



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #135

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

[LFB 2017-19 Budget Summary: Page 53, #1]

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#### **CURRENT LAW**

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

The first draw on tribal gaming receipts is to the following appropriations: (a) a Department of Administration (DOA) general program operations appropriation relating to Indian gaming regulation under the compacts (\$1,986,600 PR in 2016-17); (b) a Department of Justice (DOJ) Indian gaming law enforcement appropriation (\$144,800 PR in 2016-17); and (c) an amount necessary to make all of the transfers specified under the DOA Indian gaming receipts appropriation to other state programs (in 2016-17 these transfers total \$25,146,200 PR). Tribal gaming receipts remaining after these allocations are made are credited to the general fund.

#### **GOVERNOR**

Appropriate \$27,553,000 in 2017-18 and \$27,568,700 in 2018-19 in tribal gaming revenue paid to the state under the tribal gaming compacts. The appropriations include: (a) allocations totaling \$25,412,600 in 2017-18 and \$25,406,600 in 2018-19 to various state agencies for programs unrelated to tribal gaming regulation or law enforcement; and (b) appropriations for the regulation of tribal gaming in DOA [\$1,974,800 in 2017-18 and \$1,996,300 in 2018-19], and tribal gaming law enforcement in the Department of Justice (DOJ) [\$165,600 in 2017-18 and

\$165,800 in 2018-19].

Tribal revenue paid to the state is based on provisions under the current state-tribal gaming compacts. Under the compacts, tribes are scheduled to make payments to the state based on a percentage of net revenue (gross revenue minus winnings). The percentages used to calculate state payments vary by tribe and, in some cases, may vary by year for the same tribe.

Under current law, Indian gaming receipts are credited to: (a) the DOJ Indian gaming law enforcement appropriation; (b) the DOA general program operations appropriation relating to Indian gaming regulation; and (c) a DOA appropriation for Indian gaming receipts in the amount necessary to make all the transfers specified under the appropriation to other state programs. Indian gaming receipts not otherwise credited to, or expended from, these appropriation accounts are deposited in the general fund.

The calculation for the general fund tribal revenue under the bill is summarized in Table 1.

**TABLE 1**

**2017-19 Tribal Gaming General Fund Revenue**

	<u>2017-18</u>	<u>2018-19</u>
Estimated Tribal Payments	\$52,983,100	\$52,789,700
Regulatory Payments	350,000	350,000
Vendor Certification Revenue	<u>140,600</u>	<u>140,600</u>
Total Revenue	\$53,473,700	\$53,280,300
Program Allocations to State Agencies	<u>27,553,000</u>	<u>27,568,700</u>
Tribal Gaming General Fund Revenue	\$25,920,700	\$25,711,600

**DISCUSSION POINTS**

**Tribal Gaming Revenues**

1. Tribal payments to the state, required under the state-tribal gaming compacts, fund programs in various state agencies and provide revenue to the general fund. The appropriations of tribal gaming revenue to state agencies are approved in each biennial budget process. General fund revenue from tribal gaming is identified in the state's general fund condition statement and is estimated in each fiscal year based on projected tribal payments to the state and the amounts appropriated to state agencies. This paper examines the estimated tribal payments to the state and the general fund revenue projections for 2017-18 and 2018-19 under the bill. It also provides a brief overview of the appropriations of tribal gaming revenue to state agencies in the 2017-19 biennium. [Allocations to individual agencies may be addressed in conjunction with the budgets of the affected agencies.]

2. The estimate of tribal payments to the state under the bill in 2017-18 (\$52,983,100 and \$52,789,700 in 2018-19) is based on assumed growth rates that approximate recent trends in net win-based tribal gaming payments to the state. Vendor certification revenue is estimated based on an average of actual revenue and reversions from 2013-14 to 2015-16.

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

**TABLE 2**

**Tribal Class III Net Gaming Revenue - 2006-2015 (In Millions)**

<u>Year</u>	<u>Net Revenue</u>	<u>Percent Change</u>
2006	\$1,207.20	4.90%
2007	1,224.00	1.40
2008	1,224.20	0.00
2009	1,188.00	-3.00
2010	1,146.30	-3.50
2011	1,157.50	1.00
2012	1,177.70	1.70
2013	1,151.60	-2.20
2014	1,133.70	-1.55
2015	1,194.30	5.35

4. Although net revenue declined in 2009 and 2010, overall casino revenues increased in 2011 and 2012, before decreasing again in 2013 and 2014, and then increasing in 2015. This office performed an independent analysis of casino net win for the 2015-17 biennium and arrived at revenue estimates similar to the administration's estimates. The analysis included a reestimate of state payments by the tribes based on a projection of net revenue, using actual figures from 2013 through 2016.

