

2018 Michigan Gaming Control Board Indian Gaming

Annual Report to the Citizens of Michigan



Indian Gaming Section Annual Report to the Citizens of Michigan

Calendar Year 2018



Michigan Gaming Control Board
101 East Hillsdale Street
Lansing, MI 48933

Submitted April 15, 2019

Please direct inquiries to
David Hicks - (517) 241-1659

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN GAMING CONTROL BOARD
DETROIT

RICHARD S. KALM
EXECUTIVE DIRECTOR

April 15, 2019

To the Citizens of the Great State of Michigan:

On behalf of the Michigan Gaming Control Board (MGCB), I am pleased to submit to you the Indian Gaming Annual Report for the period of January 1, 2018, through December 31, 2018. This report includes a summary of significant activities and operations for this time period.

From January 1, 2018, through December 31, 2018, the Indian Gaming Section of the Michigan Gaming Control Board continued its oversight efforts of the Tribal-State Class III Gaming Compacts through the conduct of inspections, audits, and observations. In fulfilling our duties and responsibilities, MGCB has continued to receive invaluable assistance from the Michigan Attorney General's Office and the Office of the Governor's Legal Counsel for Native American Affairs.

As always, we strive to increase positive communications with each of the tribes and encourage voluntary tribal compliance with the Compacts on a government-to-government basis.

Sincerely,

/S/

Richard S. Kalm
Executive Director



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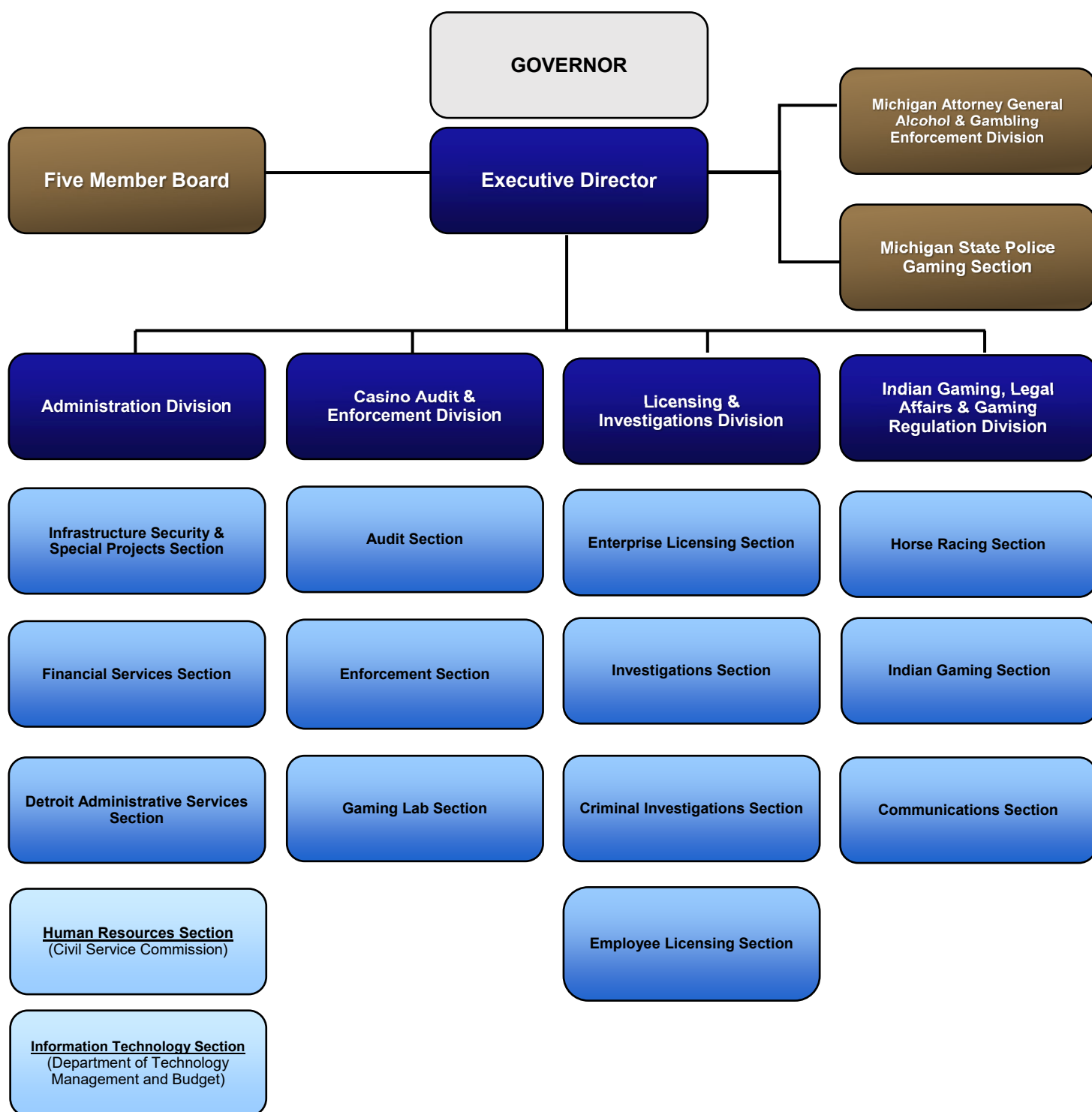
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Michigan Gaming Control Board Organization Chart





