



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #125

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

[LFB 2019-21 Budget Summary: Page 32, #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 (\$1,996,300 PR in 2018-19); (b) a Department of Justice (DOJ) Indian gaming law enforcement appropriation (\$165,800 PR in 2018-19); and (c) an amount necessary to make all of the transfers specified under the DOA Indian gaming receipts appropriation to other state programs (\$25,334,200 PR in 2018-19). Tribal gaming receipts remaining after these allocations are made are credited to the general fund.

#### **GOVERNOR**

Appropriate \$29,151,300 in 2019-20 and \$29,072,300 in 2020-21 in tribal gaming revenue paid to the state under the tribal gaming compacts. The appropriations include: (a) allocations totaling \$26,943,100 in 2019-20 and \$26,839,600 in 2020-21 to various state agencies for programs unrelated to tribal gaming regulation or law enforcement; and (b) appropriations for the regulation of tribal gaming in DOA [\$2,016,200 in 2019-20 and \$2,040,700 in 2020-21], and tribal gaming law enforcement in the Department of Justice (DOJ) [\$192,000 annually]. In addition,

program revenues are reserved for potential supplemental funding needs for staff of all tribal PR-funded appropriations [\$38,100 in 2019-20 and \$83,300 in 2020-21].

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**

**2019-21 Tribal Gaming General Fund Revenue**

	<u>2019-20</u>	<u>2020-21</u>
Estimated Tribal Payments	\$55,943,600	\$56,380,000
Regulatory Payments	350,000	350,000
Vendor Certification Revenue	140,600	140,600
Unobligated Funds Reversions	<u>200,000</u>	<u>600,000</u>
Total Revenue	\$56,634,200	\$57,470,600
Program Allocations to State Agencies	\$29,151,300	\$29,072,300
Program Reserves	38,100	83,300
Tribal Gaming General Fund Revenue	\$27,444,800	\$28,315,000

**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 2019-20 and 2020-21 under the bill. It also provides a brief overview of the appropriations of tribal gaming revenue to state agencies in the 2019-21 biennium. [Allocations to individual agencies may be addressed in conjunction with the budgets of the affected agencies.]

2. Until 2009, 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 state fiscal years is shown in Table 2. The decline in revenue from 2009 to 2012 reflects the national economic downturn. Overall casino revenues increased in 2013, decreased in 2014 and 2015, and then increased in 2016, 2017, and 2018.

**TABLE 2**

**Tribal Class III Net Gaming Revenue - 2009-2018 (In Millions)**

<u>Fiscal Year</u>	<u>Net Revenue</u>	<u>Percent Change</u>
2009	\$1,215.9	
2010	1,215.1	-0.1%
2011	1,188.7	-2.2
2012	1,178.8	-0.8
2013	1,188.9	0.9
2014	1,159.4	-2.5
2015	1,153.5	-0.5
2016	1,194.4	3.5
2017	1,226.0	2.6
2018	1,242.9	1.4

3. The estimate of tribal payments to the state under the bill (\$55,943,600 in 2019-20 and \$56,380,000 in 2020-21) is based on assumed growth rates that approximate recent trends in net win-based tribal gaming payments to the state.

4. The revenue projections under the bill have been recalculated based upon recent data, a revision of assumed growth rates, and an evaluation of casino net win. This analysis projects that revenues will be lower than the administration's estimates by \$2,552,800 in 2019-20 and \$2,769,200 in 2020-21. In addition, as noted in the following section regarding tribal gaming appropriations, a May 1, 2019, errata from the administration reduced costs associated with DOA regulation. These changes are reflected in Table 3, which reestimates the total revenue at \$54,081,400 in 2019-20 and \$54,701,400 in 2020-21, and reestimates the tribal gaming general fund revenue at \$24,945,800 in 2019-20 and \$25,599,600 in 2020-21.

**TABLE 3**

**2019-21 Tribal Gaming General Fund Revenue, Reestimated**

	<u>2019-20</u>	<u>2020-21</u>
Estimated Tribal Payments	\$53,390,800	\$53,610,800
Regulatory Payments	350,000	350,000
Vendor Certification Revenue	140,600	140,600
Unobligated Funds Reversions	<u>200,000</u>	<u>600,000</u>
Total Revenue	\$54,081,400	\$54,701,400
Program Allocations to State Agencies	\$29,097,500	\$29,018,500
Program Reserves	38,100	83,300
Tribal Gaming General Fund Revenue	\$24,945,800	\$25,599,600

5. The reestimate shown at the conclusion of this paper indicates the amount of tribal gaming revenues deposited into the general fund for 2019-21 will be \$5,322,000 below the estimates reflected in the budget bill.

6. 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. As of April, 2019, the Stockbridge-Munsee have withheld two payments to the state. Given that DOA will not bill the tribe for payment until June, 2019, 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 16 state agencies in 47 program areas, including the DOA regulation and DOJ enforcement appropriations. In the errata letter, the administration indicated that the DOA PR appropriation for regulation should have been reduced by \$53,800 and 1.0 position annually. Each of the program areas is listed and briefly described in the attachment. 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.