5. The tribal gaming general fund revenue typically includes unobligated funds reversions for the amounts appropriated but not fully used by various agencies over the biennium. By statute, unexpended funding in most tribal gaming appropriations revert to DOA's Indian gaming receipts appropriation. The bill does not include an estimate of unobligated funds reversions. Based on reversions from the last five fiscal years, estimated tribal gaming general fund revenue should be increased by \$400,000 annually. This change is reflected in the following tribal gaming general fund revenue table, which adds the unobligated funds reversions of \$400,000 annually, reestimates the total revenue at \$53,873,700 in 2017-18 and \$53,680,300 in 2018-19, and reestimates the tribal gaming general fund revenue at \$26,320,700 in 2017-18 and \$26,111,600 in 2018-19.

6. In relation to expenditures, allocations to state agencies are updated to reflect the

Governor's recommended allocations under the bill. Additionally, program reserves are accounted for as expenditures that may be incurred. Program reserves represent the potential supplemental funding needs for staff of all tribal PR-funded appropriations, totaling \$47,000 in 2017-18 and \$98,100 in 2018-19. The sum of the above changes results in net tribal revenue of \$26,173,700 in 2017-18 and \$25,913,500 in 2018-19, as shown in Table 3 below. These amounts would be deposited into the general fund.

**TABLE 3**

**2017-19 Tribal Gaming General Fund Revenue, Reestimated**

	<u>2017-18</u>	<u>2018-19</u>
Estimated Tribal Payments	\$52,983,100	\$52,789,700
Regulatory Payments	350,000	350,000
Vendor Certification Revenue	140,600	140,600
Unobligated Funds Reversions	<u>400,000</u>	<u>400,000</u>
Total Revenue	\$53,873,700	\$53,680,300
Program Allocations to State Agencies	\$27,553,000	\$27,568,700
Program Reserves	<u>47,000</u>	<u>98,100</u>
Tribal Gaming General Fund Revenue	\$26,173,700	\$25,913,500

The reestimate shown in the "modification" at the conclusion of this paper indicates the amount of tribal gaming revenues deposited into the general fund for 2017-19 will be \$654,900 above the estimates reflected in the budget bill.

On March 6, 2017, the Stockbridge Munsee tribe indicated "that it has notified the State of Wisconsin of its intent to withhold its revenue sharing payment of \$923,000" for 2016-17 in a dispute over the expansion of the Ho-Chunk's Wittenburg facility (scheduled for completion in December, 2017). On April 19, 2017, the Stockbridge Munsee tribe filed suit against the state and the Ho-Chunk Nation alleging that: (a) the state is in violation of the Stockbridge Munsee compact revenue sharing provisions; (b) Ho-Chunk is in violation of its own compact for operating a gaming facility on lands not eligible for Indian gaming under federal law; and (c) the Wittenburg expansion does not meet the meaning of an "ancillary" facility. Given that DOA will not bill the tribe for payment until June, 2017, and that legal matters are pending, no assumption regarding a fiscal impact is made at this time. To the extent that a payment has not been received or is not made, revenue would be reduced pending the outcome of the lawsuit. Subsequent to settlement, payment may be received.

**Tribal Gaming Appropriations**

7. Under the bill, the Governor recommends the appropriation of tribal gaming revenue to 20 state agencies, in 46 program areas, including the DOA regulation and DOJ enforcement appropriations. Each of these program areas is listed and briefly described in the following table.

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

8. Of these allocations, all except the wellness center [item #44] are to appropriation accounts authorized under current law. Of the remaining 45 program allocations, 28 are identical amounts to those provided in the 2015-17 biennium. Of the 17 allocations that changed, 11 were affected by standard budget adjustments and/or adjustments to the base only [identified in the attached table as items #19, #20, #24, #25, #27 thru #30, #38, #41, and #46]. The remaining six are: (a) Administration UW-Green Bay and Oneida Tribe programs assistance grants [item #2, deletion of \$247,500 appropriation in 2017-18 and 2018-19]; (b) Children and Families consolidation of Indian juvenile placements appropriation into high cost out of home placements [items #4 and #5, transfer of \$75,000 in item #5 to item #4 and increase funding to item #4 by \$247,500 annually]; (c) elderly transportation [item #36, an increase of \$148,500 annually for increased transportation services to tribal elders on and off tribal reservations]; (d) tribal youth wellness center [item #44, create a non-statutory provision that provides \$100,000 tribal gaming revenue in each year of the biennium for a feasibility study and business plan for the potential creation of a youth wellness center]; and (e) general program operations for Indian gaming regulation under the compacts [item #45, a reduction of -\$35,800 in 2017-18 and -\$17,900 in 2018-19 due to reductions in materials and services]

## MODIFICATION

Based on the reestimates discussed above, increase the GPR-Tribal amounts (revenue to the general fund) under the bill by \$353,000 in 2017-18 and \$301,900 in 2018-19.

