

Administration

Division of Gaming

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LFB Summary Items for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Tribal Gaming Appropriations and General Fund Revenue (Paper #165)
2 & 3	Grants for Tribal Programs (Paper #166)
5	Gaming Investigations and Outreach (Paper #167)
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LFB Summary Item Removed From Budget Consideration

<u>Item #</u>	<u>Title</u>
4	NATOW Contract Transfer and Increase



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June 8, 2023

Joint Committee on Finance

Paper #165

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

[LFB 2023-25 Budget Summary: Page 49, #1]

CURRENT LAW

Indian gaming receipts are defined as monies received by the state for the regulation of gaming, the certification of tribal gaming vendors, and other gaming assistance provided to tribes. In addition, gaming receipts include tribal payments to the state based on a percentage of net gaming revenue, as specified under state-tribal gaming compacts. Tribal payments fund certain state programs and provide revenue to the general fund. Under state-tribal agreements, the Governor must attempt to ensure that revenues are used for programs that benefit tribal communities.

Revenues from tribal gaming are allocated: (a) to appropriations specified under the Department of Administration (DOA) Indian gaming receipts appropriation for state programs (\$28,130,400 PR in 2022-23); (b) to a DOA appropriation for tribal gaming regulation (\$2,079,300 PR in 2022-23); and (c) to a Department of Justice (DOJ) appropriation for tribal gaming law enforcement (\$200,300 PR in 2022-23). Appropriations to state agencies are approved in each biennial budget process and are addressed in conjunction with the budgets of each agency. Revenues in excess of state program allocations are credited to the general fund.

DISCUSSION POINTS

1. Under the compacts, payments to the state may be proportionally reduced in the event of a natural or man-made disaster that affects gaming operations. In 2019-20 and 2020-21, payments were postponed because of casino closures during the COVID-19 pandemic. As a result, DOA's gaming receipts appropriation is expected to have a closing balance of -\$32,957,600 in 2022-23. While negotiations regarding the timing and amount of payments have not yet concluded for all tribes,

a number of postponed payments are included in the estimated tribal payments for the 2023-25 biennium.

2. Estimated tribal gaming revenues under 2023 Assembly Bill 43/Senate Bill 70 total \$60,667,300 in 2023-24 and \$62,971,300 in 2024-25 (including a number of postponed payments, as noted above). These estimates were calculated by DOA's Division of Gaming based on casino revenue data (including game type, date, and location), assumed growth rates, and state payment rates. This office evaluated the projections and concluded that the revenue estimates prepared by the Division of Gaming are reasonable.

3. Under AB 43/SB 70, allocations to state agencies total approximately \$45.1 million PR annually. In addition, under the bill estimates, no tribal gaming revenue would be deposited to the general fund over the 2023-25 biennium. However, in executive session on May 2, 2023, the Committee removed a number of items from further consideration in the budget, and additionally adopted motions to include, for all appropriations, base funding, standard budget adjustments (SBAs), and sum sufficient reestimates (including debt service). In addition, in a May 18, 2023, executive session, the Committee provided \$1,500,000 for a newly-created allocation under Agriculture, Trade and Consumer Protection, and increased a current law transfer under Natural Resources by \$1,000,000.

4. As noted above, the Indian gaming receipts appropriation is currently in overdraft. If tribal gaming revenues are insufficient to fund agency programs and cover the overdraft, the Indian gaming receipts appropriation will continue to be in overdraft and future revenues will, to the extent possible, be used to reduce the overdraft balance accrued in prior years.

5. With regard to proposed modifications to allocations under the bill that have not yet been addressed by the Committee, the five remaining provisions relate to allocations under the Department of Administration, totaling net increases of \$21,826,600 PR annually. If all five modifications were included by the Committee in the amounts recommended by the Governor, it is estimated that the receipts appropriation would have a closing balance of -\$27.1 million in 2023-24 and -\$19.0 million in 2024-25. However, based on Committee actions through May 25, 2023, it is estimated that the receipts appropriation would have a closing balance of -\$5,297,900 in 2023-24 and would provide for a general fund deposit of \$24,609,100 in 2024-25.

6. Seven of the 11 state-tribal compacts include an ancillary memorandum of understanding relating to the intended use of tribal gaming revenues. In general, the agreements indicate that the Governor must undertake his or her best efforts to assure that monies paid to the state are expended for: (a) economic development initiatives to benefit tribes and/or American Indians within Wisconsin; (b) economic development initiatives in regions around casinos; (c) promotion of tourism within the state; and (d) support of programs and services of the county in which the tribe is located. In recognition of these state-tribal agreements, some gaming revenues are allocated for programs that benefit tribal communities. Attachment 1 provides a 10-year history of tribal gaming revenue allocations, including general fund transfers as reported in the Annual Fiscal Report.

7. Under current law, base funding from tribal gaming revenue is allocated to 16 state agencies for 44 programs. Under Assembly Bill 43/Senate Bill 70 (excluding items removed from

consideration), tribal gaming revenue would be allocated to 17 state agencies for 47 programs, including DOA regulation and DOJ enforcement appropriations. Each of the program areas for the 2023-25 biennium is listed in Attachment 2, as follows, and briefly described in Attachment 3: (a) base funding, SBAs, and debt service reestimates for current law allocations; (b) allocations under AB 43/SB 70, excluding items removed from consideration; and (c) allocations approved by the Committee through May 25, 2023 (including base funding, SBAs, and debt service reestimates for current law allocations to agencies for which an executive session would be held at a later date). Where there is a net fiscal change associated with any of these appropriations, it is included under the budget summaries of the affected agency.

CONCLUSION

Based on Committee actions taken through May 25, 2023, it is estimated that no general fund deposit would be made in 2023-24 and \$24,609,100 would be deposited to the general fund from tribal gaming revenue in 2024-25. These estimates are shown in the table below.

