



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #130

Tribal Gaming Appropriations and General Fund Revenue (DOA -- Division of Gaming)

[LFB 2015-17 Budget Summary: Page 46, #1]

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 the Indian gaming compacts.

The first draw on tribal gaming receipts is to the following appropriations: (a) a Department of Administration (DOA) general program operations appropriation relating to Indian gaming regulation under the compacts (\$1,952,900 PR in 2014-15); (b) a Department of Justice (DOJ) Indian gaming law enforcement appropriation (\$156,500 PR in 2014-15); and (c) an amount necessary to make all of the transfers specified under the DOA Indian gaming receipts appropriation to other state programs (in 2014-15 these transfers total \$25,182,500 PR). Tribal gaming receipts remaining after these allocations are made are credited to the general fund. In 2013-14, a payment withholding by the Potawatomi tribe over a dispute with the administration contributed to a shortfall in the tribal gaming receipts appropriation. Although no net revenue was deposited to the general fund in 2013-14, the Potawatomi have since submitted payment to the state and all tribes are expected to meet payment obligations in the current fiscal year and over the 2015-17 biennium. [The confidentiality provisions of the gaming compacts prohibit the disclosure of individual net win-based payments.]

GOVERNOR

Appropriate \$26,925,900 in 2015-16 and \$25,713,800 in 2016-17 in tribal gaming revenue paid to the state under the tribal gaming compacts. The appropriations include: (a) allocations totaling \$24,727,900 in 2015-16 and \$23,517,800 in 2016-17 to various state agencies for programs unrelated to tribal gaming regulation or law enforcement; and (b) appropriations for the regulation of tribal gaming in DOA [\$2,053,400 in 2015-16 and \$2,051,200 in 2016-17], and tribal gaming law enforcement in the Department of Justice (DOJ) [\$144,600 in 2015-16 and \$144,800 in 2016-17].

Estimate tribal payments to the state for gaming in the 2015-17 biennium at \$49,337,400 in 2015-16 and \$48,782,600 in 2016-17. The general fund condition statement included in the bill shows tribal gaming general fund revenue totaling \$23,462,500 in 2015-16 and \$24,119,800 in 2016-17, for a biennial total of \$47,582,300. The calculation for the general fund tribal revenue under the bill is summarized in Table 1.

TABLE 1

2015-17 Tribal Gaming General Fund Revenue

| | <u>2015-16</u> | <u>2016-17</u> |
|---------------------------------------|-------------------|-------------------|
| Estimated Tribal Payments | \$49,337,400 | \$48,782,600 |
| Regulatory Payments | 350,000 | 350,000 |
| Vendor Certification Revenue | 149,700 | 149,700 |
| Unobligated Funds Reversions | <u>551,000</u> | <u>551,000</u> |
| Total Revenue | \$50,388,100 | \$49,833,300 |
| | | |
| Program Allocations to State Agencies | <u>26,925,600</u> | <u>25,713,500</u> |
| | | |
| Tribal Gaming General Fund Revenue | \$23,462,500 | \$24,119,800 |

It should be noted that the program allocations to state agencies displayed in the table above are \$300 lower each year than the sum of the allocations provided by the Governor. Under the bill, the appropriation for law enforcement services at the Kickapoo Valley Reserve is transferred from the Department of Tourism to the Department of Natural Resources. Standard budget adjustments totaling -\$300 annually were provided for the appropriation under the Department of Tourism, but were not ultimately applied to the appropriation under the Department of Natural Resources, which accounts for the difference. The administration indicates that an errata will be submitted to include the standard budget adjustments.

DISCUSSION POINTS

1. Tribal payments to the state, required under the state-tribal gaming compacts, fund programs in various state agencies and provide revenue to the general fund. The appropriations of tribal gaming revenue to state agencies are approved in each biennial budget process. General fund

revenue from tribal gaming is identified in the state's general fund condition statement and must be estimated in each fiscal year based on projected tribal payments to the state and the amounts appropriated to state agencies. This paper examines the estimated tribal payments to the state and the general fund revenue projections for 2015-16 and 2016-17 under the bill. It also provides a brief overview of the appropriations of tribal gaming revenue to state agencies in the 2015-17 biennium. [Allocations to individual agencies may be addressed in conjunction with the budgets of the affected agencies.]

