

# Shared Revenue and Tax Relief

## Direct Aid Payments

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### LFB Summary Items for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
5	Supplemental County and Municipal Aid -- Lac Courte Oreilles Federal Court Decision (Paper #710)
9	Eliminate Computer Aid Payment Delay (Paper #711)
13	Payments for Municipal Services Program (Paper #712)

### LFB Summary Items Removed From Budget Consideration

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11	Utility Aid -- Energy Storage Facilities
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(over)

**LFB Summary Items Addressed as Subsequent Legislation (2023 AB 245/SB 301)**

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2	Newly-Created Municipal and County Shared Revenue Aid Program and Formula
4	County and Municipal Aid Program -- Police and Fire Protection Funding for Other Agencies
7	Exemption of Personal Property from Taxation -- Additional Exempt Personal Property Aid Payments

**LFB Summary Items Addressed in Sum Sufficient Estimates (Paper #106)**

<u>Item #</u>	<u>Title</u>
3	County and Municipal Aid Program -- Police and Fire Protection Fund Revenue Reestimate
8	Existing Exempt Personal Property Aid Reestimate
10	Public Utility Aid -- Sum Sufficient Reestimate
14	Expenditure Restraint Payment Program



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June, 2023

Joint Committee on Finance

Paper #710

### **Supplemental County and Municipal Aid -- Lac Courte Oreilles Federal Court Decision (Shared Revenue and Property Tax Relief -- Direct Aid Payments)**

[LFB 2023-25 Budget Summary: Page 579, #5]

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#### **CURRENT LAW**

In 2022, the U.S. 7<sup>th</sup> Circuit Court of Appeals ruled in *Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin v. Evers* that under the 1854 Treaty of La Pointe, the state of Wisconsin and its political subdivisions are prohibited from taxing all real property within the Bad River, Lac Courte Oreilles, Lac du Flambeau, and Red Cliff reservations if that property is owned by one of the four Ojibwe tribes or one or more tribal members, regardless of whether the property had been previously owned by a non-tribal member.

#### **DISCUSSION POINTS**

1. The 1854 Treaty of La Pointe is a pact between the United States and four Ojibwe bands, and established the Bad River, Lac Courte Oreilles, Lac du Flambeau, and Red Cliff reservations. Among other things, the stated aim of this treaty was to provide a permanent home for the Ojibwe, and the treaty specified that the Ojibwe "shall not be required to remove from the homes hereby set apart for them." In its 2022 decision, the 7<sup>th</sup> Circuit Court of Appeals found that the treaty forbids the state or its political subdivisions from taxing property that is located on one of the reservations established by the treaty and owned by the tribe or a tribal member, regardless of whether the property had ever been owned by anyone who was not a tribal member. Prior to this decision, such property was only exempt from taxation if had been continuously owned by the tribe or a tribal member since its allotment under the 1854 Treaty. In other words, once property located on one of the reservations established under the treaty was transferred to a non-tribal member, it was then considered taxable, even if that property was later transferred back to the tribe or a tribal member.

2. The basis of the decision of the federal Court of Appeals was the treaty's promise of establishing a permanent home for the Ojibwe. The Court found that this promise was inconsistent with taxation of property on the reservations established under the treaty, as taxation "implies the government's ability to enforce the tax obligation, by liens, foreclosure, and eviction if necessary." As a result, the Court ruled that property located within one of these reservations is only taxable when it is owned by a non-tribal member. If the property is owned by the tribe or a tribal member, it is exempt from taxation, regardless of its past ownership and whether it had been taxable.

3. The result of the decision of the federal Court of Appeals, is that the amount of taxable property in seven towns and five counties that encompass parts of those reservations is reduced, as a portion of property that had previously been taxed is now exempt from taxation. The affected towns and counties are: (a) the Town of Gingles in Ashland County; (b) the Town of Sanborn in Ashland County; (c) the Town of White River in Ashland County; (d) the Town of Russell in Bayfield County; (e) the Town of Sherman in Iron County; (f) the Town of Bass Lake in Sawyer County; (g) the Town of Lac du Flambeau in Vilas County; (h) Ashland County; (i) Bayfield County; (j) Iron County; (k) Sawyer County; and (l) Vilas County. The amount of newly-exempt property for towns within each county equals the total exempt property for the overlying county government that include those towns. Using 2021(22) values, the tables below indicate the Administration's estimates of amount of property that has become exempt from taxation in each town and county as a result of the Court's ruling.