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Michigan Indian Gaming Regulatory Framework

The federal government passed the Indian Gaming Regulatory Act of 1988 (IGRA), which authorizes Indian tribes to operate casino gaming on their Indian lands. Lawmakers believed IGRA would create economic development and self-sufficiency on Indian tribal lands, meet tribal requests for authorized casino gaming, and ensure that state governments would be involved in the oversight of Class III gaming operations. Under IGRA, Class III gaming activities are lawful on Indian lands only if such activities are conducted in conformance with a Tribal-State Class III Gaming Compact (Compact). Before a Compact becomes effective, IGRA requires the Office of the Secretary, United States Department of the Interior, approve the Compact and publish its approval in the Federal Register.

The State of Michigan has entered into Compacts with 12 Native American tribes. The 12 Compacts have produced 24 Class III tribal casinos located throughout the State. *(Please see the map of Michigan's Tribal Class III Casinos and table of Michigan Tribal Class III Casino Information on pages 8 and 9 of this report.)*

Federally recognized tribes are individual sovereign nations. Under the Compacts, the regulation of Indian casino gaming is the responsibility of the tribes; therefore, Michigan has no regulatory authority over Class III gaming conducted on Indian lands. Although the State of Michigan does not regulate Indian casino gaming, the State does have oversight authority over compliance with the provisions of the Compacts and related Consent Judgments.

The MGCB Executive Director holds the duty and authority to conduct oversight of Tribal Compacts related to Indian gaming. It is MGCB's responsibility to conduct the inspections of Class III gaming facilities and records, pursuant to and in accordance with the provisions of the Compacts. This oversight authority includes conducting financial and compliance audits and inspections of the tribal casinos' operations to determine the extent of their compliance with the Compacts and related Consent Judgments.

Board members of MGCB have no oversight role or authority over the Compacts.



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Michigan Indian Gaming Year in Review

1993 Tribal-State Compact Renegotiations

The 1993 Tribal-State Compacts were subject to an initial term of 20 years, which ended November 30, 2013. At least one year prior to that date, the State of Michigan provided six tribes with written notice of their right to renegotiate the 1993 Compacts. The State concluded negotiations with the Hannahville Indian Community in March 2017. Discussions between the State and the other five tribes continued throughout 2018.

Odawa Casino Mackinaw

The Little Traverse Bay Bands of Odawa Indians opened the Odawa Casino Mackinaw as a Class II gaming facility in May 2016. In December 2017, the Mackinaw City Village Council reversed its previous decision and authorized the Tribe to conduct Class III gaming at the casino. The Tribe began adding Class III electronic gaming machines to the facility in 2018. Class III gaming conducted at the Odawa Casino Mackinaw is subject to the requirements of the Tribe's 1998 Tribal-State Compact and the oversight authority of MGCB.