2. The estimate of tribal payments to the state under the bill (\$49,337,400 in 2015-16 and \$48,782,600 in 2016-17) is based on assumed growth rates that approximate recent trends in net win-based tribal gaming payments to the state. Vendor certification revenue and year-end unobligated funds reversions are estimated based on an average of actual revenue and reversions from 2011-12 to 2013-14.

3. Until 2008, annual net win casino revenue generally increased each year since tribal casino operations began in 1992. Based on data from independent financial audits of gaming facilities, the annual net revenue for the last 10 years is shown in Table 2. The decline in revenue from 2008 to 2010 reflects the national economic downturn.

TABLE 2

**Tribal Casino Net Gaming Revenue - 2004-2013
(In Millions)**

| <u>Year</u> | <u>Net Revenue</u> | <u>Percent Change</u> |
|-------------|------------------------|---------------------------|
| 2004 | \$1,117.9 | |
| 2005 | 1,150.6 | 2.9% |
| 2006 | 1,207.2 | 4.9 |
| 2007 | 1,224.0 | 1.4 |
| 2008 | 1,224.2 | 0.0 |
| 2009 | 1,188.0 | -3.0 |
| 2010 | 1,146.3 | -3.5 |
| 2011 | 1,157.5 | 1.0 |
| 2012 | 1,177.7 | 1.7 |
| 2013 | 1,151.6 | -2.2 |

4. Although net revenue declined in 2009 and 2010, overall casino revenues increased in 2011 and 2012, before decreasing again in 2013. While general signs of economic recovery are visible, growth of tribal gaming revenue will likely depend on the pace at which economic conditions improve. This office performed an independent analysis of casino net win for the 2015-17 biennium and arrived at revenue estimates similar to the administration's estimates. The analysis included a reestimate of state payments by the tribes based on a projection of net revenue, using actual figures from 2011 through 2014. In addition, vendor certification revenue is reestimated to include a projection of revenue received in the current fiscal year based on revenue received through

March 31, 2015.

5. At the end of each fiscal year, unexpended revenue from tribal PR-funded appropriations is generally returned to the tribal receipts appropriation for deposit to the general fund. The estimate of year-end reversions under the bill is based on an average of actual reversions from appropriations in 2011-12 through 2013-14. However, reversions in 2013-14 included a \$250,000 allocation to the Department of Health Services (DHS) for high-cost mental health placements by tribal courts [item #16 in the attachment to this paper]. Under s. 20.505(8)(hm)25. of the statutes, the allocation to DHS for high-cost mental health placements is to be \$250,000 or the amount remaining in the appropriation after all other transfers are made. This allocation was initially credited to the appropriation and later returned due to a shortfall in tribal gaming revenue for the year. As noted previously, the delayed 2013-14 payment which contributed to the revenue shortfall has since been submitted to DOA and no additional payment delays are expected at this time. Therefore, a reestimate of unobligated funds reversions is provided to account for a lower amount of expected reversions to the tribal receipts appropriation.

6. In relation to expenditures, allocations to state agencies are updated to reflect the Governor's recommended allocations under the bill. Additionally, program reserves are accounted for as expenditures that may be incurred. Program reserves represent the potential supplemental funding needs for staff of all tribal PR-funded appropriations, totaling \$88,200 in 2015-16 and \$162,500 in 2016-17. The sum of the above changes results in net tribal revenue of \$23,853,100 in 2015-16 and \$24,713,800 in 2016-17, as shown in Table 3 below. These amounts would be deposited into the general fund.

TABLE 3

**2015-17 Tribal Gaming General Fund Revenue
Reestimated**

| | <u>2015-16</u> | <u>2016-17</u> |
|---------------------------------------|----------------|----------------|
| Estimated Tribal Payments | \$49,908,500 | \$49,631,400 |
| Regulatory Payments | 350,000 | 350,000 |
| Vendor Certification Revenue | 140,600 | 140,600 |
| Unobligated Funds Reversions | <u>468,100</u> | <u>468,100</u> |
| Total Revenue | \$50,867,200 | \$50,590,100 |
| Program Allocations to State Agencies | \$26,925,900 | \$25,713,800 |
| Program Reserves | <u>88,200</u> | <u>162,500</u> |
| Total Expenditures | \$27,014,100 | \$25,876,300 |
| Tribal Gaming General Fund Revenue | \$23,853,100 | \$24,713,800 |

7. Under the bill, the Governor recommends the appropriation of tribal gaming revenue to 15 state agencies, in 44 program areas, including the DOA regulation and DOJ enforcement appropriations. Each of these program areas is listed and briefly described in the attachment to this

paper. Where there is a net fiscal change associated with any of these appropriations (other than standard budget adjustments), it is included under the budget summaries of the affected agency.

