure of grant moneys.

5 (b) The office may require that a county include the following in its proposal
6 for aid under this subsection:

7 1. A description of any cooperative county-tribal law enforcement program or
8 law enforcement service for which the county requests funding.

9 2. A description of the population and geographic area that the county proposes
10 to serve.

11 3. The county's need for funding under this subsection and the amount of
12 funding requested.

13 4. Identification of the county governmental unit that shall administer any aid
14 received under this subsection and a description of how that governmental unit shall
15 disburse any aid received under this subsection.

16 5. Any information, other than that in subds. 1. to 4., that is required by the
17 office or considered relevant by the county submitting the application.

18 (c) The office shall develop criteria and procedures for use in administering this
19 subsection. Notwithstanding s. 227.10 (1), the criteria and procedures need not be
20 promulgated as rules under ch. 227.

21 **SECTION 5.** 20.455 (2) (kt)^u of the statutes is repealed. ✓

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

~~****NOTE: This is reconciled s. 20.455 (2) (kt). This SECTION has been affected by drafts with the following LRB numbers: -0796 and -0862.~~

22 **SECTION 6.** 20.455 (2) (ku)^u of the statutes is repealed. ✓

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.455 (2) (kn). This SECTION has been affected by drafts with the following LRB numbers: -0796 and -0862.

SECTION 7. 20.505 (6) (kq) of the statutes is amended to read:

20.505 (6) (kq) *County and tribal law enforcement services assistance*. The amounts in the schedule to provide grants to counties Indian tribes for law enforcement operations under s. 16.964 (6) and to provide grants to counties for law enforcement services under s. 16.964 (7). All moneys transferred from the appropriation account under sub. (8) (hm) 15d. shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30

of each year shall revert to the appropriation account under sub. (8) (hm).

PLAIN

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.505 (6) (kq). This SECTION has been affected by drafts with the following LRB numbers: -0796, -0862, and -1552.

SECTION 8. 20.505 (6) (ks) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.505 (6) (ks). This SECTION has been affected by drafts with the following LRB numbers: -0796, -0862, and -1552.

SECTION 9. 20.505 (8) (hm) 15. of the statutes is repealed.

****NOTE: This is reconciled s. 20.505 (8) (hm) 15. This SECTION has been affected by drafts with the following LRB numbers: -0796 and -1552.

SECTION 10. 20.505 (8) (hm) 15g. of the statutes is repealed.

SECTION 11. 20.505 (8) (hm) 15h. of the statutes is repealed.

SECTION 12. 59.54 (12) of the statutes is amended to read:

59.54 (12) COUNTY-TRIBAL LAW ENFORCEMENT PROGRAMS. Pursuant to adoption of a resolution, a board may enter into an agreement and seek funding under s. 165.90 16.964 (7).

SECTION 13. 165.90 of the statutes is repealed.

plain
h
s. 20.505 (8) (hm)
s. 20.505
sub. (8)(hm)

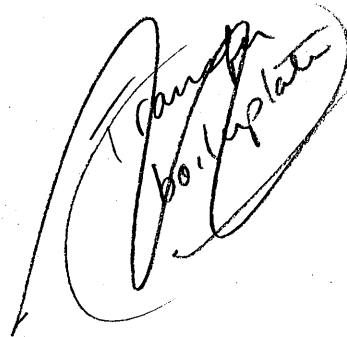
✓
1 SECTION 14. 165.92 (3) (a) of the statutes is amended to read:

2 165.92 (3) (a) Unless otherwise provided in a ~~joint program plan~~ county
3 proposal under s. ~~165.90 (2)~~ 16.964 (7) or an agreement between a political
4 subdivision of this state and a tribe, the tribe that employs a tribal law enforcement
5 officer is liable for all acts of the officer while acting within the scope of his or her
6 employment and neither the state nor any political subdivision of the state may be
7 held liable for any action of the officer taken under the authority of sub. (2) (a).

8

(END)

INS 5/8

A handwritten signature and the word "Boyleplate" written vertically in cursive script, enclosed within a large, loopy circular flourish.