Revenue	Change to Base
GPR-Tribal	\$24,609,100

2023-25 Tribal Gaming General Fund Revenue, Reestimated

	<u>2023-24</u>	<u>2024-25</u>
Opening Balance	-\$32,957,600	-\$5,297,900
Estimated Tribal Payments	\$59,510,300	\$61,921,400
Regulatory Payments	350,000	350,000
Unobligated Funds Reversions	<u>807,000</u>	<u>699,900</u>
Total Revenue	\$60,667,300	\$62,971,300
Program Allocations to State Agencies*	\$32,784,900	\$32,827,700
Program Reserves	<u>222,700</u>	<u>237,100</u>
Tribal Gaming General Fund Revenue	\$0	\$24,609,100

* Through May 25, 2023.

Prepared by: Brianna Murphy
Attachments

ATTACHMENT 1

Tribal Gaming Revenue Allocations

	<u>Program Allocations</u>	<u>General Fund Transfer</u>
2015-16	\$27,400,600	\$26,167,000
2016-17	27,342,200	27,378,000
2017-18	27,669,700	27,681,000
2018-19	27,496,300	29,066,000
2019-20	29,151,300	5,314,000
2020-21	29,072,300	154,000
2021-22	30,469,900	0
2022-23	30,410,000	0
2023-24*	32,784,900	0
2024-25*	32,827,200	24,609,100

* Allocations include Joint Committee on Finance modifications made through May 25, 2023, and, for agencies to be addressed at later executive sessions, base funding and standard budget adjustments for current law allocations only. Estimated general fund transfer.

2023-25 Tribal Gaming Revenue Allocations under AB 43/SB 70 (Excluding Items Removed from Consideration) and Committee Actions Taken through May 25, 2023

[illegible]

<u>Agency</u>	<u>Base Funding, SBAs, and Debt Service Reestimates</u>		<u>AB 43/SB 70, Excluding Items Removed from Consideration</u>		<u>Joint Committee on Finance Allocations</u>		<u>Committee Change to Base and SBAs</u>	
	<u>2023-24</u>	<u>2024-25</u>	<u>2023-24</u>	<u>2024-25</u>	<u>2023-24</u>	<u>2024-25</u>	<u>2023-24</u>	<u>2024-25</u>
27 Kickapoo Reserve Management Board	\$73,900	\$73,900	\$73,900	\$73,900	\$73,900	\$73,900	\$0	\$0
28 Natural Resources	3,000,000	3,000,000	3,000,000	3,000,000	4,000,000	4,000,000	1,000,000	1,000,000
29 Natural Resources	201,800	201,800	201,800	201,800	201,800	201,800	0	0
30 Natural Resources	108,000	108,000	108,000	108,000	108,000	108,000	0	0
31 Natural Resources	84,500	84,500	84,500	84,500	84,500	84,500	0	0
32 Natural Resources	71,800	71,800	71,800	71,800	71,800	71,800	0	0
33 Natural Resources	1,309,500	1,309,500	1,309,500	1,309,500	1,309,500	1,309,500	0	0
34 Public Instruction*	222,800	222,800	222,800	222,800	222,800	222,800	0	0
35 Tourism*	8,967,100	8,967,100	8,967,100	8,967,100	8,967,100	8,967,100	0	0
36 Tourism*	160,000	160,000	160,000	160,000	160,000	160,000	0	0
37 Tourism*	24,900	24,900	24,900	24,900	24,900	24,900	0	0
38 Transportation*	435,600	435,600	435,600	435,600	435,600	435,600	0	0
39 University of Wisconsin System*	417,500	417,500	417,500	417,500	417,500	417,500	0	0
40 University of Wisconsin System*	277,500	318,900	293,000	318,900	277,500	318,900	0	0
41 University of Wisconsin System*	488,700	488,700	488,700	488,700	488,700	488,700	0	0
42 Veterans Affairs	121,100	121,100	121,100	121,100	121,100	121,100	0	0
43 Veterans Affairs	61,200	61,200	61,200	61,200	61,200	61,200	0	0
44 Wisconsin Technical College System Board	594,000	594,000	594,000	594,000	594,000	594,000	0	0
45 Workforce Development	<u>314,900</u>	<u>314,900</u>	<u>314,900</u>	<u>314,900</u>	<u>314,900</u>	<u>314,900</u>	<u>0</u>	<u>0</u>
Subtotal (Non-Regulatory Items)	\$27,861,600	\$27,903,000	\$51,862,600	\$51,888,500	\$30,361,600	\$30,403,000	\$2,500,000	\$2,500,000
46 Administration*	\$2,256,800	\$2,257,700	\$2,097,900	\$2,098,800	\$2,256,800	\$2,257,700	\$0	\$0
47 Justice*	<u>166,500</u>	<u>166,500</u>	<u>\$166,500</u>	<u>\$166,500</u>	<u>166,500</u>	<u>166,500</u>	<u>0</u>	<u>0</u>
Subtotal (Regulation/Enforcement)	\$2,423,300	\$2,424,200	\$2,264,400	\$2,265,300	\$2,423,300	\$2,424,200	\$0	\$0
Total Appropriations	\$30,284,900	\$30,327,200	\$54,127,000	\$54,153,800	\$32,784,900	\$32,827,200	\$2,500,000	\$2,500,000

*Agency not yet addressed by the Committee, as of May 25, 2023.

