



Legislative Fiscal Bureau

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June 8, 2023

Joint Committee on Finance

Paper #167

Gaming Investigations and Outreach (Administration -- Division of Gaming)

[LFB 2023-25 Budget Summary: Page 55, #5]

CURRENT LAW

The Department of Administration (DOA), through the Division of Gaming, regulates activities and promulgates rules relating to charitable gaming (bingo and raffles) and tribal gaming. Employees are subject to background investigations and criminal record restrictions. The Department is authorized to audit gaming operations, investigate suspected violations of gaming law, and report suspected criminal activity to the Department of Justice (DOJ).

The Office of Indian Gaming within the Division of Gaming coordinates the regulatory activities under the compacts relating to tribal gaming. A total of 16.2 PR positions are authorized for the Office of Indian Gaming in 2022-23. Funding for the Office is provided by the general program operations; Indian gaming appropriation, which totals \$2,079,300 PR in 2022-23. Program revenue for the appropriation is derived from: (a) payments from tribes for costs associated with state regulation and state-provided services; (b) fees from tribal gaming vendors and vendor applicants for costs associated with certification and background investigations; and (c) additional revenue from tribes pursuant to the compacts.

The Division of Gaming's Office of Charitable Gaming regulates raffles and bingo and is authorized 5.3 PR positions and \$571,100 PR in 2022-23 from DOA's general program operations; raffles and bingo appropriation.

In addition to DOA's regulatory role, DOJ is authorized to monitor gaming to ensure compliance with the compacts; investigate the activities of tribal officers, employees, contractors, or participants that may affect tribal gaming; and prosecute violations of applicable state law or compact provisions. These responsibilities are assigned to the Special Operations Bureau within DOJ's Division of Criminal Investigation, which provides law enforcement oversight of gaming in Wisconsin. The Department is allocated 1.25 PR positions and \$200,300 PR in 2022-23 for the

regulation and enforcement of tribal gaming in the state from the gaming law enforcement; Indian gaming appropriation. Additionally, the Special Operations Bureau is allocated \$457,200 SEG and 2.75 SEG positions in 2022-23 from the gaming law enforcement; lottery revenues appropriation for non-tribal gaming investigations (primarily relating to the state lottery).

In 2018, the U.S. Supreme Court overturned the Professional and Amateur Sports Protection Act, a 1992 law that prohibited state authorization of sports gambling. The Supreme Court ruled that the law violated the 10th Amendment's anti-commandeering principle by overextending federal control over state legislatures. The Court's decision (in *Murphy v. National Collegiate Athletic Association*) allows each state to act on its own with regard to the regulation and legalization of sports betting. As a result of this decision, several tribes have amended their compacts to allow event wagering, which includes sports betting.

DISCUSSION POINTS

1. The Department indicates that revenues, particularly from bingo, have been inconsistent in recent years, which has made it difficult for the Division of Gaming to ensure that its duties are sufficiently funded. The bingo program has been in overdraft status since 2018-19 due to expenditures exceeding revenues for the program. From 2018-19 to 2020-21, the bingo operations appropriation overdraft increased from -\$32,500 to -\$228,900. Under 2021 Act 58 (the 2021-23 biennial budget act), the appropriation for bingo was combined with the appropriation for raffle operations, and the combined appropriation ended with an overdraft of -\$278,300 in 2021-22 (supported, in part, by the positive position of the raffle program, \$10,500). Due to limited funding and position authority, regulatory activities for charitable gaming (raffles and bingo) have been increasingly restricted to ensure that statutorily-mandated licensing activities can continue. Table 1 shows program revenues for the raffles and bingo programs from 2017-18 to 2021-22.

TABLE 1

**Raffles and Bingo Program Revenue,
2017-18 to 2021-22**

Fiscal Year	Revenue		
	Raffles	Bingo	Total
2017-18	\$294,200	\$312,100	\$606,300
2018-19	305,600	271,800	577,400
2019-20	291,800	268,600	560,400
2020-21	275,600	89,900	365,500
2021-22	294,200	179,800	474,000

2. Assembly Bill 43/Senate Bill 70, would create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$185,900 GPR in 2023-24, \$207,000 GPR in 2024-25, and 2.05 GPR positions to the appropriation annually. Under the bill, funding and position authority would be reduced for the

general program operations; Indian gaming appropriation by \$27,000 PR and 0.25 PR position annually. Additionally, funding and position authority for the general program operations; raffles and bingo appropriation would be reduced by \$83,300 PR and 0.80 PR position annually. As a result, a total of 1.05 positions would be reallocated to the GPR gaming investigation services, and an additional 1.0 position would be created for the appropriation. Table 2 shows the funding components and the net GPR funding increase that would occur under the bill.

TABLE 2
Components of Funding for Gaming Investigations and Outreach under AB 43/SB 70

<u>Appropriation</u>	2023-24					
	<u>Fund Source</u>	<u>Positions</u>	<u>Salaries</u>	<u>Fringe Benefits</u>	<u>Supplies and Services</u>	<u>Total</u>
Gaming investigation services*	GPR	2.05	\$117,100	\$44,100	\$24,700	\$185,900
General program operations; Indian gaming	PR	-0.25	-17,400	-6,800	-2,800	-27,000
General program operations; raffles and bingo	PR	<u>-0.80</u>	<u>-53,500</u>	<u>-19,200</u>	<u>-10,600</u>	<u>-83,300</u>
Net Funding Increase, All Funds		1.00	\$46,200	\$18,100	\$11,300	\$75,600

<u>Appropriation</u>	2024-25					
	<u>Fund Source</u>	<u>Positions</u>	<u>Salaries</u>	<u>Fringe Benefits</u>	<u>Supplies and Services</u>	<u>Total</u>
Gaming investigation services*	GPR	2.05	\$132,500	\$50,100	\$24,400	\$207,000
General program operations; Indian gaming	PR	-0.25	-17,400	-6,800	-2,800	-27,000
General program operations; raffles and bingo	PR	<u>-0.80</u>	<u>-53,500</u>	<u>-19,200</u>	<u>-10,600</u>	<u>-83,300</u>
Net Funding Increase, All Funds		1.00	\$61,600	\$24,100	\$11,000	\$96,700

*Appropriation created under AB 43/SB 70.