1 analysis INSERT

2 Under current law, a county that has a federally recognized Indian reservation
3 within or partly within its boundaries may develop a cooperative county-tribal law
4 enforcement program with a tribe located in the county. The county and the tribe
5 may apply for and receive aid from DOJ for the program. no 91

6 INSERT 5/8

7 **SECTION 9132. Nonstatutory provisions; justice.**

8 (1) TRANSFER OF COUNTY-TRIBAL LAW ENFORCEMENT GRANT PROGRAM.

9 (a) *Positions and employees.*

10 1 On the effective date of this subdivision, all full-time equivalent positions
11 in the department of justice having duties primarily related to the department's
12 county-tribal law enforcement grant program, as determined by the secretary of
13 administration, are transferred to the office of justice assistance.

14 2 All incumbent employees holding positions specified in subdivision 1 are
15 transferred on the effective date of this subdivision to the office of justice assistance.

16 3 Employees transferred under subdivision 2 have all the rights and the
17 same status under subchapter V of chapter 111 and chapter 230 of the statutes in the
18 office of justice assistance that they enjoyed in the department of justice immediately
19 before the transfer. Notwithstanding section 230.28 (4) of the statutes t, no employee
20 so transferred who has attained permanent status in class is required to serve a
21 probationary period.

22 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
23 liabilities of the department of justice primarily related to the department's

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1 county-tribal law enforcement grant program, as determined by the secretary of
2 administration, shall become the assets and liabilities of the office of justice
3 assistance.

4 (c) *Tangible personal property.* On the effective date of this paragraph, all
5 tangible personal property, including records, of the department of justice that is
6 primarily related to the department's county-tribal law enforcement grant program,
7 as determined by the secretary of administration, is transferred to the office of justice
8 assistance.

9 (d) *Contracts.* All contracts entered into by the department of justice in effect
10 on the effective date of this paragraph that are primarily related to the department's
11 county-tribal law enforcement grant program, as determined by the secretary of
12 administration, remain in effect and are transferred to the office of justice
13 assistance. The office of justice assistance shall carry out any obligations under such
14 a contract until the contract is modified or rescinded by the office of justice assistance
15 to the extent allowed under the contract.

16 (e) *Rules and orders.* All rules promulgated by the department of justice
17 primarily related to the department's county-tribal law enforcement grant program
18 that are in effect on the effective date of this paragraph shall become rules of the
19 office of justice assistance and shall remain in effect until their specified expiration
20 dates or until amended or repealed by the office of justice assistance. All orders
21 issued by the department of justice primarily related to the department's
22 county-tribal law enforcement grant program that are in effect on the effective date
23 of this paragraph shall become orders of the office of justice assistance and shall
24 remain in effect until their specified expiration dates or until modified or rescinded
25 by the office of justice assistance.

1 (f) *Pending matters.* Any matter pending with the department of justice on the
2 effective date of this paragraph that is primarily related to the department's
3 county-tribal law enforcement grant program, as determined by the secretary of
4 administration, is transferred to the office of justice assistance, and all materials
5 submitted to or actions taken by the department of justice with respect to the pending
6 matter are considered as having been submitted to or taken by the office of justice
7 assistance.

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1887/1insed
MGD:.....

Ine
2-10

SECTION 1. 16.964 (6) (b) of the statutes is amended to read:

16.964 (6) (b) From the appropriation under s. 20.505 (6) (~~ks~~) (kq), the office shall provide grants to tribes to fund tribal law enforcement operations. To be eligible for a grant under this subsection, a tribe must submit an application for a grant to the office that includes a proposed plan for expenditure of the grant moneys. The office shall review any application and plan submitted to determine whether that application and plan meet the criteria established under par. (c). The office shall review the use of grant money provided under this subsection to ensure that the money is used according to the approved plan.

History: 1987 a. 27; 1989 a. 31, 122; 1991 a. 39; 1993 a. 193; 1997 a. 252; 1999 a. 9 ss. 110, 110j, 2294m; 2001 a. 16 ss. 3349d, 3350, 3351d.

end of insert 2-10



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1887/1
RLR&MGD:cmh:ch

DOA:.....Mukasa – BB0467, County–tribal law enforcement appropriations
FOR 2003–05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Under current law, a county that has a federally recognized Indian reservation within or partly within its boundaries may develop a cooperative county–tribal law enforcement program with a tribe located in the county. The county and the tribe may apply for and receive aid from DOJ for the program. The office of justice assistance (OJA) administers a similar grant program to fund county law enforcement programs that are not supported by the DOJ grant program in counties that border Indian reservations. A county need not enter into a formal county–tribal law enforcement agreement in order to receive aid under the OJA program. OJA also administers a grant program for tribal law enforcement operations. Each of the three programs is funded from a separate Indian gaming receipts appropriation.