ATTACHMENT 3

Purposes of 2023-25 Tribal Gaming Revenue Allocations under AB 43/SB 70 (Excluding Items Removed from Consideration) and Committee Actions Taken through May 25, 2023

<u>Agency</u>	<u>Purpose</u>
1 Administration*	Grants to support tribal programs, tribal language revitalization, and cultural preservation.
2 Administration*	Other tribal grants for Oneida Nation and Menominee Tribe programs.
3 Administration*	County management assistance grant program.
4 Administration*	UW-Green Bay and Oneida Nation programs assistance grants.
5 Administration*	American Indian economic development, technical assistance, and tourism promotion.
6 Agriculture, Trade and Consumer Protection	Tribal elder food assistance.
7 Children and Families*	Tribal family services grants.
8 Children and Families*	Indian child high-cost out-of-home care placements.
9 Corrections*	American Indian tribal community reintegration program.
10 Health Services*	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
11 Health Services*	Health services: tribal medical relief block grants.
12 Health Services*	Indian substance abuse prevention education.
13 Health Services*	Elderly nutrition; home-delivered and congregate meals.
14 Health Services*	Reimbursements for high-cost mental health placements by tribal courts.
15 Health Services*	Indian aids for social and mental hygiene services.
16 Health Services*	American Indian health projects.
17 Health Services*	American Indian diabetes and control.
18 Higher Educational Aids Board	Indian student assistance grant program for American Indian undergraduate or graduate students.
19 Higher Educational Aids Board	Wisconsin Grant Program for tribal college students
20 Higher Educational Aids Board	Tribal College Payments
21 Historical Society	Northern Great Lakes Center operations funding.
22 Historical Society	Collection preservation storage facility.

	<u>Agency</u>	<u>Purpose</u>
23	Justice*	Tribal law enforcement grant program.
24	Justice*	County-tribal law enforcement programs: local assistance.
25	Justice*	County law enforcement grant program.
26	Justice*	County-tribal law enforcement programs: state operations.
27	Kickapoo Reserve Management Board	Law enforcement services at the Kickapoo Valley Reserve.
28	Natural Resources	Transfer to the fish and wildlife account of the conservation fund.
29	Natural Resources	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
30	Natural Resources	Management of an elk reintroduction program.
31	Natural Resources	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
32	Natural Resources	Reintroduction of whooping cranes.
33	Natural Resources	State snowmobile enforcement program, safety training and fatality reporting.
34	Public Instruction*	Tribal language revitalization grants.
35	Tourism*	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.
36	Tourism*	Grants to local organizations and governments to operate regional tourist information centers.
37	Tourism*	State aid for the arts.
38	Transportation*	Elderly transportation grants.
39	University of Wisconsin System*	Ashland full-scale aquaculture demonstration facility operational costs.
40	University of Wisconsin System*	Ashland full-scale aquaculture demonstration facility debt service payments.
41	University of Wisconsin System*	UW- Madison physician and health care provider loan assistance.
42	Veterans Affairs	American Indian services veterans benefits coordinator position.
43	Veterans Affairs	Grants to assist American Indians in obtaining federal and state veterans benefits and to reimburse veterans for the cost of tuition at tribal colleges.
44	Wisconsin Technical College System Board	Grants for work-based learning programs.
45	Workforce Development	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
46	Administration*	General program operations for Indian gaming regulation under the compacts.
47	Justice*	Investigative services for Indian gaming law enforcement.

*Agency not yet addressed by the Committee, as of May 25, 2023.



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June 8, 2023

Joint Committee on Finance

Paper #166

Grants for Tribal Programs (Administration -- Division of Gaming)

[LFB 2023-25 Budget Summary: Page 53, #2 and Page 54, #3]

CURRENT LAW

Currently, 11 tribes operate 23 Class III gaming facilities in the state, as authorized under state-tribal compacts. Tribal gaming revenue is paid by the tribes to the state based on provisions under the compacts. Under current law, the first draw on gaming revenue is to state agencies and remaining revenue is deposited to the general fund. Gaming revenues are estimated to total \$60,667,300 in 2023-24 and \$62,971,300 in 2024-25. Seven of the 11 state-tribal compacts include ancillary memoranda of understanding relating to government-to-government matters, including the intended use of tribal gaming payments to the state. In general, the agreements indicate that the Governor must undertake his or her best efforts to assure that monies paid to the state are expended for: (a) economic development initiatives to benefit tribes and/or American Indians within Wisconsin; (b) economic development initiatives in regions around casinos; (c) promotion of tourism within the state; and (d) support of programs and services of the county in which the tribe is located. Four of the seven agreements additionally specify law enforcement or public safety initiatives on reservations as a prioritized use of tribal gaming payments to the state.

DISCUSSION POINTS

Grants to 11 Tribes and Bands

1. On February 9, 2022, the Joint Finance Committee approved the one-time transfer of \$7,000,000 PR in 2021-22 to the Department of Administration's (DOA) tribal grants appropriation, created under 2021 Wisconsin Act 58. Act 58 also included nonstatutory language to establish the amount of each tribal assistance grant based on the pro rata number of employees employed by the tribe or band as of December 31, 2019. The grants were able to be used as each tribe deemed necessary to meet the needs of its members, but could not be used for gaming-related expenses.

2. The biennial budget bill (2023 Assembly Bill 43/Senate Bill 70) would create an annual PR appropriation titled "Tribal grants" and provide \$21,024,900 annually to the appropriation, funded by tribal gaming revenues. The bill would specify that any unencumbered balance would revert to the tribal gaming receipts appropriation at the end of the fiscal year. The appropriation would support two grant programs: one to support tribal programs generally, and one to promote tribal language revitalization and cultural preservation. The Department indicates that the intent of the appropriation would be to distribute the remaining amount of gaming revenue to tribal programs after other allocations are made. As a result, no amount of gaming revenue would be deposited to the general fund. According to the Department, if gaming revenue projections for 2023-25 were to change from the introduction of AB 43/SB 70, the recommended amounts for the tribal grants could be modified to avoid creating a deficit in the tribal gaming revenue appropriation.