	<b>Revenue Change to Base                      Bill</b>	
GPR-Tribal	\$654,900	\$654,900

Prepared by: Sarah Wynn  
Attachment



## ATTACHMENT

### 2017-19 Tribal Gaming Revenue Appropriations Governor

	<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
		<u>2017-18</u>	<u>2018-19</u>	
1	Administration	\$563,200	\$563,200	County management assistance grant program.
2	Administration	0	0	UW-Green Bay and Oneida Tribe programs assistance grants.
3	Administration	79,500	79,500	Tribal governmental services and technical assistance.
4	Children and Families	717,500	717,500	Indian child high-cost out-of-home care placements.
5	Children and Families	0	0	Indian juvenile out-of-home care placements.
6	Corrections	50,000	50,000	American Indian tribal community reintegration program.
7	Health Services	712,800	712,800	Health services: tribal medical relief block grants.
8	Health Services	106,900	106,900	American Indian health projects.
9	Health Services	242,000	242,000	Indian aids for social and mental hygiene services.
10	Health Services	445,500	445,500	Indian substance abuse prevention education.
11	Health Services	250,000	250,000	Reimbursements for high-cost mental health placements by tribal courts.
12	Health Services	133,600	133,600	Minority health program and public information campaign grants.
13	Health Services	961,700	961,700	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
14	Health Services	445,500	445,500	Elderly nutrition; home-delivered and congregate meals.
15	Health Services	22,500	22,500	American Indian diabetes and control.
16	Higher Educational Aids Board	405,000	405,000	Tribal College Payments.
17	Higher Educational Aids Board	779,700	779,700	Indian student assistance grant program for American Indian undergraduate or graduate students.
18	Higher Educational Aids Board	454,200	454,200	Wisconsin Grant program for tribal college students.
19	Historical Society	201,100	201,100	Collection preservation storage facility.
20	Historical Society	217,100	217,100	Northern Great Lakes Center operations funding.
21	Justice	695,000	695,000	Tribal law enforcement grant program.
22	Justice	490,000	490,000	County law enforcement grant program.
23	Justice	631,200	631,200	County-tribal law enforcement programs: local assistance.
24	Justice	95,500	95,600	County-tribal law enforcement programs: state operations.
25	Kickapoo Valley Reserve Management Board	69,400	69,400	Law enforcement services at the Kickapoo Valley Reserve.
26	Natural Resources	84,500	84,500	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
27	Natural Resources	156,800	156,800	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
28	Natural Resources	96,400	96,400	Management of an elk reintroduction program.

	<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
		<u>2017-18</u>	<u>2018-19</u>	
29	Natural Resources	\$77,100	\$77,100	Reintroduction of whooping cranes.
30	Natural Resources	1,122,100	1,122,100	State snowmobile enforcement program, safety training and fatality reporting.
31	Natural Resources	3,000,000	3,000,000	Transfer to the fish and wildlife account of the conservation fund.
32	Public Instruction	222,800	222,800	Tribal language revitalization grants.
33	Tourism	24,900	24,900	State aid for the arts.
34	Tourism	8,967,100	8,967,100	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.
35	Tourism	160,000	160,000	Grants to local organizations and governments to operate regional tourist information centers.
36	Transportation	396,000	396,000	Tribal elderly transportation grants.
37	University of Wisconsin System	417,500	417,500	Ashland full-scale aquaculture demonstration facility operational costs.
38	University of Wisconsin System (Building Commission)	271,900	265,800	Ashland full-scale aquaculture demonstration facility debt service payments.
39	University of Wisconsin System	488,700	488,700	Physician and health care provider loan assistance.
40	Veterans Affairs	61,200	61,200	Grants to assist American Indians in obtaining federal and state veterans benefits and to reimburse veterans for the cost of tuition at tribal colleges.
41	Veterans Affairs	87,800	87,800	American Indian services veterans benefits coordinator position.
42	Wisconsin Technical College System	594,000	594,000	Grants for work-based learning programs.
43	Workforce Development	314,900	314,900	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
44	Administration	<u>100,000</u>	<u>100,000</u>	Tribal youth treatment wellness center study.
	Subtotal (Non-Regulatory Items)	\$25,412,600	\$25,406,600	
45	Administration	\$1,974,800	\$1,996,300	General program operations for Indian gaming regulation under the compacts.
46	Justice	<u>165,600</u>	<u>165,800</u>	Investigative services for Indian gaming law enforcement.
	Subtotal (Regulation/Enforcement)	\$2,140,400	\$2,162,100	
	Total Appropriations	\$27,553,000	\$27,568,700	