This bill eliminates the appropriation that funds the DOJ cooperative county–tribal law enforcement grant program and consolidates that grant program with the OJA grant program for counties bordering Indian reservations. The consolidated grant program provides funding for law enforcement services to counties that have an Indian reservation within their boundaries or that border an Indian reservation. A county must enter into a county–tribal law enforcement agreement in order to receive aid under the consolidated grant program. The bill also eliminates the separate appropriation for the OJA tribal law enforcement grant

program and funds the tribal grant program out of the same appropriation that funds the consolidated grant program for counties. The bill maintains current program and eligibility requirements for the tribal law enforcement grant program.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 16.964 (1) of the statutes is renumbered 16.964 (1g).

2 **SECTION 2.** 16.964 (2) of the statutes is amended to read:

3 16.964 (2) All persons in charge of law enforcement agencies and other criminal
4 and juvenile justice system agencies shall supply the office with the information
5 described in sub. ~~(1)~~ (1g) (g) on the basis of the forms or instructions or both to be
6 supplied by the office under sub. ~~(1)~~ (1g) (g).

7 **SECTION 3.** 16.964 (6) (a) of the statutes is renumbered 16.964 (1d) and
8 amended to read:

9 16.964 (1d) In this ~~subsection~~ section, “tribe” means a federally recognized
10 American Indian tribe or band in this state.

11 **SECTION 4.** 16.964 (6) (b) of the statutes is amended to read:

12 16.964 (6) (b) From the appropriation under s. 20.505 (6) ~~(ks)~~ (kq), the office
13 shall provide grants to tribes to fund tribal law enforcement operations. To be
14 eligible for a grant under this subsection, a tribe must submit an application for a
15 grant to the office that includes a proposed plan for expenditure of the grant moneys.
16 The office shall review any application and plan submitted to determine whether
17 that application and plan meet the criteria established under par. (c). The office shall
18 review the use of grant money provided under this subsection to ensure that the
19 money is used according to the approved plan.

1 **SECTION 5.** 16.964 (7) of the statutes is repealed and recreated to read:

2 16.964 (7) (a) From the appropriation under s. 20.505 (6) (kq), the office of
3 justice assistance shall provide grants for cooperative county–tribal law enforcement
4 services to counties that have one or more federally recognized American Indian
5 reservations within or partially within their boundaries or that border on one or
6 more federally recognized American Indian reservations. In order to receive aid
7 under this subsection, a county must enter into an agreement in accordance with s.
8 59.54 (12) with an Indian tribe that is located in or borders on the county, to establish
9 a cooperative county–tribal law enforcement program. The office shall consider a
10 request for aid under this subsection from any county that meets the eligibility
11 criteria established under this paragraph and that submits to the office a proposal
12 for expenditure of grant moneys.

13 (b) The office may require that a county include the following in its proposal
14 for aid under this subsection:

15 1. A description of any cooperative county–tribal law enforcement program or
16 law enforcement service for which the county requests funding.

17 2. A description of the population and geographic area that the county proposes
18 to serve.

19 3. The county's need for funding under this subsection and the amount of
20 funding requested.

21 4. Identification of the county governmental unit that shall administer any aid
22 received under this subsection and a description of how that governmental unit shall
23 disburse any aid received under this subsection.

24 5. Any information, other than that in subds. 1. to 4., that is required by the
25 office or considered relevant by the county submitting the application.

1 (c) The office shall develop criteria and procedures for use in administering this
2 subsection. Notwithstanding s. 227.10 (1), the criteria and procedures need not be
3 promulgated as rules under ch. 227.

4 **SECTION 6.** 20.455 (2) (kt) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 7.** 20.455 (2) (ku) of the statutes is repealed.

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6 **SECTION 8.** 20.505 (6) (kq) of the statutes is amended to read:

7 20.505 (6) (kq) *County and tribal law enforcement services assistance*. The
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9 enforcement operations under s. 16.964 (6) and to provide grants to counties for law
10 enforcement services under s. 16.964 (7). All moneys transferred from the
11 appropriation account under sub. (8) (hm) 15d. shall be credited to this appropriation
12 account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30
13 of each year shall revert to the appropriation account under ~~s. 20.505~~ sub. (8) (hm).