**TABLE 1**

**Estimated Reduction in Taxable Property Values for Towns Within Each County**

<u>County</u>	<u>Town</u>	<u>Total Property Value, 2021</u>	<u>Estimated Value of Exempt Property</u>	<u>Percent Reduction in Value</u>
Ashland	Gingles	\$61,659,700	\$12,331,940	20.0%
Ashland	Sanborn	37,509,400	32,000,000	85.3
Ashland	White River	58,662,700	192,000	0.3
Bayfield	Russell	42,220,900	6,333,135	15.0
Iron	Sherman	138,704,600	1,232,000	0.9
Sawyer	Bass Lake	584,702,600	625,000	0.1
Vilas	Lac du Flambeau	1,024,278,600	8,500,000	0.8

**TABLE 2**

**Estimated Reduction in Taxable Property Values Within Each County**

<u>County</u>	<u>Total Property Value, 2021</u>	<u>Estimated Value of Exempt Property</u>	<u>Percent Reduction in Value</u>
Ashland	\$1,270,618,600	\$44,523,940	3.5%
Bayfield	2,907,333,700	6,333,135	0.2
Iron	1,031,764,200	1,232,000	0.1
Sawyer	3,991,805,600	625,000	<0.1
Vilas	7,861,557,100	8,500,000	0.1

4. Other overlying taxing jurisdictions would also be impacted by the loss in taxable value. However, similar to county governments, due to the amount of overall value within these taxing jurisdictions, the percentage reduction in taxable value would be less than the municipal governments shown in Table 1. Assembly Bill 43/Senate Bill 70 (AB 43/SB 70) would not provide an aid payment to these other taxing jurisdictions.

5. The total levies that each of these jurisdictions could collect under state law would not be affected by the federal Court of Appeals ruling. However, as mentioned the Court's decision effectively reduced the amount of taxable property for the seven towns and five counties that include parts of the affected reservations. This has resulted in a shift in property taxes to the remaining taxable properties for all taxing jurisdictions within those towns and counties. This shift first occurred for property taxes levied in 2022 and payable in 2023. This occurs as taxing jurisdictions continue to levy the same allowable amount to fund their government, but a smaller number and value of taxable properties are having to pay that levy.

6. As shown in Table 1 above, the Town of Sanborn in Ashland County saw a more dramatic reduction in its taxable property values than any other town or county as a result of the federal Court of Appeals decision. As an example of the property tax shift described earlier, a home owned by a non-tribal member and valued at \$100,000 in the Town of Sanborn would have had a gross tax bill of \$2,043 in 2021(22). If the federal court ruling had been in place that year, the corresponding tax shift would have resulted in an estimated tax bill of \$4,517, or an increase of \$2,474. For the remaining governments shown in in Tables 1 and 2, because the percentage loss in taxable property resulting from the Court's decision is less, the shift in property taxes is less pronounced.

7. Assembly Bill 43/Senate Bill 70 would direct the Department of Administration to estimate the amount of county and municipal property taxes that would have been levied in 2022(23) on any property that became exempt from taxation as a result of the federal Court of Appeals decision in each affected town and county. An aid payment equal to that amount would be provided to each affected county and municipal government in 2023-24. This would effectively hold the local government harmless for the loss in property value and prevent the shift in taxes to remaining taxable properties. Beginning in 2024-25, and each year thereafter, that initial payment would be reduced by 10%, and would be phased out entirely by 2032-33. [Alternative 1]

8. As noted, the estimated amount of property that is currently exempt from local property taxation, as a result of the federal Court's ruling impact the taxes paid by the remaining taxpayers. Further, additional taxable property within the boundaries of the four affected reservations could become tax exempt in the future, if it is purchased by the tribe or a tribal member. The loss of this value would be ongoing, as long as a tribe or tribal member would own the property. In order to continue to mitigate the effect of the Court's decision on property taxes paid by the owners of the remaining taxable property in each municipality or county, the same level of aid provided in the first year could be continued each year rather than phased-out as under AB 43/SB 70. This treatment would be similar to the aid payments the state makes to local taxing jurisdictions for exempt computer property and personal property, both of which continue at same payment amount each year. [Alternative 2]