Indian Lands Eligible for Class III Gaming

In June 2014, the Sault Ste. Marie Tribe of Chippewa Indians applied to the Department of Interior Bureau of Indian Affairs (BIA) to place into trust land in Lansing and Huron Charter Township. The Tribe noted it intends to conduct gaming activities on the properties and asserted that land-into-trust acquisition is mandatory pursuant to the Michigan Indian Land Claims Settlement Act, Public Law 105-143 (MILCSA). In July 2017, the Department of Interior denied the applications, concluding that the Tribe failed to demonstrate that acquisition of the parcels would meet the conditions necessary to trigger MILCSA's mandatory trust provisions. In August 2018, the Tribe filed a lawsuit against then-Secretary of Interior Ryan Zinke and the Department of Interior, alleging the Department's denial was arbitrary, unlawful, and inconsistent with MILCSA. The Tribe is requesting the court vacate the Department's decision and order the Department to take the parcels into trust.

In November 2010, the Bay Mills Indian Community opened a casino in the village of Vanderbilt on land the Tribe claims to have purchased with funds derived from MILCSA. Following years of litigation, the State and Tribe agreed to proceed with the Tribe's lawsuit against former Governor Rick Snyder, seeking to determine whether the Vanderbilt parcel constitutes Indian lands eligible for gaming. In September 2018, the district court granted the State's motion for summary judgment, ruling that the lands are not subject to restriction on alienation and, therefore, not eligible for gaming. The Tribe has appealed the decision.

The Little River Band of Ottawa Indians submitted an application to the BIA in February 2015 seeking approval for a proposed casino and land development project in Fruitport Township near Muskegon. In late 2018, the BIA published a draft Environmental Impact Statement (EIS) and held a public hearing to collect input on the project. The EIS must be finalized before the land can be taken into trust. In addition, the Tribe must obtain state and federal approval and negotiate a compact amendment before Class III gaming can occur at the site.



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Indian Gaming Section Mission, Personnel, Source of Funding, and Total Expenditures

Located at the MGCB Lansing office, the Indian Gaming Section is comprised of one audit manager, five audit staff, and one student assistant. The section is responsible for conducting audits/inspections of tribal casinos to verify compliance with the Tribal-State Class III Gaming Compacts and related Consent Judgments. The Indian Gaming Section reports to the Deputy Director of the Indian Gaming, Legal Affairs & Gaming Regulation Division of MGCB. *(Please see Michigan Gaming Control Board Organization Chart on page 1).*

The Compacts provide that the tribes shall make annual payments to the State to be applied toward the costs incurred in carrying out functions authorized by their terms. Some tribes, subject to certain exclusivity provisions, are required by the Compacts and related Consent Judgments to remit a percentage of their annual net win, derived from all Class III electronic games of chance, to the Michigan Strategic Fund (MSF) or Michigan Economic Development Corporation (MEDC). The MEDC provides funding to the Indian Gaming Section for oversight related to these payments.

All funds are placed into MGCB's Native American Casino Fund, which recorded expenditures and transfers of \$749,338 during calendar year 2018.

Payments to Local and State Government

Under provisions of the Compacts and related Consent Judgments, all tribes are required to remit 2 percent of their respective net win to local units of state government or local revenue sharing boards. For reporting period 2018, tribes collectively remitted \$30.1 million to local units of state government/local revenue sharing boards in 2 percent payments. *(Please see the table on page 5 for the 2 percent payments by tribe for 2018.)*

In addition, the Compacts and Consent Judgments require some tribes, based on exclusivity provisions, to remit payments to the MEDC or MSF. The percentage of net win paid to the MEDC or MSF ranges from 2 percent to 12 percent, depending on the exclusivity provision contained in the Compact or related Consent Judgment. For reporting period 2018, tribes remitted \$53.4 million in payments to the MEDC and MSF. *(Please see the table on page 5 for the MEDC/MSF payments by tribe for 2018.)*



