



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #146

Native American Assistance Grants (Administration -- Division of Gaming)

[LFB 2021-23 Budget Summary: Page 51, #2]

CURRENT LAW

There are 11 federally-recognized tribal governments in Wisconsin: Bad River Band of Lake Superior Tribe of Chippewa Indians, Forest County Potawatomi Community, Ho-Chunk Nation, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Lac du Flambeau Band of Lake Superior Chippewa Indians, Menominee Indian Tribe of Wisconsin, Stockbridge-Munsee Band of Mohican Indians, Oneida Tribe of Indians of Wisconsin, Red Cliff Band of Lake Superior Chippewa Indians, St. Croix Chippewa Community, and Sokaogon Chippewa Community.

All 11 tribes and bands operate casino facilities, as authorized under state-tribal gaming compacts. Under the compacts, tribes are scheduled to make payments to the state based on a percentage of net gaming revenue (gross revenue minus winnings). Gaming payments fund programs in various state agencies and provide revenue to the general fund. Under state-tribal agreements, the Governor must attempt to ensure that gaming revenues are used for programs that benefit tribal communities.

DISCUSSION POINTS

1. 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 for programs that generally benefit tribal communities and promote tourism. Remaining revenues are deposited in the general fund. Under the compacts, payments to the state may be reduced in the event of a disaster that affects gaming operations. In 2019-20, payments were postponed because of casino closures during the COVID-19 pandemic. Tribes are scheduled to submit the postponed 2019-20 payment in three installments (in 2021-22, 2022-23, and 2023-24). The administration estimates that revenues, including postponed payments, will total \$55.7 million in 2021-22 and \$61.5 million in 2022-23.

2. Assembly Bill 68/Senate Bill 111 would provide \$11.0 million PR in 2022-23, funded by tribal gaming revenues, to award grants of equal amounts to the 11 federally-recognized tribes and bands in the state to meet the needs of members. Tribal governments would have discretion to allocate funds in accordance with local needs, such as to support child welfare or foster COVID-19 economic recovery. However, grant funds could not be used to pay gaming-related expenses.

3. According to the U.S. Census Bureau, the average median income for tribal areas in Wisconsin is \$44,500, with 22.6% of residents living in poverty. Comparatively, the median household income for all residents of Wisconsin is \$61,700, with 10.4% of residents living in poverty.

4. Nine of the 11 state-tribal compacts include an ancillary memorandum of understanding (MOU) relating to government-to-government matters, including the intended use of tribal gaming payments to the state. In general, the MOUs 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.

5. According to DOA, the majority of support that tribes receive from the state and federal governments are tied to specific programs, leaving limited discretionary funds to address other challenges and sustain long-term projects. Tribal governments have expressed that it would be helpful to receive some of the tribal gaming revenue back to be used for discretionary purposes.

6. Tribal gaming payments to the state have generally increased since the compacts were last amended, but revenues utilized to assist tribal communities have not increased substantially. In 2004-05, tribal payments to the state totaled \$26.7 million, of which \$22.9 million (85%) was provided to state agency programs. In 2018-19, tribal payments to the state totaled \$54.5 million, of which \$27.5 million (51%) was provided to state agency programs.

7. Given tribal communities' economic hardship, state-tribal agreements directing the state to use gaming revenues for tribal assistance, and the historical lack of an increase in such assistance, the Committee could provide \$11.0 million from tribal gaming revenues to be divided equally among the tribes in 2022-23. It appears there will be sufficient gaming revenue to support the increase. [Alternative 1]

8. On the other hand, the Committee could decide to provide additional support for tribal communities, but at a lower funding amount. The Committee could allocate \$5.5 million from gaming revenues in 2022-23 for tribal assistance, sufficient for grants of \$500,000 to each tribal government. [Alternative 2]

9. The federal American Rescue Plan Act of 2021 (ARPA) provides one-time funding of \$20 billion to tribal governments nationwide. Funds may be used to respond to the COVID-19 emergency and address the pandemic's economic effects, including through aid to industries such as tourism and hospitality. The U.S. Department of the Treasury must allocate \$1.0 billion equally among tribal governments (approximately \$1.7 million for each of the 574 federally-recognized tribes), and has discretion to allocate the remaining \$19.0 billion. Funds will be available through

December 31, 2024. While it is not yet known how much tribal governments in Wisconsin will receive under ARPA, it is possible that these funds could be used to meet various local needs in a manner similar to the proposed Native American assistance grants. Note further that the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provided \$15.3 million in direct assistance to federally-recognized tribes in Wisconsin in 2020. In addition, from the state's CARES Act allocation, the Governor provided \$11 million in tribal government aid grants (\$1.0 million per tribe). Given federal funding provided for tribes under the CARES Act and ARPA, the Committee could take no action. [Alternative 3]

ALTERNATIVES

1. Provide \$11,000,000 in 2022-23, funded by tribal gaming revenues, to award grants of equal amounts to the 11 federally-recognized tribes and bands in the state to meet the needs of members. Specify that grant funds may not be used to pay gaming-related expenses.

ALT 1	Change to Base
PR	\$11,000,000
GPR-REV	-\$11,000,000

2. Provide \$5,500,000 in 2022-23, funded by tribal gaming revenues, to award grants of equal amounts to the 11 federally-recognized tribes and bands in the state to meet the needs of members. Specify that grant funds may not be used to pay gaming-related expenses.

ALT 2	Change to Base
PR	\$5,500,000
GPR-REV	-\$5,500,000

3. Take no action.

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