9. Under AB 43/SB 70, towns and counties could reduce their overall levies by the amount of the aid payment, but would not be required to do so absent a levy limit adjustment. Under current law, the personal property aid payment, which was created post levy limits, is added to a county's or municipality's base levy for the purposes of calculating the allowable levy amount using the change in net new construction each year. Subsequently, these aid payment amounts are subtracted from the allowable levy after that calculation is made. One purpose of this adjustment is to make certain that local governments do not have the benefit of that aid payment and a corresponding levy increase. Another aspect of this adjustment is that the aid payment is added to the prior year levy as though the property had not been exempt, which allows this amount to be used in the calculation of the allowable levy growth each year. Creating a similar adjustment for the recommended aid would treat this aid payment the same as the current personal property tax aid payment for the purposes of levy limits by limiting the allowable growth in levies while allowing the aid amounts to be used in the calculation allowable levy growth each year. [Alternative 3(a)]

10. If the recommendation to phase-out the aid payment over a 10-year period is approved, an additional levy limit adjustment could be provided that would allow the towns and counties to increase their allowable levy by an amount equal to the amount of the annual reduction in aid. This would result in the sum of the allowable levy and aid payment remaining more constant over time as aid is reduced, although a larger share would come from the levy each year. The adjustment would be similar to the current law adjustment for utility aid paid on decommissioned plants, which is also phased-out over time. The adjustment assists local governments in maintaining more stable budgets as aid is phased-out by allowing them to levy for the incremental loss in aid over the phase-out period. However, any levy associated with this adjustment would be paid by the owners of properties that remain taxable. Nonetheless, this adjustment would more effectively hold counties and municipalities harmless in the long term for the loss in taxable property value. [Alternative 3(b)]

11. As indicated above, the exemption of property owned by the tribe or tribal members from taxation stems from the inability to enforce the collection of property taxes through the delinquent property tax procedures outlined under current law. These procedures include the possibility of foreclosure and eviction, which the court ruled is incompatible with the guarantee provided by the 1854 Treaty that the Ojibwe "shall not be required to remove from the homes hereby set apart for them."

12. A concern exists that non-tribal members who own property that is located within one of the four reservations created by the 1854 Treaty, may transfer a portion of the ownership of their property to a tribal member, in order to claim the property tax exemption from taxation. Under current law, co-owners of property are jointly and severally liable for payment of delinquent property taxes. According to staff of the Legislative Council, pursuant to the federal Court of Appeals decision, various authorities have concluded that fractional ownership by a tribal member renders the property exempt from taxation. For example, guidance issued by the Department of Revenue indicates that if a tribal member owns a 1% interest in the property, the property is not taxable and should not be included on the tax roll.

13. The extent to which such fractional transfers of property exist or would occur in the future is not known. If such transfers occur, the taxable value within the affected towns and counties

indicated in the tables above would be further eroded, resulting in additional tax shifts within those jurisdictions.

14. Two current law processes may be utilized by local taxing jurisdictions to recover delinquent property taxes. First, the statutes prescribe a series of procedures that may be undertaken to issue a tax certificate for the delinquency, and issue a tax deed for the property on which the delinquency relates, and ultimately foreclose on the property. Secondly, following the issuance of a tax certificate, a civil action regarding personal liability for the tax delinquency may be commenced against the owners of the property. For co-owned properties, the co-owners are jointly and severally liable for the payments of the amounts that may be collected under the civil action.

15. According to staff of the Legislative Council, in situations where a qualifying tribal member is a fractional owner of a property in a joint tenancy or tenancy in common, it appears the Wisconsin statutes could be amended to specify that tax liability associated with co-owned property rests with the non-tribal member. This would reconcile state statute with the requirements of the federal Court of Appeals ruling, while retaining general taxability of the co-owned property. The Council staff notes that the civil action statute could be amended to specify that qualifying tribal members are exempt from liability, retaining joint and several liability for the non-tribal owners. In addition, the statutes relating to foreclosure of a tax deed could be amended to allow an ownership interest of a qualifying tribal member to survive the foreclosure, and specify that a tribal member may not be removed from the property as a result of the foreclosure. [Alternative 4 (a) and/or (b)]