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Indian Gaming Chart of Revenue Sharing Provisions

Tribe	Compact Year	Percentage of Net Win to Local Gov't	2018 Amount	Percentage of Net Win to MEDC/MSF	2018 Amount
Bay Mills Indian Community	1993	2%	\$ 447,003	0%	\$ -
Grand Traverse Band of Ottawa and Chippewa Indians	1993	2%	\$ 1,575,368	0%	\$ -
Hannahville Indian Community	1993	2%	\$ 1,016,735 ⁽¹⁾	2-7%	\$ 1,041,844 ⁽²⁾
Keweenaw Bay Indian Community	1993	2%	\$ 559,802	8%	\$ 2,239,207
Lac Vieux Desert Band of Lake Superior Chippewa Indians	1993	2%	\$ 278,226	0%	\$ -
Saginaw Chippewa Indian Tribe	1993	2%	\$ 6,038,938	0%	\$ -
Sault Ste. Marie Tribe of Chippewa Indians	1993	2%	\$ 1,615,400	0%	\$ -
Little River Band of Ottawa Indians	1998	2%	\$ 1,698,813	6%	\$ 5,096,438
Little Traverse Bay Bands of Odawa Indians	1998	2%	\$ 994,387	6-10%	N/A ⁽³⁾
Nottawaseppi Huron Band of the Potawatomi	1998	2%	\$ 5,748,672	4-8%	\$ 18,494,687 ⁽⁴⁾
Pokagon Band of Potawatomi Indians	1998	2%	\$ 5,770,782	6-8%	\$ 17,056,588
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	2007	2%	\$ 4,395,701	8-12%	\$ 9,489,252 ⁽⁵⁾
Total⁽⁶⁾			\$ 30,139,827		\$ 53,418,016

- (1) Amount does not include payments made to an interest-bearing escrow account designated for Bark River-Harris School District, as required for payments beginning in fiscal year 2017 in the Hannahville Agreement and Stipulation for Entry of a Consent Judgment, dated March 14, 2017.
- (2) Amount includes payments made to Travel Michigan and the Michigan Strategic Fund as required for payments beginning in fiscal year 2017 in the Hannahville Agreement and Stipulation for Entry of a Consent Judgment, dated March 14, 2017.
- (3) The Little Traverse Bay Bands of Odawa Indians withheld payment to the MEDC/MSF for the 2018 payment period.
- (4) Amount includes payments remitted to the Michigan Strategic Fund and Michigan Native American Heritage Fund, as required pursuant to the 2016 amendment to the Tribal-State Compact between the Nottawaseppi Huron Band of the Potawatomi and the State of Michigan.
- (5) Pursuant to a partial settlement agreement between the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians and the State of Michigan, amounts due to the MEDC/MSF are to be disbursed as follows: (1) 50% to the MSF; (2) 15% to GLIMI, LLC; and (3) 35% retained by the Tribe. The 2018 total (above) includes only those amounts remitted to the MSF.
- (6) Totals may differ from totals presented on MGCB website due to rounding.



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Indian Gaming Section Oversight Accomplishments

Net Win Audits / Inspections

MGCB's oversight authority includes performing financial audits to ensure the net win totals are stated accurately and the related payments to local units of state government or local revenue sharing boards and the Michigan Economic Development Corporation or Michigan Strategic Fund are remitted properly in accordance with the relevant Compacts and related Consent Judgments.

In calendar year 2018, the Indian Gaming Section presented three final net win audit or review reports to three tribes, which encompassed seven fiscal years, as follows:

Tribe	Fiscal Year
Keweenaw Bay Indian Community	2015
Keweenaw Bay Indian Community	2016
Lac Vieux Desert Band of Lake Superior Chippewa Indians	2015
Lac Vieux Desert Band of Lake Superior Chippewa Indians	2016
Saginaw Chippewa Indian Tribe	2015
Saginaw Chippewa Indian Tribe	2016
Saginaw Chippewa Indian Tribe	2017

In addition, fieldwork and write-up were performed for three tribes covering six fiscal years. The final reports from these audits/inspections should be completed in 2019.