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

14 **SECTION 9.** 20.505 (6) (ks) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 10.** 20.505 (8) (hm) 15. of the statutes is repealed.

16 **SECTION 11.** 20.505 (8) (hm) 15g. of the statutes is repealed.

17 **SECTION 12.** 20.505 (8) (hm) 15h. of the statutes is repealed.

18 **SECTION 13.** 59.54 (12) of the statutes is amended to read:

1 59.54 (12) COUNTY-TRIBAL LAW ENFORCEMENT PROGRAMS. Pursuant to adoption
2 of a resolution, a board may enter into an agreement and seek funding under s.
3 ~~165.90~~ 16.964 (7).

4 **SECTION 14.** 165.90 of the statutes is repealed.

5 **SECTION 15.** 165.92 (3) (a) of the statutes is amended to read:

6 165.92 (3) (a) Unless otherwise provided in a ~~joint program plan~~ county
7 proposal under s. ~~165.90 (2)~~ 16.964 (7) or an agreement between a political
8 subdivision of this state and a tribe, the tribe that employs a tribal law enforcement
9 officer is liable for all acts of the officer while acting within the scope of his or her
10 employment and neither the state nor any political subdivision of the state may be
11 held liable for any action of the officer taken under the authority of sub. (2) (a).

12 **SECTION 9132. Nonstatutory provisions; justice.**

13 (1) TRANSFER OF COUNTY-TRIBAL LAW ENFORCEMENT GRANT PROGRAM.

14 (a) *Positions and employees.*

15 1. On the effective date of this subdivision, all full-time equivalent positions
16 in the department of justice having duties primarily related to the department's
17 county-tribal law enforcement grant program, as determined by the secretary of
18 administration, are transferred to the office of justice assistance.

19 2. All incumbent employees holding positions specified in subdivision 1. are
20 transferred on the effective date of this subdivision to the office of justice assistance.

21 3. Employees transferred under subdivision 2. have all the rights and the same
22 status under subchapter V of chapter 111 and chapter 230 of the statutes in the office
23 of justice assistance that they enjoyed in the department of justice immediately
24 before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee

1 so transferred who has attained permanent status in class is required to serve a
2 probationary period.

3 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
4 liabilities of the department of justice primarily related to the department's
5 county-tribal law enforcement grant program, as determined by the secretary of
6 administration, shall become the assets and liabilities of the office of justice
7 assistance.

8 (c) *Tangible personal property.* On the effective date of this paragraph, all
9 tangible personal property, including records, of the department of justice that is
10 primarily related to the department's county-tribal law enforcement grant program,
11 as determined by the secretary of administration, is transferred to the office of justice
12 assistance.

13 (d) *Contracts.* All contracts entered into by the department of justice in effect
14 on the effective date of this paragraph that are primarily related to the department's
15 county-tribal law enforcement grant program, as determined by the secretary of
16 administration, remain in effect and are transferred to the office of justice
17 assistance. The office of justice assistance shall carry out any obligations under such
18 a contract until the contract is modified or rescinded by the office of justice assistance
19 to the extent allowed under the contract.

20 (e) *Rules and orders.* All rules promulgated by the department of justice
21 primarily related to the department's county-tribal law enforcement grant program
22 that are in effect on the effective date of this paragraph shall become rules of the
23 office of justice assistance and shall remain in effect until their specified expiration
24 dates or until amended or repealed by the office of justice assistance. All orders
25 issued by the department of justice primarily related to the department's

1 county-tribal law enforcement grant program that are in effect on the effective date
2 of this paragraph shall become orders of the office of justice assistance and shall
3 remain in effect until their specified expiration dates or until modified or rescinded
4 by the office of justice assistance.

5 (f) *Pending matters.* Any matter pending with the department of justice on the
6 effective date of this paragraph that is primarily related to the department's
7 county-tribal law enforcement grant program, as determined by the secretary of
8 administration, is transferred to the office of justice assistance, and all materials
9 submitted to or actions taken by the department of justice with respect to the pending
10 matter are considered as having been submitted to or taken by the office of justice
11 assistance.

12 (END)