16. The decision of the federal Court of Appeals became final in November, 2022, and was effective immediately. As a result, 2022(23) property taxes were not able to be levied on properties that became exempt from taxation following the Court of Appeals' decision, and were instead levied only on those properties that remained taxable. While some additional property may become tax exempt in future years, any future shift in property taxes will not likely be as significant as the property tax shift that has already occurred. [Alternative 5]

## ALTERNATIVES

1. Provide \$578,000 GPR in 2023-24 and \$520,200 GPR in 2024-25 and create a sum certain appropriation to provide payments to the towns and counties that experienced a reduction in taxable values following the 2022 decision of the federal Court of Appeals. Direct the Department of Administration to calculate the amount of property tax revenue that would have been collected by each affected town and county on the property if it had not become exempt, and provide a payment in 2023-24 equal to that amount. Specify that the payment provided in 2024-25 and each year thereafter would be reduced by 10% annually.

ALT 1	Change to Base
GPR	\$1,098,200

2. Provide \$578,000 GPR annually and create a sum certain appropriation to provide payments to the towns and counties that experienced a reduction in taxable values following the 2022

decision of the federal Court of Appeals. Direct the Department of Administration to calculate the amount of property tax revenue that would have been collected by each affected town and county on the property if it had not become exempt, and provide a payment in 2023-24 and each year thereafter equal to that amount [no payment phase-out would occur].

ALT 2	Change to Base
GPR	\$1,156,000

3. Adopt one or both of the following:

a. Create a levy limit adjustment associated with the aid payment that specifies that for the purpose of calculating the county or municipal allowable levy, the base levy would be set equal to the sum of the prior year levy and the amount of this aid payment. Further, require counties and municipalities that receive this aid payment to also subtract the amount received from the newly-created appropriation from their calculated levies in order to determine their allowable levies.

b. If the phase-out of the aid payment is approved, create a levy limit adjustment associated with the aid payment to allow counties and municipalities to increase their base levy by the amount of the reduction in their annual payment that is phased out each year, for the purposes of calculating their allowable levy.

4. Specify one or both of the following:

a. that any member of the Ojibwe tribe that is party to the 1854 Treaty of La Pointe would be exempt from liability under civil action for the collection of any delinquent property tax, if that tribal member co-owns property within one of the reservations created under that Treaty with individuals who are not tribal members and that joint and several liability for collection of delinquent property tax is retained for the co-owners of the property who are not tribal members;

b. that the ownership interest of a qualifying tribal member would survive any foreclosure on a given property that is within one of the reservations created under the 1854 Treaty, and that an owner who is a qualifying tribal member may not be removed from such property as a result of foreclosure.

5. Take no action.

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June, 2023

Joint Committee on Finance

Paper #711

### **Eliminate Computer Aid Payment Delay (Shared Revenue and Tax Relief – Direct Aid Payments)**

[LFB 2023-25 Budget Summary: Page 581, #9]

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#### **CURRENT LAW**

State aid payments for exempt computer property have been provided to local taxing jurisdictions since computer property was exempt from property taxation in 1999-00. While the amount of the payment, as well as payments to taxing jurisdictions, have varied since that time, payments to taxing jurisdictions have been frozen at \$98.0 million since 2019-20. Payments are distributed to local taxing jurisdictions on the fourth Monday in July.

#### **DISCUSSION POINTS**

1. The current law distribution of computer aid payments on the fourth Monday in July was enacted in the 2005-07 budget act, beginning with aid distributions in 2007-08. Prior to that change, computer aid had been distributed to local taxing jurisdictions on the first Monday in May.
2. The current law timing of computer aid distributions worsens the state's general fund balance under generally accepted accounting principles (GAAP). The Annual Comprehensive Fiscal Report (ACFR) reported a \$4.6 billion GAAP surplus in 2021-22. This surplus is largely attributable to the general fund having an undesignated fund balance of \$4.3 billion at the end of 2021-22 under the statutory basis of accounting. While the state has not had a GAAP deficit since 2019-20, the state could again have a GAAP deficit in the future if this balance is drawn down.
3. Assembly Bill 43/Senate Bill 70 would provide an additional \$98.0 million for computer aid payments in 2023-24, and move the date for the payment of computer aid to the first Monday in May. As a result, both the 2023 and 2024 computer aid payment would be made in 2023-24, which would reduce the total projected general fund balance at the close of 2023-24. Payments in subsequent

years would be distributed in May. Distributing computer aid payments in May rather than July would improve the state's GAAP liability by approximately \$67.4 million in 2023-24, and would improve the state's standing under GAAP standards for any given ending balance in future years.