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Indian Gaming Section Oversight Accomplishments (Continued)

Compliance Audits / Inspections

The Compacts contain several provisions which require compliance oversight. MGCB's Indian Gaming Section performs audits/inspections to ensure compliance with Compact provisions pertaining to authorized Class III games, regulation of Class III gaming, employee benefits, Bank Secrecy Act, providers of Class III gaming equipment and supplies, notice to patrons, and the sale of alcoholic beverages.

During calendar year 2018, the Indian Gaming Section presented four final compliance audit reports to four Tribes, which provide detail on the extent of compliance with various sections of the Compacts. These are as follows:

Tribe	Fieldwork Year
Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians	2016
Keweenaw Bay Indian Community	2017
Lac Vieux Desert Band of Lake Superior Chippewa Indians	2017
Saginaw Chippewa Indian Tribe	2018

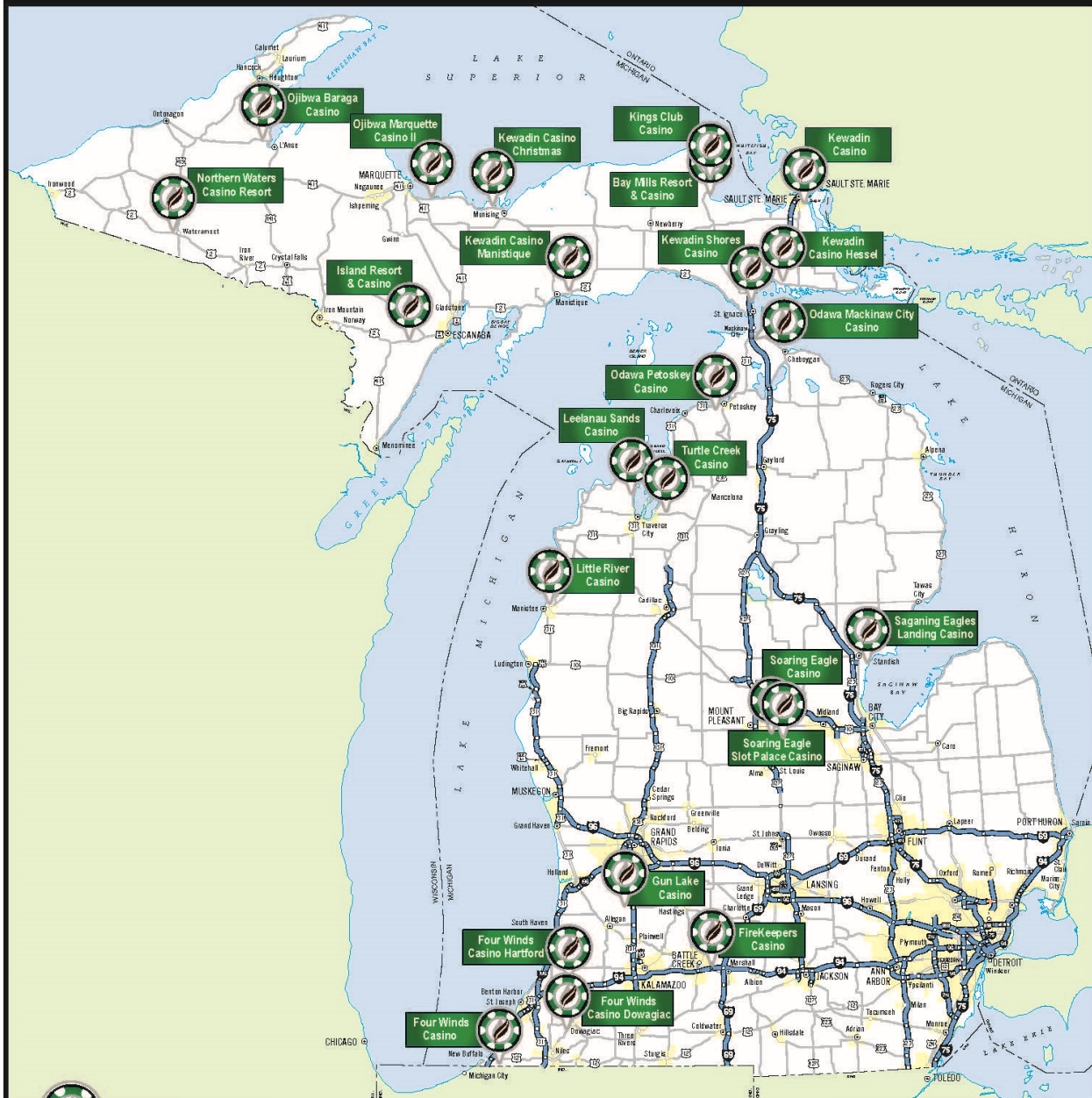
In addition, fieldwork and write-up were performed for three tribes representing three compliance audits/inspections. The final reports from these audits/inspections should be completed in 2019.