8. Of these allocations, all are to appropriation accounts authorized under current law [item #4 and item #7 in the attachment currently exist as a single Department of Corrections appropriation of \$75,000 annually, which would be transferred under the bill in two phases to a renamed appropriation for the same purpose under the Department of Children and Families; and item #31 in the attachment is currently an appropriation under the Department of Tourism, as noted previously, which the Governor recommends be transferred to the Department of Natural Resources]. Of the 44 program allocations, 29 are identical amounts to those provided in the 2013-15 biennium. Of the 15 allocations that changed, nine were affected by standard budget adjustments or adjustments to the base only [identified in the attachment as items #19, 22, 26, 27, 29, 30, 31, 42, and 46]. The remaining six are: (a) Administration UW-Green Bay and Oneida Tribe programs assistance grants [item #2, reduction of \$247,500 in 2016-17 due to the creation of the UW System Authority]; (b) Tourism general tourism marketing [item #35, reduction of \$475,000 annually to eliminate required transfers of specific amounts to specific organizations]; (c) Ashland full-scale aquaculture demonstration facility debt service payments [item #38, a reduction of \$6,400 in 2015-16 and \$62,900 in 2016-17 for debt service payment reestimates]; (d) Ashland full-scale aquaculture demonstration facility operational costs [item #39, a reduction of \$417,500 in 2016-17 due to the creation of the UW System Authority]; (e) University of Wisconsin-Madison physician and health care provider loan assistance [item #40, a reduction of \$488,700 in 2016-17 due to the creation of the UW System Authority]; and (f) Administration Indian gaming operations [item #45, increases of \$43,500 in 2015-16 and \$46,300 in 2016-17 for standard budget adjustments and increases of \$33,900 in 2015-16 and \$28,900 in 2016-17 for a reestimate of the cost to operate and maintain the gaming integrated regulatory information system]. One program area identified in the attachment [item #33] is not appropriated funding in the 2015-17 biennium, but is an existing appropriation account under current law that can only be funded with tribal gaming revenue.

MODIFICATION

Based on the reestimates discussed above, increase the GPR-Tribal amounts (revenue to the general fund) under the bill by \$390,600 in 2015-16 and \$594,000 in 2016-17.

| Change to Bill | |
|----------------|-----------|
| GPR-Tribal | \$984,600 |

Prepared by: Rachel Janke
Attachment

ATTACHMENT

2015-17 Tribal Gaming Revenue Appropriations

| <u>Agency</u> | <u>Program Revenue</u> | | <u>Purpose</u> |
|--------------------------------|------------------------|----------------|--|
| | <u>2015-16</u> | <u>2016-17</u> | |
| 1 Administration | \$563,200 | \$563,200 | County management assistance grant program. |
| 2 Administration | 247,500 | 0 | UW-Green Bay and Oneida Tribe programs assistance grants. |
| 3 Administration | 79,500 | 79,500 | Tribal governmental services and technical assistance. |
| 4 Children and Families | 395,000 | 395,000 | Indian child high-cost out-of-home care placements. |
| 5 Children and Families | 37,500 | 75,000 | Interagency and intra-agency aids for tribal delinquency placements. |
| 6 Corrections | 50,000 | 50,000 | American Indian tribal community reintegration program. |
| 7 Corrections | 37,500 | 0 | Indian juvenile out-of-home care placements. |
| 8 Health Services | 445,500 | 445,500 | Elderly nutrition; home-delivered and congregate meals. |
| 9 Health Services | 106,900 | 106,900 | American Indian health projects. |
| 10 Health Services | 242,000 | 242,000 | Indian aids for social and mental hygiene services. |
| 11 Health Services | 445,500 | 445,500 | Indian substance abuse prevention education. |
| 12 Health Services | 961,700 | 961,700 | Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC). |
| 13 Health Services | 712,800 | 712,800 | Health services: tribal medical relief block grants. |
| 14 Health Services | 133,600 | 133,600 | Minority health program and public information campaign grants. |
| 15 Health Services | 22,500 | 22,500 | American Indian diabetes and control. |
| 16 Health Services | 250,000 | 250,000 | Reimbursements for high-cost mental health placements by tribal courts. |
| 17 Higher Education Aids Board | 779,700 | 779,700 | Indian student assistance grant program for American Indian undergraduate or graduate students. |
| 18 Higher Education Aids Board | 454,200 | 454,200 | Wisconsin Higher Education Grant (WHEG) program for tribal college students. |
| 19 Historical Society | 236,600 | 236,600 | Northern Great Lakes Center operations funding. |
| 20 Historical Society | 210,300 | 210,300 | Collection preservation storage facility. |