4. In addition to representing a GAAP liability, the current law payment schedule for the computer aid program results in uneven expenditures throughout the fiscal year. Aside from the initial year, when two payments would be made, shifting the ongoing timing of the payments to May would result in future payments occurring later in the state fiscal year, and result in more even levels of expenditures throughout the year, as the state makes other large aid distributions in July and November. More stable expenditures reduces the likelihood that the general fund would not have sufficient funds in any given month to provide scheduled disbursements and have to rely on short-term borrowing to make up the difference.

5. Altering the timing of the distribution of the payment could also improve the cash flows of the local taxing jurisdictions receiving the aid. While the amounts received by each local taxing jurisdiction would not be affected, local taxing jurisdictions would receive aid earlier in their fiscal year, which could improve interest earnings on their fund balances. [Alternative 1]

6. The state distributes funds to counties and municipalities through a number of aid payments. In addition, the state provides funding for property tax credits that reduce the amount owed by property taxpayers. The distributions indicated in the table below are made in either July or November under current law. The date for these distributions could also be moved into the previous fiscal year, by providing both the 2023 and 2024 distribution in state fiscal year 2023-24. The table also indicates the amount of additional funding that would be required to provide an additional payment in 2023-24, as well as the amount that the current law GAAP liability each program represents, which would be reduced if the payment date were moved.

**Select Local Government Aid Distributions  
(\$ in Millions)**

	<u>2024 Payment</u>	<u>GAAP Liability</u>
County and Municipal Aid*	\$742.1	\$371.1
Utility Aid*	94.3	47.2
Expenditure Restraint Program	58.2	29.1
Video Service Provider Fee Aid	10.0	5.0
School Levy Tax Credit	940.0	695.9
First Dollar Tax Credit	150.0	109.0

\*Under current law, 15% of these payments is distributed in July, and the remaining 85% is distributed in November and County and Municipal aid amount is shown after statutory offsets. Current law county and municipal aid payments are partially funded through police and fire protection fund SEG. If an additional payment were provided, it would be entirely funded with GPR.

7. It should be noted that with the exception of the school levy credit and first dollar credit,

the funding source of the remaining programs listed in the table, as well as the computer aid program, could be altered by provisions in Assembly Bill 245/Senate Bill 301, as well as other potential legislation that would transfer 20% of state sales and use taxes to a newly-created segregated fund to provide payments to local taxing jurisdictions, beginning in 2024-25. If the Committee chooses to change the timing of these distributions, any potential legislation would need to take into account these timing changes and when sales tax revenues would first be transferred into a new segregated fund, in order to ensure that the fund has sufficient revenues to provide those payments.

8. Using one-time funds in 2023-24 to buy back the delays in some or all of the distributions shown in the table would result in even greater improvement in the state's GAAP liability. This would reduce the likelihood that a significant deficit would again exist if the state's opening fund balance were depleted. [Alternatives 2a thru 2h]

9. The budget year for counties and municipalities corresponds to the calendar year. Despite being paid outside the state fiscal year, computer aid and the other aid distributions shown in the table are paid during the calendar year for which the funds are budgeted. These local governments establish their annual budgets in late fall each year based on the calendar year amounts, regardless of whether the state pays them early in that calendar year or closer to the end of their budget year. [Alternative 3]

**ALTERNATIVES**

1. Provide \$98,047,100 GPR in 2023-24 to provide the 2024 computer aid payments to local taxing jurisdictions in 2023-24, rather than 2024-25. Specify that beginning on January 1, 2024, the date for the distribution of computer aid payments be the first Monday in May. Eliminate the requirement that school districts treat computer aid payments received in July as if they had been received in the previous school year.

ALT 1	Change to Base
GPR	\$98,047,100

2. In addition to, or in lieu of, Alternative 1, do one or more of the following:

**County and Municipal Aid**

a. Provide \$111,316,400 GPR in 2023-24 to provide 15% of the current law 2024 county and municipal aid payments to counties and municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in July. Specify that beginning on January 1, 2024, the date for the distribution of these payments be the first Monday in May.