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MICHIGAN'S TRIBAL CLASS III CASINOS



TRIBAL CASINOS

Bay Mills Resort & Casino	Gun Lake Casino	Kewadin Casino Manistique	Northern Waters Casino Resort	Saginaw Eagles Landing Casino
FireKeepers Casino	Island Resort and Casino	Kewadin Shores Casino	Odawa Mackinaw City Casino	Soaring Eagle Casino
Four Winds Casino	Kewadin Casino	Kings Club Casino	Odawa Petoskey Casino	Soaring Eagle Slot Palace Casino
Four Winds Casino Dowagiac	Kewadin Casino Christmas	Leelanau Sands Casino	Ojibwa Baraga Casino	Turtle Creek Casino
Four Winds Casino Hartford	Kewadin Casino Hessel	Little River Casino	Ojibwa Marquette Casino II	



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Michigan Tribal Class III Casino Information		
Locations	Tribal Casino	Approximate # of Class III Machines
2	Bay Mills Indian Community	
	Bay Mills Resort & Casino - Brimley, MI	900
	Kings Club Casino - Brimley, MI	280
2	Grand Traverse Band of Ottawa and Chippewa Indians	
	Leelanau Sands Casino - Peshawbestown, MI	350
	Turtle Creek Casino - Williamsburg, MI	1,200
1	Hannahville Indian Community	
	Island Resort & Casino - Harris, MI	1,200
2	Keweenaw Bay Indian Community	
	Ojibwa Casino Resort - Baraga, MI	340
	Ojibwa Casino - Marquette, MI	280
1	Lac Vieux Desert Band of Lake Superior Chippewa Indians	
	Northern Waters Casino Resort - Watersmeet, MI	510
1	Little River Band of Ottawa Indians	
	Little River Casino Resort - Manistee, MI	1,400
2	Little Traverse Bay Bands of Odawa Indians	
	Odawa Casino Resort - Petoskey, MI	1,000
	Odawa Casino - Mackinaw City, MI	200
1	Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake)	
	Gun Lake Casino - Wayland, MI	2,000
1	Nottawaseppi Huron Band of the Potawatomi	
	FireKeepers Casino - Battle Creek, MI	2,900
3	Pokagon Band of Potawatomi Indians	
	Four Winds Casino Resort - New Buffalo, MI	2,600
	Four Winds Casino Hartford - Hartford, MI	500
	Four Winds Casino Dowagiac - Dowagiac, MI	400
3	Saginaw Chippewa Indian Tribe	
	Soaring Eagle Casino & Resort - Mount Pleasant, MI	3,300
	Soaring Eagle Slot Palace - Mount Pleasant, MI (included in Resort total above)	
	Saganing Eagles Landing Casino - Standish, MI	800
5	Sault Ste. Marie Tribe of Chippewa Indians	
	Kewadin Casino - Christmas, MI	240
	Kewadin Casino - Hessel, MI	130
	Kewadin Casino - Manistique, MI	250
	Kewadin Casino - Sault Ste. Marie, MI	800
	Kewadin Casino - St. Ignace, MI	700
24	Total	22,280