3. Under the bill, the allocation of funding between the two grant programs (for general assistance grants and for tribal language revitalization and cultural preservation grants) is not specified. Rather, the Department would be required to provide grants of equal amounts to each of the 11 tribes and bands under each program. However, the Administration indicates that, for the amount of funding recommended under the bill, the intent would be for the tribal grant program to award equal grants of \$1,422,400 per tribe annually in the 2023-25 biennium to each of the 11 tribes, for a total of \$15,524,900, which could be used at the tribes' discretion to support tribal programs. Examples of possible uses include non-gaming economic development, health care, transportation, and child care services. The bill specifies that funds may not be used to pay gaming-related expenses, however. According to the Department, the grant program is intentionally open-ended to allow tribes to dictate how grant funds would be best utilized for their situations. Additionally, the Department indicates that providing grant awards of equal amounts would ensure that all tribes receive meaningful assistance, regardless of the size of the tribe or how much gaming revenue the tribe generates. The Committee could choose to specify that grants be allocated to tribes in a different manner, such as by considering the number of employees employed, population, economic status, or other measures.

4. Similarly, grants for tribal language revitalization and cultural preservation would be provided in equal amounts to each of the 11 tribes in the state. Based on the funding amounts recommended under the bill, each tribe would receive grant amounts of \$500,000 annually in the 2023-25 biennium, for a total amount of \$5,500,000. The Department indicates that, like the general tribal grant, tribes would have discretion regarding how grant amounts are spent. That said, it is anticipated that grants would support costs for cultural events, educational resources, including books or lessons plans, and staff, such as teachers or coordinators. According to the Department, these grants would benefit tribes as there is high risk of loss in tribal languages and cultural traditions. For example, Ho-Chunk is currently considered an endangered language, according to UNESCO's World Atlas of Languages. As with the general tribal grant program, the bill specifies that grant funds may not be used to pay gaming-related expenses.

5. Given that many of the state-tribal compacts indicate that the Governor must undertake his or her best efforts to assure tribal gaming revenues are expended for: (a) economic development initiatives to benefit tribes and/or American Indians within Wisconsin; (b) economic development initiatives in regions around casinos; (c) promotion of tourism within the state; and (d) support of programs and services of the county in which the tribe is located, the Committee could choose to

provide funding for tribal grants, including general tribal grants and tribal language revitalization and cultural preservation grants.

6. However, given that the funding amounts for each grant program would not be specified under the bill, it could be argued that one grant program could be created, which would allow tribal recipients of grants to use funding for any purpose, including tribal language revitalization and cultural preservation, while maintaining the bill exclusion of gaming-related expenses. In addition, if the amounts recommended by the Governor (\$21,024,900 annually) were provided, no general fund deposit would be made in the 2023-25 biennium and the receipts appropriation would likely continue to be in overdraft, as revenues are not projected to be sufficient to support a grant program at this level of funding in addition to total allocations approved by the Committee through May 25, 2023. Therefore, to accomplish the intent of the Administration to distribute estimated available tribal gaming revenues over the 2023-25 biennium, while taking into account the existing overdraft in the receipts appropriation and a degree of uncertainty in revenue projections, annual funding of \$11,000,000 could be provided (\$1.0 million per tribe). Under this alternative, funding could still be considered for other proposed allocations of tribal gaming revenue for DOA programs, and the receipts appropriation would be less likely to be in overdraft status at the end of the biennium. [Note that a separate budget paper under "Administration--Division of Gaming" provides an overview of tribal gaming revenue and allocations, including a reestimate of tribal gaming general fund revenue.] [Alternative A1a]

7. Alternatively, the Committee could provide a lesser funding amount for a tribal general assistance grant program and increase the probability that net revenue would be available for a deposit to be made to the general fund. The Committee could consider providing amounts such as: (a) \$8.8 million PR annually (\$800,000 per tribe) [Alternative A1b]; or (b) \$5.5 million PR annually (\$500,000 per tribe) [Alternative A1c].

8. The Committee could take no action. [Alternative A2] Under this alternative, the financial position of the receipts appropriation would improve more quickly and net revenue would be more likely to be available for deposit to the general fund.

Earmarked Tribal Grants

9. The bill (AB 43/SB 70) would create an additional annual PR appropriation, titled "Tribal grants; other." The bill would provide \$810,800 PR annually from tribal gaming revenue to the appropriation and specify that any unencumbered balance would revert to the tribal gaming receipts appropriation at the end of each fiscal year. The bill includes statutory language specifying that grants be provided as follows: (a) \$266,600 PR annually for grants to the Menominee Indian Tribe to support the Tribe's transit services; (b) \$259,100 PR annually for grants to the Oneida Nation to support the "Healing to Wellness Court" program; (c) \$175,000 PR annually to the Oneida Nation to support the Nation's collaboration with the Audubon Society; and (d) \$110,100 PR annually to the Oneida Nation for grants to support coordination between the National Estuarine Research Reserve System (NERR) under the federal Office for Coastal Management and the Great Lakes tribal nations. The bill specifies that grants to the Oneida Nation for Great Lakes restoration projects under (c) could not be awarded after June 30, 2028. The Committee could choose to provide \$810,800 PR annually in 2023-25 for all of the specified tribal grants and tribe-affiliated projects. [Alternative B1] The

Committee could, instead, consider providing funding for one, two, or three of the four grant proposals, described in more detail below.