ALT 2a	Change to Base
GPR	\$111,316,400

b. Provide \$630,792,600 GPR in 2023-24 to provide 85% of the current law 2024 county and municipal aid payment to counties and municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in November. Specify that beginning on January 1, 2024, the date for the distribution of these payments be the first Monday in May.

ALT 2b	Change to Base
GPR	\$630,792,600

### Utility Aid

c. Provide \$14,147,600 GPR in 2023-24 to provide 15% of the current law 2024 utility aid payment to counties and municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in July. Specify that beginning on January 1, 2024, the date for the distribution of these payments be the first Monday in May.

ALT 2c	Change to Base
GPR	\$14,147,600

d. Provide \$80,170,000 GPR in 2023-24 to provide 85% of the current law 2024 utility aid payment to counties and municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in November. Specify that beginning on January 1, 2024, the date for the distribution of these payments be the first Monday in May.

ALT 2d	Change to Base
GPR	\$80,170,000

### Expenditure Restraint Program

e. Provide \$58,145,700 GPR in 2023-24 to provide the 2024 expenditure restraint program payments to municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in July. Specify that beginning on January 1, 2024, the date for the distribution of these payments be the first Monday in May.

ALT 2e	Change to Base
GPR	\$58,145,700

### Video Service Provider Fee Aid

f. Provide \$10,008,200 GPR in 2023-24 to provide the 2024 video service provider fee aid

payments to municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in July. Specify that beginning on January 1, 2024, the date for the distribution of these payments be the first Monday in May.

<b>ALT 2f</b>	<b>Change to Base</b>
GPR	\$10,008,200

### **School Levy and First Dollar Credits**

g. Provide \$940,000,000 GPR in 2023-24 to provide the 2024 school levy credit to municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in July. Specify that beginning on January 1, 2024, the date for the distribution of these credits be the first Monday in May.

<b>ALT 2g</b>	<b>Change to Base</b>
GPR	\$940,000,000

h. Provide \$148,228,000 GPR in 2023-24 to provide the 2024 first dollar credit to municipalities in 2023-24, rather than 2024-25. Under current law, this amount is distributed on the fourth Monday in July. Specify that beginning on January 1, 2024, the date for the distribution of these credits be the first Monday in May.

<b>ALT 2h</b>	<b>Change to Base</b>
GPR	\$148,228,000

3. Take no action.

Prepared by: Noga Ardon





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June, 2023

Joint Committee on Finance

Paper #712

### **Payments for Municipal Services Program (Shared Revenue and Tax Relief -- Direct Aid Payments)**

[LFB 2023-25 Budget Summary: Page 583, #13]

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#### **CURRENT LAW**

Through the payments for municipal services (PMS) program, the state has provided annual payments since 1973 to reimburse municipalities for all or a portion of property tax-supported expenses incurred in providing services to state facilities, which are exempt from property taxation. The intent of the program is to aid in the reduction of local property taxes by making an equitable contribution toward the cost of certain municipally provided services. In 2022-23, \$18,584,200 GPR will be paid by the state through the PMS program.

Initially, the annual PMS payments to municipalities are fully funded from the program's GPR appropriation. However, the program has a procedure for PR, PR-S, and SEG appropriations to be charged for municipal services to facilities funded through those appropriations. After the payments are made from the GPR appropriation, the Department of Administration (DOA) charges back any PR, PR-S, and SEG operations appropriations that fund state facilities and transfers monies from those appropriations to the general fund as GPR-REV. In effect, the general fund is charged only for services to facilities associated with programs financed through the general fund. In 2022-23, GPR expenditures for the program were offset by \$9,118,800 in GPR-REV chargeback amounts, or approximately 49.1% of the \$18,584,200 GPR appropriation.

#### **DISCUSSION POINTS**

1. PMS payments are made for fire and police protection, extraordinary police services, solid waste collection and disposal, and other approved direct services. Municipal services such as water, sewer, and electrical power that are financed in whole, or in part, by special charges or user fees must be paid for directly by the state agency responsible for the facility receiving the services.

