



Legislative Fiscal Bureau

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December 5, 2023

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Administration: Section 13.10 Request for Tribal Grants -- Agenda Item IV

REQUEST

On November 20, 2023, the Department of Administration submitted a request for transfer of \$2,000,000 in 2023-24 from the Joint Committee on Finance's program revenue (PR) supplemental appropriation to the Department of Administration (DOA) appropriation for tribal grants. The source of revenue for the appropriation is tribal gaming revenues. Under the request, \$1,000,000 each would be distributed to the Bad River Band of the Lake Superior Chippewa and the Lac du Flambeau Band of Lake Superior Chippewa Indians.

BACKGROUND

Under 2023 Act 19 (the 2023-25 budget act), \$11,000,000 PR in tribal gaming revenues was reserved in the Finance Committee's supplemental appropriation [s. 20.865(4)(g)] for tribal grants in 2023-24. The act created an annual PR appropriation under DOA for tribal grants [s. 20.505(1)(ky)], funded \$0 annually, and specified that any unencumbered balance would revert to the tribal gaming receipts appropriation [s. 20.505(8)(hm)] at the end of each fiscal year. As passed by the Legislature, the 2023-25 biennial budget bill would have sunset the tribal grants appropriation on July 1, 2025. In Act 19, the sunset date was vetoed by the Governor. Act 19 does not specify the manner in which grant amounts are to be determined.

On October 31, 2023, the Joint Committee on Finance approved the transfer of \$9,000,000 PR from its supplemental appropriation to DOA's annual appropriation for tribal grants. Each tribe in the state received \$1,000,000 except for the Bad River Band of Lake Superior Chippewa and the Lac du Flambeau Band of Lake Superior Chippewa Indians. Table 1 shows how grants were distributed.

TABLE 1

Distribution of Tribal Grants to Date

<u>Tribe or Band</u>	<u>Award</u>
Forest County Potawatomi	\$1,000,000
Ho-Chunk Nation	1,000,000
Lac Courte Oreilles Band of Lake Superior Chippewa	1,000,000
Menominee Indian Tribe of Wisconsin	1,000,000
Oneida Nation	1,000,000
Red Cliff Band of Lake Superior Chippewa	1,000,000
Sokaogon Chippewa Community	1,000,000
St. Croix Chippewa Indians of Wisconsin	1,000,000
Stockbridge-Munsee Community Band of Mohican Indians	<u>1,000,000</u>
Total	\$9,000,000

ANALYSIS

There are 11 federally-recognized tribal governments in Wisconsin, all of which 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. Under 2023 Act 19, it was estimated that tribal gaming revenues would total \$60.2 million in 2023-24. Of that, \$42.1 million is allocated for state agency programs in 2023-24, excluding the remaining \$2,000,000 reserved for tribal grants and \$3,613,000 reserved for potential release to make one-time aid payments to counties affected by the 2022 U.S. 7th Circuit Court of Appeals decision *Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin v. Evers*.

It should be noted that in 2019-20 and 2020-21, tribal payments were postponed because of casino closures during the COVID-19 pandemic. As a result, in 2023-24, Act 19 estimated an opening balance of -\$32,957,600 and a general fund deposit of \$0 from tribal gaming revenues. A number of postponed payments are included in the estimated tribal payments for the 2023-25 biennium. The act estimated that \$8,892,700 of tribal gaming revenue would be deposited to the general fund in 2024-25. However, a general fund deposit of \$19,674,600 was made at the end of 2022-23 as a result of certain tribal payments that were made earlier than anticipated. As a result, the opening balance of the tribal gaming receipts appropriation is \$0 in 2023-24. Based on updated projections reflecting the early payments received by the state in 2022-23, it is estimated that no tribal gaming revenue will be deposited to the general fund in 2023-24 or 2024-25. Table 2 provides updated projections for the 2023-25 biennium.

TABLE 2

Tribal Gaming Receipts Appropriation Condition

	<u>2023-24</u>	<u>2024-25</u>
Opening Balance	\$0	-\$31,034,000
Estimated Tribal Payments	\$16,221,800	\$61,921,400
Regulatory Payments	350,000	350,000
Unobligated Fund Reversions	<u>300,000</u>	<u>699,900</u>
Total Revenue	\$16,871,800	\$62,971,300
Program Allocations to State Agencies	\$42,070,100	\$33,138,400
Program Reserves		
Aid Payments to Taxing Jurisdictions	3,163,000*	0
Tribal Grants	2,000,000	0
Pay Plan Supplements	<u>222,700</u>	<u>237,100</u>
Closing Balance	-\$31,034,000	-\$1,438,200

* Funding for aid payments to taxing jurisdictions affected by the 1854 Treaty of La Pointe.

If the release of PR funding for tribal grants is approved by the Committee to be allocated in the manner specified in the request, the Department would distribute awards equally amongst the Bad River Band of Lake Superior Chippewa and the Lac du Flambeau Band of Lake Superior Chippewa Indians (\$1.0 million each). The Department would specify in grant agreements with each band that grant monies could not be used to pay gaming-related expenses.

If the amounts reserved for tribal grants are transferred to the DOA appropriation in 2023-24 or 2024-25 and not fully expended or encumbered before June 30 of the applicable fiscal year, the funds would revert to DOA's appropriation for tribal gaming receipts [s. 20.505(8)(hm)]. If the Committee decides not to approve the request at this time, the Department could submit a request to the Committee at a future date. Any available funds that are not spent by state agency programs would subsequently be transferred to the state's general fund.

ALTERNATIVES

1. Approve the request to transfer \$2,000,000 PR in 2023-24 from the Joint Committee on Finance's supplemental funding appropriation under s. 20.865(4)(g) to the Department of Administration's appropriation under s. 20.505(1)(ky) for tribal grants, to provide grants of \$1,000,000 each for the Bad River Band of Lake Superior Chippewa and the Lac du Flambeau Band of Lake Superior Chippewa Indians. Specify that grant monies could not be used to pay gaming-related expenses in grant agreements with each tribe or band.

2. Deny the request.

Prepared by: Brianna Murphy