10. Grants to the Menominee Indian Tribe for transit services are intended to improve access to resources, including youth services, court-ordered visitations, and other family services appointments by funding free transportation services and extending hours of operation. The tribe's youth services department aims to build healthy individuals and families; stabilize and reunify families; reduce instances of juvenile delinquency; and increase youth and family knowledge. The family services department aims to provide services to families and keep families together. Child protective services and youth justice services offer early intervention and support. Additionally, the family services department is building prevention services and collaborations within the community. The tribe's transit services department aims to provide safe, efficient, and reliable transportation to the community so individuals can access opportunities for employment, health care, recreation, education, and public services. The Committee could choose to provide \$266,600 PR annually for grants to the Menominee Indian Tribe to support the Tribe's transit services. [Alternative B2a]

11. Grants to the Oneida Nation to support the Healing to Wellness Court program would support staff and service costs for the coordinated, post-conviction substance use disorder program intended to reduce recidivism and treat addiction. The Healing to Wellness Court program is a voluntary adult program that provides culturally-responsive and community-based support to break the cycle of substance abuse and its negative effects on the community. The program is minimum of 14 months and offers comprehensive assessment and treatment, intensive supervision, random drug and alcohol screens, and regular court appearances. The Oneida Court's goal in providing the program is to offer support for community members who struggle with substance abuse and reduce recidivism, ultimately creating a healthier and safer community. The Committee could choose to provide \$259,100 PR annually for grants to the Oneida Nation to support its Healing to Wellness Court program. [Alternative B2b]

12. Grants to the Oneida Nation to support the Nation's collaboration with the Audubon Society would fund a bird monitoring project. According to the Audubon Society, many bird species have declined in number with the disappearance of the wetlands, grasslands, and other habitats in the Great Lakes regions. Over many years, Oneida Nation has restored 3,000 acres of the reservation's wetlands, grasslands, prairies, and forests in northeastern Wisconsin by addressing water pollution and invasive plant species. Audubon Great Lakes, in partnership with Oneida Nation, the Northeastern Audubon Society, and the University of Wisconsin-Green Bay Cofrin Center for Biodiversity, are leading a volunteer bird monitoring effort on recently restored Oneida Nation grasslands, marshes, and forests to evaluate the success of this restoration. According to the Department, grant funds would support student intern salaries, two LTE staff, Audubon Great Lakes staff time, honoraria for bird experts and tribal elders, and summer camp and outreach event costs. The program is expected to last five years. The next phase of this project includes further highlighting of the significance of Oneida lands to local bird populations by securing an Audubon Important Bird Area designation for a portion of Oneida land. Bird data would be used to provide guidance to the Oneida Nation at their key restoration sites. The Committee could choose to provide \$175,000 annually to the Oneida Nation to support the Nation's collaboration with the Audubon Society relating to a bird monitoring project. [Alternative B2c]

13. Grants to the Oneida Nation to support coordination between the National Estuarine Research Reserve System (NERR), under the federal Office for Coastal Management, and the Great Lakes tribal nations would fund a coordinator position within the Green Bay NERR who would work with NERR and the Great Lakes tribal nations. One of the guiding principles of Green Bay NERR is that the past, present, and future of northeast Wisconsin's economy centers on water resources. The NERR tribal engagement coordinator would be employed by the University of Wisconsin-Green Bay and build and administer programming intended to strengthen the connections around estuarine waters between NERR (which has Wisconsin locations in Green Bay and Lake Superior) and Great Lakes tribal nations. Additionally, the coordinator would lead research, education, stewardship, and training initiatives among Great Lakes tribal nations, the Green Bay NERR, and the Lake Superior NERR. For example, the coordinator would create stewardship and training programs targeted at organizations, professionals, and individuals interested in Great Lakes estuaries; work with tribal and non-tribal schools to provide educational programming around estuarine waters; and lead funding efforts focused on estuarine research, education, stewardship, and training. The Administration indicates the coordinator would be either a reallocated state position or a contractor. The NERR program is funded through a 70:30 federal-to-state match. Funding for the coordinator position would count towards the NERR match requirement. The Committee could choose to provide \$110,100 annually to the Oneida Nation for grants to support coordination between NERR under the federal Office for Coastal Management and the Great Lakes tribal nations. [Alternative B2d]

14. Alternatively, the Committee could take no action. [Alternative B3]

ALTERNATIVES

A. Grants to 11 Tribes and Bands

1. Create a general assistance tribal grants program under DOA to distribute equal amounts to each of Wisconsin's 11 tribes and bands. Specify that funds could not be used for gaming-related expenses. Create an annual PR appropriation under DOA titled "Tribal grants." Specify that any unencumbered balance would revert to the tribal gaming receipts appropriation at the end of each fiscal year. Provide to the newly-created appropriation funding of:

a. \$11,000,000 PR annually;

ALT A1a	Change to Base
PR	\$22,000,000
GPR-Tribal	-\$22,000,000

b. \$8,800,000 PR annually; or

ALT A1b	Change to Base
PR	\$17,600,000
GPR-Tribal	-\$17,600,000

- c. \$5,500,000 PR annually.

ALT A1c	Change to Base
PR	\$11,000,000
GPR-Tribal	-\$11,000,000

2. Take no action.

B. Earmarked Tribal Grants

1. Create an annual PR appropriation titled "Tribal grants; other" and provide \$810,800 PR annually from tribal gaming revenue. Specify that any unencumbered balance would revert to the tribal gaming receipts appropriation at the end of each fiscal year. Grants would be provided as follows: (a) \$266,600 PR annually for grants to the Menominee Indian Tribe to support the Tribe's transit services; (b) \$259,100 PR annually for grants to the Oneida Nation to support the "Healing to Wellness Court" program; (c) \$175,000 PR annually to the Oneida Nation to support the Nation's collaboration with the Audubon Society relating to a bird monitoring project; and (d) \$110,100 PR annually to the Oneida Nation for grants to support coordination between the National Estuarine Research Reserve System (NERR) under the federal Office for Coastal Management and the Great Lakes tribal nations.