The annual entitlement for each eligible municipality is determined largely by formula and, in a few instances, through additional negotiation with DOA. The formula attempts to approximate the amount of reimbursable services provided to state facilities that are financed out of local property tax revenue. Under this formula, entitlements are calculated as a percentage of municipal police, fire, and solid waste costs, with the entitlement being calculated as a result of the value of state facilities as a percentage of the combined value of taxable buildings and state facilities, multiplied by property tax revenues as a percentage of county and municipal aid, expenditure restraint, utility aid, and property taxes combined. Entitlements are calculated on the basis of previous calendar year fiscal information. For example, entitlements calculated for 2022 will be based on 2021 costs, revenues, and property values. The actual payments will be made to municipalities in 2023.

2. Since the 2011-13 budget, the funding level for the PMS program has been set at \$18,584,200. If the sum of the calculated formula entitlements exceeds the appropriation for the PMS program, the payments are prorated. The table below shows PMS payments and entitlements from 2013 through 2022. During that time, payments have ranged from 44.6% of entitlements to 34.6% of entitlements. Increasing entitlement amounts in each of these years could be due to several factors, including increases in the cost of services provided to state facilities, increases in the value of state facilities, or limited increases in municipal property tax levies and no change in state aids.

### Statewide PMS Entitlements and Payments

<u>Year</u>	<u>Statewide Entitlement</u>	<u>Percent Change in Entitlements</u>	<u>Statewide Payment</u>	<u>Payments as Percent of Entitlements</u>
2013	\$41,647,069		\$18,584,200	44.6%
2014	44,162,447	6.0%	18,584,200	42.1
2015	45,371,602	2.7	18,584,200	41.0
2016	48,975,279	7.9	18,584,200	37.9
2017	48,650,175	-0.7	18,584,200	38.2
2018	47,777,335	-1.8	18,584,200	38.9
2019	53,625,738	12.2	18,584,200	34.6
2020	53,703,005	0.1	18,584,200	34.6
2021	48,291,564	-10.1	18,584,200	38.5
2022	48,749,028	0.9	18,584,200	38.1

3. The last year in which the appropriation covered 100% of entitlement costs was 1982, and the highest percentage of entitlement cost covered in the last 20 years was 87.9% in 2003. The last increase in funding for PMS payments was in 2002, and program funding was reducing in both the 2009-11 and 2011-13 budgets. Funding for PMS payments has been set at \$18,584,200 GPR since 2011, when funding for the program was reduced by 10%, from a previous level of \$20,649,200 GPR.

4. Assembly Bill 43/Senate Bill 70 would increase the PMS appropriation by 5.0%, or by \$929,200 annually, which would also increase the GPR-REV amounts associated with the agency chargebacks by 5.0%. As a result, an estimated 49.1% of the funding increase, or \$455,900 annually,



would be returned to the general fund as GPR-REV associated with agency chargebacks. [Alternative 1]

5. For the 2022 calculation (paid in February, 2023), PMS payments were approved for 366 municipalities. Payments ranged from \$39 to the Town of Calumet in Fond du Lac County, which had \$102 in entitlements, to \$8.3 million to the City of Madison, which had \$21.7 million in entitlements. The 20 largest PMS payment recipients (listed in the Attachment to this paper) accounted for 88.7% of the payments to all eligible municipalities in 2023.

6. The Attachment compares the actual February, 2023, PMS payment amounts to the 2023 payments that would have been received by the 20 largest PMS payment recipients in that year, if funding for the program had been increased to \$19,513,400. At that level of funding in that year, 2023 PMS payments would have been prorated at 40.0% of calculated entitlements, compared to the current law proration of 38.1%.

7. The PMS appropriation does not fully compensate municipalities for the estimated costs of providing services to state facilities. Consequently, a portion of the cost of providing municipal services is either unreimbursed by the state, or else shifted from the state-owned exempt property to owners of taxable property. Due to levy limits, municipalities cannot increase their levies in order to cover the costs of providing these services. As such, municipalities may need to redirect revenues away from other initiatives in order to provide these services.