3. The Department indicates that, while it has been able to operate using existing expenditure authority, the creation of a dedicated GPR appropriation for gaming investigation services would ensure that the Division's required duties, as well as expanded investigative and auditing functions aimed at preventing illegal gaming, are performed regardless of the program revenue funding available (particularly in the case of revenue for raffles and bingo operations).

4. Under AB 43/SB 70, the appropriation would fund and expand investigative and outreach services for gaming, including: investigating public and industry complaints relating to legal and illegal gambling; developing and maintaining relationships with federal, state, tribal, and local law enforcement agencies; preparing cases for referral to law enforcement and district attorneys; providing outreach and education to governmental entities and the public; and conducting audits to ensure compliance with regulations. Specifically, the additional 1.0 GPR position would be a classified auditor primarily responsible for: (a) investigating public and industry complaints; (b) preparing cases for referral to law enforcement; and (c) conducting outreach to the public, charitable license holders, and law enforcement agencies on gaming related topics.

5. According to DOA, creating a new GPR appropriation and providing increased

resources would allow the Division of Gaming to maintain its current investigative and outreach duties, as well as expand service activities to include additional investigative, education, and auditing activities for all types of gaming (including tribal gaming, raffles, and bingo). For example, recent changes to state-tribal compacts allowing wagering on sports and providing a state revenue share puts the state and tribes in competition with illegal sports betting operators. In order for the Division to provide enforcement for such cases, it would require additional investigative resources.

6. Given that recent gaming program revenue amounts for raffles and bingo operations have fluctuated and an increase in resources for the Division would allow an expansion of services, the Committee could create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$185,900 GPR in 2023-24, \$207,000 GPR in 2024-25, and 2.05 GPR positions to the appropriation annually. Additionally, the Committee could reduce funding and position authority for the general program operations; Indian gaming appropriation by \$27,000 PR and 0.25 PR position annually, and for the general program operations; raffles and bingo appropriation by \$83,300 PR and 0.80 PR position annually. [Alternative 1] Taking this action would better ensure that statutory functions of the Division of Gaming are being performed regardless of the program revenue amounts collected within the Division of Gaming, while also expanding activities to include investigation of unlawful event wagering, raffles, and bingo operations that compete with Wisconsin's legal gaming operations.

7. Alternatively, the Committee could create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$75,600 GPR in 2023-24, \$96,700 GPR in 2024-25, and 1.0 GPR position to the appropriation annually. [Alternative 2] The GPR amount under this alternative reflects the increase in funding allocated to investigative and outreach services under AB 43/SB 70. This option would allow Division activities to expand to include investigation of unlawful gaming operations. With the exception of the newly-created GPR auditor position, gaming and investigations positions would remain funded by gaming PR.

8. Instead of adding a GPR-funded position, the Committee could consider providing additional tribal gaming revenue to support an auditor position to investigate and audit illegal sports gaming operations. The Committee could provide \$75,600 PR in 2023-24, \$96,700 PR in 2024-25, and 1.0 PR position to the general program operations; Indian gaming appropriation. [Alternative 3] Under this alternative, investigative and auditing services would only be expanded for tribal gaming-related issues (not including unlawful raffle and bingo operations). In addition, providing tribal gaming PR under this alternative would have the effect of either reducing the amount of net revenue available to deposit to the general fund or, if no general fund deposit would be made, increasing the magnitude of the tribal gaming receipts appropriation overdraft.

9. The Committee could take no action. [Alternative 4] Gaming enforcement and regulation would continue to be provided as specified under current law.

ALTERNATIVES

1. Create an annual GPR gaming investigation services appropriation for investigative and

outreach services for charitable and tribal gaming and provide \$185,900 GPR in 2023-24, \$207,000 GPR in 2024-25, and 2.05 GPR positions to the appropriation annually. Reduce funding and position authority for the general program operations; Indian gaming appropriation by \$27,000 PR and 0.25 PR position annually, and for the general program operations; raffles and bingo appropriation by \$83,300 PR and 0.80 PR position annually.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$392,900	2.05
PR	<u>- 220,600</u>	<u>- 1.05</u>
Total	\$172,300	1.00

2. Create an annual GPR gaming investigation services appropriation for investigative and outreach services for charitable and tribal gaming and provide \$75,600 GPR in 2023-24, \$96,700 GPR in 2024-25, and 1.0 GPR auditor position to the appropriation annually.

ALT 2	Change to Base	
	Funding	Positions
GPR	\$172,300	1.00

3. Provide \$75,600 PR in 2023-24, \$96,700 PR in 2024-25, and 1.0 PR to the general program operations; Indian gaming appropriation. [Alternative 3]

ALT 3	Change to Base	
	Funding	Positions
PR	\$172,300	1.00
GPR-Tribal	-\$172,300	

4. Take no action.

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