ALT B1	Change to Base
PR	\$1,621,600
GPR-Tribal	-\$1,621,600

2. Create an annual PR appropriation titled "Tribal grants; other." Specify that any unencumbered balance would revert to the tribal gaming receipts appropriation at the end of each fiscal year. Provide one or more of the following:

- a. \$266,600 PR annually for grants to the Menominee Indian Tribe to support the Tribe's transit services;

ALT B2a	Change to Base
PR	\$533,200
GPR-Tribal	-\$533,200

- b. \$259,100 PR annually for grants to the Oneida Nation to support the "Healing to Wellness Court" program;

ALT B2b	Change to Base
PR	\$518,200
GPR-Tribal	-\$518,200

c. \$175,000 PR annually to the Oneida Nation to support the Nation's collaboration with the Audubon Society relating to a bird monitoring project; and

ALT B2c	Change to Base
PR	\$350,000
GPR-Tribal	-\$350,000

d. \$110,100 PR annually to the Oneida Nation for grants to support coordination between the National Estuarine Research Reserve System (NERR) under the federal Office for Coastal Management and the Great Lakes tribal nations.

ALT B2d	Change to Base
PR	\$220,200
GPR-Tribal	-\$220,200

3. Take no action.

Prepared by: Brianna Murphy



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June 8, 2023

Joint Committee on Finance

Paper #167

Gaming Investigations and Outreach (Administration -- Division of Gaming)

[LFB 2023-25 Budget Summary: Page 55, #5]

CURRENT LAW

The Department of Administration (DOA), through the Division of Gaming, regulates activities and promulgates rules relating to charitable gaming (bingo and raffles) and tribal gaming. Employees are subject to background investigations and criminal record restrictions. The Department is authorized to audit gaming operations, investigate suspected violations of gaming law, and report suspected criminal activity to the Department of Justice (DOJ).

The Office of Indian Gaming within the Division of Gaming coordinates the regulatory activities under the compacts relating to tribal gaming. A total of 16.2 PR positions are authorized for the Office of Indian Gaming in 2022-23. Funding for the Office is provided by the general program operations; Indian gaming appropriation, which totals \$2,079,300 PR in 2022-23. Program revenue for the appropriation is derived from: (a) payments from tribes for costs associated with state regulation and state-provided services; (b) fees from tribal gaming vendors and vendor applicants for costs associated with certification and background investigations; and (c) additional revenue from tribes pursuant to the compacts.

The Division of Gaming's Office of Charitable Gaming regulates raffles and bingo and is authorized 5.3 PR positions and \$571,100 PR in 2022-23 from DOA's general program operations; raffles and bingo appropriation.

In addition to DOA's regulatory role, DOJ is authorized to monitor gaming to ensure compliance with the compacts; investigate the activities of tribal officers, employees, contractors, or participants that may affect tribal gaming; and prosecute violations of applicable state law or compact provisions. These responsibilities are assigned to the Special Operations Bureau within DOJ's Division of Criminal Investigation, which provides law enforcement oversight of gaming in Wisconsin. The Department is allocated 1.25 PR positions and \$200,300 PR in 2022-23 for the

regulation and enforcement of tribal gaming in the state from the gaming law enforcement; Indian gaming appropriation. Additionally, the Special Operations Bureau is allocated \$457,200 SEG and 2.75 SEG positions in 2022-23 from the gaming law enforcement; lottery revenues appropriation for non-tribal gaming investigations (primarily relating to the state lottery).

In 2018, the U.S. Supreme Court overturned the Professional and Amateur Sports Protection Act, a 1992 law that prohibited state authorization of sports gambling. The Supreme Court ruled that the law violated the 10th Amendment's anti-commandeering principle by overextending federal control over state legislatures. The Court's decision (in *Murphy v. National Collegiate Athletic Association*) allows each state to act on its own with regard to the regulation and legalization of sports betting. As a result of this decision, several tribes have amended their compacts to allow event wagering, which includes sports betting.

DISCUSSION POINTS

1. The Department indicates that revenues, particularly from bingo, have been inconsistent in recent years, which has made it difficult for the Division of Gaming to ensure that its duties are sufficiently funded. The bingo program has been in overdraft status since 2018-19 due to expenditures exceeding revenues for the program. From 2018-19 to 2020-21, the bingo operations appropriation overdraft increased from -\$32,500 to -\$228,900. Under 2021 Act 58 (the 2021-23 biennial budget act), the appropriation for bingo was combined with the appropriation for raffle operations, and the combined appropriation ended with an overdraft of -\$278,300 in 2021-22 (supported, in part, by the positive position of the raffle program, \$10,500). Due to limited funding and position authority, regulatory activities for charitable gaming (raffles and bingo) have been increasingly restricted to ensure that statutorily-mandated licensing activities can continue. Table 1 shows program revenues for the raffles and bingo programs from 2017-18 to 2021-22.

TABLE 1
Raffles and Bingo Program Revenue,
2017-18 to 2021-22

<u>Fiscal</u> <u>Year</u>	<u>Revenue</u>		
	<u>Raffles</u>	<u>Bingo</u>	<u>Total</u>
2017-18	\$294,200	\$312,100	\$606,300
2018-19	305,600	271,800	577,400
2019-20	291,800	268,600	560,400
2020-21	275,600	89,900	365,500
2021-22	294,200	179,800	474,000

2. Assembly Bill 43/Senate Bill 70, would create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$185,900 GPR in 2023-24, \$207,000 GPR in 2024-25, and 2.05 GPR positions to the appropriation annually. Under the bill, funding and position authority would be reduced for the

general program operations; Indian gaming appropriation by \$27,000 PR and 0.25 PR position annually. Additionally, funding and position authority for the general program operations; raffles and bingo appropriation would be reduced by \$83,300 PR and 0.80 PR position annually. As a result, a total of 1.05 positions would be reallocated to the GPR gaming investigation services, and an additional 1.0 position would be created for the appropriation. Table 2 shows the funding components and the net GPR funding increase that would occur under the bill.