8. Rather than providing a 5% increase, as recommended by the administration, the Committee could instead provide only an adjustment for the level of inflation expected in the biennium. The Consumer Price Index (CPI) is projected to increase by 2.5% between 2023 and 2024 and by 2.2% between 2024 and 2025. Providing corresponding increases in PMS payments in those years would result in an overall funding level of \$19,048,800 GPR in 2023-24 and \$14,467,900 in 2024-25 (an increase of \$464,600 GPR in 2023-24 and \$883,700 GPR in 2024-25 over current funding levels). At this level of funding, GPR-REV amounts associated with agency chargebacks would increase by \$228,000 in 2023-24 and \$433,600 in 2024-25. [Alternative 2]

9. While the funding level for the PMS program has remained constant since 2011, the CPI has increased by a total of 30.1% over that time. The Committee could therefore choose to provide an increase of this amount, which would result in a level of reimbursement for providing municipal services comparable to the level of reimbursement at the time that funding for the program was set at its current appropriated amount. Increasing funding for the program by 30.1% beginning in 2023-24 would result in total funding of \$24,178,000 GPR annually, or an increase of \$5,593,800 GPR over current funding levels. At this funding level, GPR-REV amounts associated with agency chargebacks would increase by \$2,744,700 annually. [Alternative 3]

10. Municipalities that have a significant number of state facilities receive some benefit from having those state facilities located within their area or region of the state. UW System campuses and colleges are significant employers within the municipalities in which they are located, as are prison facilities and other major state installations. In addition, aside from the direct employment at these facilities, local economies receive ancillary economic benefits, as those employed at the state facilities spend their income in that local economy. Stable, if not higher, home and property values associated

with having a large state employer in the region are also a benefit. It is with this understanding of the positive economic benefits to their region that municipalities around the state often vie to have state facilities located in their region. Given the economic benefits derived from having state facilities located within these municipalities, it could be argued that funding for PMS payments should not increase, but rather remain at the current law level of \$18,584,200 GPR [Alternative 4].

**ALTERNATIVES**

1. Increase funding by \$929,200 GPR annually for the payments for municipal services program, from a base level of \$18,584,200 to \$19,513,400, which represents a 5.0% increase. Increase GPR-Earned amounts associated with agency chargebacks by \$455,900 annually.

ALT 1	Change to Base	
	Revenue	Funding
GPR	\$911,800	\$1,858,400

2. Increase funding by \$464,600 GPR in 2023-24, which represents a 2.5% increase, and by \$883,700 GPR in 2024-25, which represents a 2.2% increase. Funding for the payments for municipal services program would increase from a base level of \$18,584,200 to \$19,048,800 in 2023-24 and \$19,467,900 in 2024-25. Increase GPR-Earned amounts associated with agency chargebacks by \$228,000 in 2023-24 and \$433,600 in 2024-25.

ALT 2	Change to Base	
	Revenue	Funding
GPR	\$661,600	\$1,348,300

3. Increase funding by \$5,593,800 GPR annually, from a base level of \$18,584,200 to \$24,178,000, which represents a 30.1% increase. Increase GPR-Earned amounts associated with agency chargebacks by \$2,744,700 annually.

ALT 3	Change to Base	
	Revenue	Funding
GPR	\$5,489,400	\$11,187,600

4. Take no action.

Prepared by: Noga Ardon  
Attachment

## ATTACHMENT

### Potential Payment Increases to the 20 Largest PMS Payment Recipients

<u>Municipality Name</u>	<u>Current Law Payment</u>	<u>Alternative 1</u>	<u>Alternative 2</u>	<u>Alternative 3</u>
Madison	\$8,283,272	\$8,697,431	\$8,490,351	\$10,776,517
Milwaukee	2,410,306	2,530,820	2,470,563	3,135,802
Oshkosh	1,055,390	1,108,159	1,081,774	1,373,060
La Crosse	792,015	831,615	811,815	1,030,409
Green Bay	467,723	491,108	479,416	608,506
Eau Claire	467,274	490,638	478,956	607,923
Stevens Point	414,716	435,452	425,084	539,545
Menomonie	316,836	332,678	324,757	412,203
Waukesha	276,879	290,722	283,801	360,218
Superior	250,863	263,406	257,134	326,372
Whitewater	249,555	262,033	255,794	324,670
River Falls	229,923	241,419	235,671	299,129
Wausau	206,296	216,611	211,453	268,390
Somers	195,988	205,787	200,888	254,980
West Allis	194,553	204,280	199,416	253,113
Fond du Lac	165,295	173,560	169,428	215,049
Platteville	139,432	146,404	142,918	181,401
Janesville	127,056	133,409	130,232	165,300
West Bend	117,238	123,100	120,169	152,527
Chippewa Falls	114,324	120,041	117,183	148,736