Of these allocations, all except the youth treatment facility [item #1] and program operations for the tribal language revitalization grant program [item #34] are to appropriation accounts

authorized under current law. Of the 47 program allocations, 28 are identical amounts to those provided in the 2017-19 biennium. Of the 19 allocations that changed, eight were affected by standard budget adjustments and/or adjustments to the base only [identified in the table below as items #20, #25, #28, #29, #31, #40, #42, and #47]. The remaining ten are: tribal youth treatment wellness center [item #1, create an appropriation and provide \$640,000 in 2019-20 to fund architectural plans for the center]; UW-Green Bay and Oneida Tribe programs assistance grants [item #3, increase of \$247,500 annually for First Nations education programming]; tribal family service grants [item #5, transfer the appropriation from GPR to GPR-Tribal and provide an increase of \$1,718,600 GPR-Tribal in 2019-20 and \$1,867,500 GPR-Tribal in 2020-21]; minority health program and public information campaign grants [item #16, transfer the appropriation from GPR-Tribal to GPR]; Wisconsin grant program for tribal college students [item #18, increase of \$24,100 in 2019-20 and \$25,300 in 2020-21]; state snowmobile enforcement program for snowmobile safety training and fatality reporting [item #32, transfer the appropriation from GPR-Tribal to GPR]; tribal language revitalization grants [item #34, an increase of \$100,000 in 2020-21 for program operations]; general tourism marketing [item #35, an increase of \$100,000 annually for marketing]; and tribal elderly transportation [item #38, an increase of \$39,600 annually for increased transportation services to tribal elders on and off tribal reservations]; and general program operations for gaming administration [item #46, a decrease of \$53,800 and 1.0 position annually].

**MODIFICATION**

Based on the reestimates discussed above, decrease the GPR-Tribal amounts (revenue to the general fund) under the bill by \$2,499,000 in 2019-20 and \$2,715,400 in 2020-21.

	<b>Revenue Change to</b>	
	<b>Base</b>	<b>Bill</b>
GPR-Tribal	- \$5,214,200	- \$5,214,200

Prepared by: Angela Miller  
Attachment



## ATTACHMENT

### 2019-21 Tribal Gaming Revenue Appropriations Governor

	<u>Agency</u>	<u>2019-20</u>	<u>2020-21</u>	<u>Purpose</u>
1	Administration	\$640,000	\$0	Youth treatment wellness center.
2	Administration	563,200	563,200	County management assistance grant program.
3	Administration	247,500	247,500	UW-Green Bay and Oneida Tribe programs assistance grants.
4	Administration	79,500	79,500	Tribal governmental services and technical assistance.
5	Children and Families	1,718,600	1,867,500	Tribal family services grants.
6	Children and Families	717,500	717,500	Indian child high-cost out-of-home care placements.
7	Corrections	50,000	50,000	American Indian tribal community reintegration program.
8	Health Services	961,700	961,700	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
9	Health Services	712,800	712,800	Health services: tribal medical relief block grants.
10	Health Services	445,500	445,500	Indian substance abuse prevention education.
11	Health Services	445,500	445,500	Elderly nutrition; home-delivered and congregate meals.
12	Health Services	250,000	250,000	Reimbursements for high-cost mental health placements by tribal courts.
13	Health Services	242,000	242,000	Indian aids for social and mental hygiene services.
14	Health Services	106,900	106,900	American Indian health projects.
15	Health Services	22,500	22,500	American Indian diabetes and control.
16	Health Services	0	0	Minority health program and public information campaign grants.
17	Higher Education Aids Bd.	779,700	779,700	Indian student assistance grant program for American Indian undergraduate or graduate students.
18	Higher Education Aids Bd.	505,900	531,200	Wisconsin Grant Program for tribal college students
19	Higher Education Aids Bd.	405,000	405,000	Tribal College Payments
20	Historical Society	246,300	246,300	Northern Great Lakes Center operations funding.
21	Historical Society	201,100	201,100	Collection preservation storage facility.
22	Justice	695,000	695,000	Tribal law enforcement grant program.
23	Justice	631,200	631,200	County-tribal law enforcement programs: local assistance.
24	Justice	490,000	490,000	County law enforcement grant program.
25	Justice	115,400	115,400	County-tribal law enforcement programs: state operations.
26	Kickapoo Valley Reserve Bd.	69,400	69,400	Law enforcement services at the Kickapoo Valley Reserve.
27	Natural Resources	3,000,000	3,000,000	Transfer to the fish and wildlife account of the conservation fund.
28	Natural Resources	165,900	165,900	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
29	Natural Resources	125,700	125,700	Management of an elk reintroduction program.
30	Natural Resources	84,500	84,500	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
31	Natural Resources	80,700	80,700	Reintroduction of whooping cranes.
32	Natural Resources	0	0	State snowmobile enforcement program, safety training and fatality reporting.
33	Public Instruction	222,800	485,000	Tribal language revitalization grants.
34	Public Instruction		100,000	Tribal language revitalization grants, program operations.
35	Tourism	9,067,100	9,067,100	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.

<u>Agency</u>	<u>2019-20</u>	<u>2020-21</u>	<u>Purpose</u>
36 Tourism	\$160,000	\$160,000	Grants to local organizations and governments to operate regional tourist information centers.
37 Tourism	24,900	24,900	State aid for the arts.
38 Transportation	435,600	435,600	Elderly transportation grants.
39 UW System	417,500	417,500	Ashland full-scale aquaculture demonstration facility operational costs.
40 UW System	256,100	256,200	Ashland full-scale aquaculture demonstration facility debt service payments.
41 UW-Madison	488,700	488,700	Physician and health care provider loan assistance.
42 Veterans Affairs	101,300	101,300	American Indian services veterans benefits coordinator position.
43 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.
44 WTCS Board	594,000	594,000	Grants for work-based learning programs.
45 Workforce Development	314,900	314,900	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
Subtotal (Non-Regulatory Items)	<u>\$26,943,100</u>	<u>\$26,839,600</u>	
46 Administration	\$1,962,400	\$1,986,900	General program operations for Indian gaming regulation under the compacts.
47 Justice	<u>\$192,000</u>	<u>\$192,000</u>	Investigative services for Indian gaming law enforcement.
Subtotal (Regulation/Enforcement)	\$2,154,400	\$2,178,900	
Total Appropriations	\$29,097,500	\$29,018,500	