



Legislative Fiscal Bureau

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

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