| <u>Agency</u> | <u>Program Revenue</u> | | |
|---|------------------------|----------------|---|
| | <u>2015-16</u> | <u>2016-17</u> | |
| 21 Justice | 631,200 | 631,200 | County-tribal law enforcement programs: local assistance. |
| 22 Justice | 84,800 | 84,900 | County-tribal law enforcement programs: state operations. |
| 23 Justice | 490,000 | 490,000 | County law enforcement grant program. |
| 24 Justice | 695,000 | 695,000 | Tribal law enforcement grant program. |
| 25 Natural Resources | 3,000,000 | 3,000,000 | Transfer to the fish and wildlife account of the conservation fund. |
| 26 Natural Resources | 93,000 | 93,000 | Management of an elk reintroduction program. |
| 27 Natural Resources | 154,700 | 154,700 | Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish. |
| 28 Natural Resources | 84,500 | 84,500 | Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses. |
| 29 Natural Resources | 1,156,600 | 1,156,600 | State snowmobile enforcement program, safety training and fatality reporting. |
| 30 Natural Resources | 78,200 | 78,200 | Reintroduction of whooping cranes. |
| 31 Natural Resources | 66,600 | 66,600 | Law enforcement services at the Kickapoo Valley Reserve. |
| 32 Public Instruction | 222,800 | 222,800 | Tribal language revitalization grants. |
| 33 Shared Revenue | 0 | 0 | Farmland tax relief credit payments by tribes with casinos associated with certain pari-mutuel racetracks. (No allocations are made in the 2015-17 biennium.) |
| 34 Tourism | 160,000 | 160,000 | Grants to local organizations and governments to operate regional tourist information centers. |
| 35 Tourism | 8,492,100 | 8,492,100 | General tourism marketing. |
| 36 Tourism | 24,900 | 24,900 | State aid for the arts. |
| 37 Transportation | 247,500 | 247,500 | Elderly transportation grants. |
| 38 University of Wisconsin System (Building Commission) | 256,700 | 200,200 | Ashland full-scale aquaculture demonstration facility debt service payments. |
| 39 University of Wisconsin System | 417,500 | 0 | Ashland full-scale aquaculture demonstration facility operational costs. |
| 40 University of Wisconsin-Madison | 488,700 | 0 | Physician and health care provider loan assistance. |
| 41 Veterans Affairs | 466,200 | 466,200 | Grants to assist American Indians in obtaining federal and state veterans benefits and to reimburse veterans for the cost of tuition at tribal colleges. |

| <u>Agency</u> | <u>Program Revenue</u> | | <u>Purpose</u> |
|---|------------------------|----------------|---|
| | <u>2015-16</u> | <u>2016-17</u> | |
| 42 Veterans Affairs | 96,500 | 96,500 | American Indian services veterans benefits coordinator position. |
| 43 Wisconsin Technical College System Board | 594,000 | 594,000 | Grants for work-based learning programs. |
| 44 Workforce Development | <u>314,900</u> | <u>314,900</u> | Vocational rehabilitation services for Native American individuals and American Indian tribes or bands. |
| Subtotal (Non-Regulatory Items) | \$24,727,900 | \$23,517,800 | |
| 45 Administration | 2,053,400 | 2,051,200 | General program operations for Indian gaming regulation under the compacts. |
| 46 Justice | <u>144,600</u> | <u>144,800</u> | Investigative services for Indian gaming law enforcement. |
| Subtotal (Regulation/Enforcement) | \$2,198,000 | \$2,196,000 | |
| Total Appropriations | \$26,925,900 | \$25,713,800 | |