TABLE 2
Components of Funding for Gaming Investigations and Outreach under AB 43/SB 70

<u>Appropriation</u>	2023-24					
	<u>Fund Source</u>	<u>Positions</u>	<u>Salaries</u>	<u>Fringe Benefits</u>	<u>Supplies and Services</u>	<u>Total</u>
Gaming investigation services*	GPR	2.05	\$117,100	\$44,100	\$24,700	\$185,900
General program operations; Indian gaming	PR	-0.25	-17,400	-6,800	-2,800	-27,000
General program operations; raffles and bingo	PR	<u>-0.80</u>	<u>-53,500</u>	<u>-19,200</u>	<u>-10,600</u>	<u>-83,300</u>
Net Funding Increase, All Funds		1.00	\$46,200	\$18,100	\$11,300	\$75,600

<u>Appropriation</u>	2024-25					
	<u>Fund Source</u>	<u>Positions</u>	<u>Salaries</u>	<u>Fringe Benefits</u>	<u>Supplies and Services</u>	<u>Total</u>
Gaming investigation services*	GPR	2.05	\$132,500	\$50,100	\$24,400	\$207,000
General program operations; Indian gaming	PR	-0.25	-17,400	-6,800	-2,800	-27,000
General program operations; raffles and bingo	PR	<u>-0.80</u>	<u>-53,500</u>	<u>-19,200</u>	<u>-10,600</u>	<u>-83,300</u>
Net Funding Increase, All Funds		1.00	\$61,600	\$24,100	\$11,000	\$96,700

*Appropriation created under AB 43/SB 70.

3. The Department indicates that, while it has been able to operate using existing expenditure authority, the creation of a dedicated GPR appropriation for gaming investigation services would ensure that the Division's required duties, as well as expanded investigative and auditing functions aimed at preventing illegal gaming, are performed regardless of the program revenue funding available (particularly in the case of revenue for raffles and bingo operations).

4. Under AB 43/SB 70, the appropriation would fund and expand investigative and outreach services for gaming, including: investigating public and industry complaints relating to legal and illegal gambling; developing and maintaining relationships with federal, state, tribal, and local law enforcement agencies; preparing cases for referral to law enforcement and district attorneys; providing outreach and education to governmental entities and the public; and conducting audits to ensure compliance with regulations. Specifically, the additional 1.0 GPR position would be a classified auditor primarily responsible for: (a) investigating public and industry complaints; (b) preparing cases for referral to law enforcement; and (c) conducting outreach to the public, charitable license holders, and law enforcement agencies on gaming related topics.

5. According to DOA, creating a new GPR appropriation and providing increased

resources would allow the Division of Gaming to maintain its current investigative and outreach duties, as well as expand service activities to include additional investigative, education, and auditing activities for all types of gaming (including tribal gaming, raffles, and bingo). For example, recent changes to state-tribal compacts allowing wagering on sports and providing a state revenue share puts the state and tribes in competition with illegal sports betting operators. In order for the Division to provide enforcement for such cases, it would require additional investigative resources.

6. Given that recent gaming program revenue amounts for raffles and bingo operations have fluctuated and an increase in resources for the Division would allow an expansion of services, the Committee could create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$185,900 GPR in 2023-24, \$207,000 GPR in 2024-25, and 2.05 GPR positions to the appropriation annually. Additionally, the Committee could reduce funding and position authority for the general program operations; Indian gaming appropriation by \$27,000 PR and 0.25 PR position annually, and for the general program operations; raffles and bingo appropriation by \$83,300 PR and 0.80 PR position annually. [Alternative 1] Taking this action would better ensure that statutory functions of the Division of Gaming are being performed regardless of the program revenue amounts collected within the Division of Gaming, while also expanding activities to include investigation of unlawful event wagering, raffles, and bingo operations that compete with Wisconsin's legal gaming operations.

7. Alternatively, the Committee could create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$75,600 GPR in 2023-24, \$96,700 GPR in 2024-25, and 1.0 GPR position to the appropriation annually. [Alternative 2] The GPR amount under this alternative reflects the increase in funding allocated to investigative and outreach services under AB 43/SB 70. This option would allow Division activities to expand to include investigation of unlawful gaming operations. With the exception of the newly-created GPR auditor position, gaming and investigations positions would remain funded by gaming PR.

8. Instead of adding a GPR-funded position, the Committee could consider providing additional tribal gaming revenue to support an auditor position to investigate and audit illegal sports gaming operations. The Committee could provide \$75,600 PR in 2023-24, \$96,700 PR in 2024-25, and 1.0 PR position to the general program operations; Indian gaming appropriation. [Alternative 3] Under this alternative, investigative and auditing services would only be expanded for tribal gaming-related issues (not including unlawful raffle and bingo operations). In addition, providing tribal gaming PR under this alternative would have the effect of either reducing the amount of net revenue available to deposit to the general fund or, if no general fund deposit would be made, increasing the magnitude of the tribal gaming receipts appropriation overdraft.

9. The Committee could take no action. [Alternative 4] Gaming enforcement and regulation would continue to be provided as specified under current law.

ALTERNATIVES

1. Create an annual GPR gaming investigation services appropriation for investigative and

outreach services for charitable and tribal gaming and provide \$185,900 GPR in 2023-24, \$207,000 GPR in 2024-25, and 2.05 GPR positions to the appropriation annually. Reduce funding and position authority for the general program operations; Indian gaming appropriation by \$27,000 PR and 0.25 PR position annually, and for the general program operations; raffles and bingo appropriation by \$83,300 PR and 0.80 PR position annually.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$392,900	2.05
PR	<u>- 220,600</u>	<u>- 1.05</u>
Total	\$172,300	1.00

2. Create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$75,600 GPR in 2023-24, \$96,700 GPR in 2024-25, and 1.0 GPR auditor position to the appropriation annually.

ALT 2	Change to Base	
	Funding	Positions
GPR	\$172,300	1.00

3. Provide \$75,600 PR in 2023-24, \$96,700 PR in 2024-25, and 1.0 PR to the general program operations; Indian gaming appropriation. [Alternative 3]

ALT 3	Change to Base	
	Funding	Positions
PR	\$172,300	1.00
GPR-Tribal	-\$172,300	

4. Take no action.

Prepared by: Brianna Murphy



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June 8, 2023

Joint Committee on Finance

Paper #168

Native American Economic Development; Technical Assistance Grant Program (Administration -- Division of Gaming)

[LFB 2023-25 Budget Summary: Page 55, #7]

CURRENT LAW

The Native American economic development technical assistance grant program promotes economic development on tribal lands by providing management assistance for existing businesses, start-up assistance to new businesses (including the development of business and marketing plans), and technical assistance to help businesses gain access to financial support. The program served 84 entrepreneurs and small business owners in 2022. The program was created under 1991 Act 39 and was last modified under 2011 Act 32, when the allocation was reduced from \$88,300 to \$79,500 per year.

DISCUSSION POINTS

1. Each year, the Department of Administration (DOA) provides a grant of \$79,500 to the Great Lakes Inter-Tribal Council to provide technical assistance for economic development on tribal lands. The Great Lakes Inter-Tribal Council was established in 1965 to provide a mechanism through which the tribes could work through the challenges of governance and services to constituents. Member tribes include the Bad River Band of the Lake Superior Tribe of Chippewa Indians, the Ho-Chunk Nation, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Menominee Indian Tribe of Wisconsin, the Oneida Nation, the Red Cliff Band of Lake Superior Chippewa Indians, the St. Croix Chippewa Indians of Wisconsin, the Sokaogon Chippewa Community, the Forest County Potawatomi Community, and the Stockbridge-Munsee Community. According to the Council, the member tribes represent 40,000 members (2010 census), 11 reservations, and a land base of 500,000 acres in 31 counties.

2. The grant program's goal is to provide technical assistance to create jobs through small business development and to help Native Americans become more economically independent and financially secure. According to the Council, technical assistance is one of the most effective methods of building the capacity of entrepreneurs and small-business owners. The program facilitates trainings through two-day entrepreneurial workshops for Native American entrepreneurs interested in starting or expanding a small business. The workshops focus on business model development, record keeping, financial management, marketing, market research, and break-even analysis. The workshops help participants understand requirements for business readiness, pursue state certification as a minority- or woman-owned business, acquire business licenses, understand loans and lenders, network with potential partners, and improve job seeking and interviewing skills. In addition, the program provides one-on-one technical assistance with strategic planning, business feasibility, and financial projections.

3. Tribal gaming revenue paid to the state is based on provisions under state-tribal compacts. The first draw on gaming revenue is to state agencies and remaining revenue is deposited in the general fund. Gaming revenues are estimated to total \$60,667,300 in 2023-24 and \$62,971,300 in 2024-25. Seven of the 11 state-tribal compacts include an ancillary memorandum of understanding relating to government-to-government matters, including the intended use of tribal gaming payments to the state. In general, the agreements indicate that the Governor must undertake his or her best efforts to assure that monies paid to the state are expended for: (a) economic development initiatives to benefit tribes and/or American Indians within Wisconsin; (b) economic development initiatives in regions around casinos; (c) promotion of tourism within the state; and (d) support of programs and services of the county in which the tribe is located.

4. In the 2021-23 biennial budget bill (2021 AB 68/SB 111) as introduced, an additional \$110,000 PR annually would have been provided for the technical assistance program, funded by tribal gaming revenues. Funding for the program would have totaled \$189,500 PR per year. The provision was not included in the enacted budget.

5. Under 2023 Assembly Bill 43/Senate Bill 70, an additional \$40,500 PR would be provided annually for the technical assistance program, funded by tribal gaming revenues. Funding for the program would total \$120,000 PR per year. According to the Administration, the funding amount of \$79,500 PR annually for the program, which has remained the same since 2011, formerly funded one FTE position, but currently only funds a partial position to operate the program. The funding increase would help the program support a FTE position for the program, resulting in an increase in training and technical assistance offered. Additionally, according to the Department, the funding increase is intended to enable the program to expand its network of partnerships and to collaborate with regional and statewide economic development initiatives, state and federal business development programs, private businesses, and UW and college extensions including the Lac Courte Oreilles Ojibwe University and the College of Menominee Nation.

6. Given that the program's expansion could strengthen the economic independence of tribal communities and would be a use of gaming revenues to benefit tribal communities, the Committee could increase the program's allocation by \$40,500 PR annually. [Alternative 1] Alternatively, the Committee could take no action. [Alternative 2] The Native American economic development technical assistance grant program would continue operating at its current levels.

ALTERNATIVES

1. Provide \$40,500 PR annually to DOA's appropriation for American Indian economic development; technical assistance to increase funding for the Great Lakes Inter-Tribal Council's technical assistance program.

ALT 1	Change to Base
PR	\$81,000
GPR-Tribal	-\$81,000

2. Take no action.

Prepared by: Brianna Murphy

ADMINISTRATION

Division of Gaming

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
6	Oneida Nation and UW-Green Bay Programming

