

2020 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 2020



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

Submitted April 15, 2021

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN GAMING CONTROL BOARD
DETROIT

RICHARD S. KALM
EXECUTIVE DIRECTOR

April 15, 2021

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, 2020, through December 31, 2020. The following report includes a summary of significant activities and operations for this time period.

The Indian Gaming and Legal Affairs Division of the Michigan Gaming Control Board continued its oversight efforts of the Tribal-State Class III Gaming Compacts through the conduct of inspections. In March 2020, those efforts were significantly disrupted by statewide and agency-specific safety measures implemented to address the novel coronavirus (COVID-19) pandemic. The Indian Gaming and Legal Affairs Division continued to complete oversight inspections to the extent possible, while also assisting the agency with important projects impacting Indian tribes in Michigan.

In fulfilling our duties and responsibilities, MGCB continues to receive invaluable assistance from the Michigan Attorney General's Office and the Governor's Legal Counsel. As always, we strive to increase positive communications with all tribes and encourage voluntary tribal compliance with the Compacts on a government-to-government basis.

Sincerely,

/S/

Richard S. Kalm
Executive Director



Michigan Gaming Control Board

Indian Gaming Annual Report 2020

TABLE OF CONTENTS

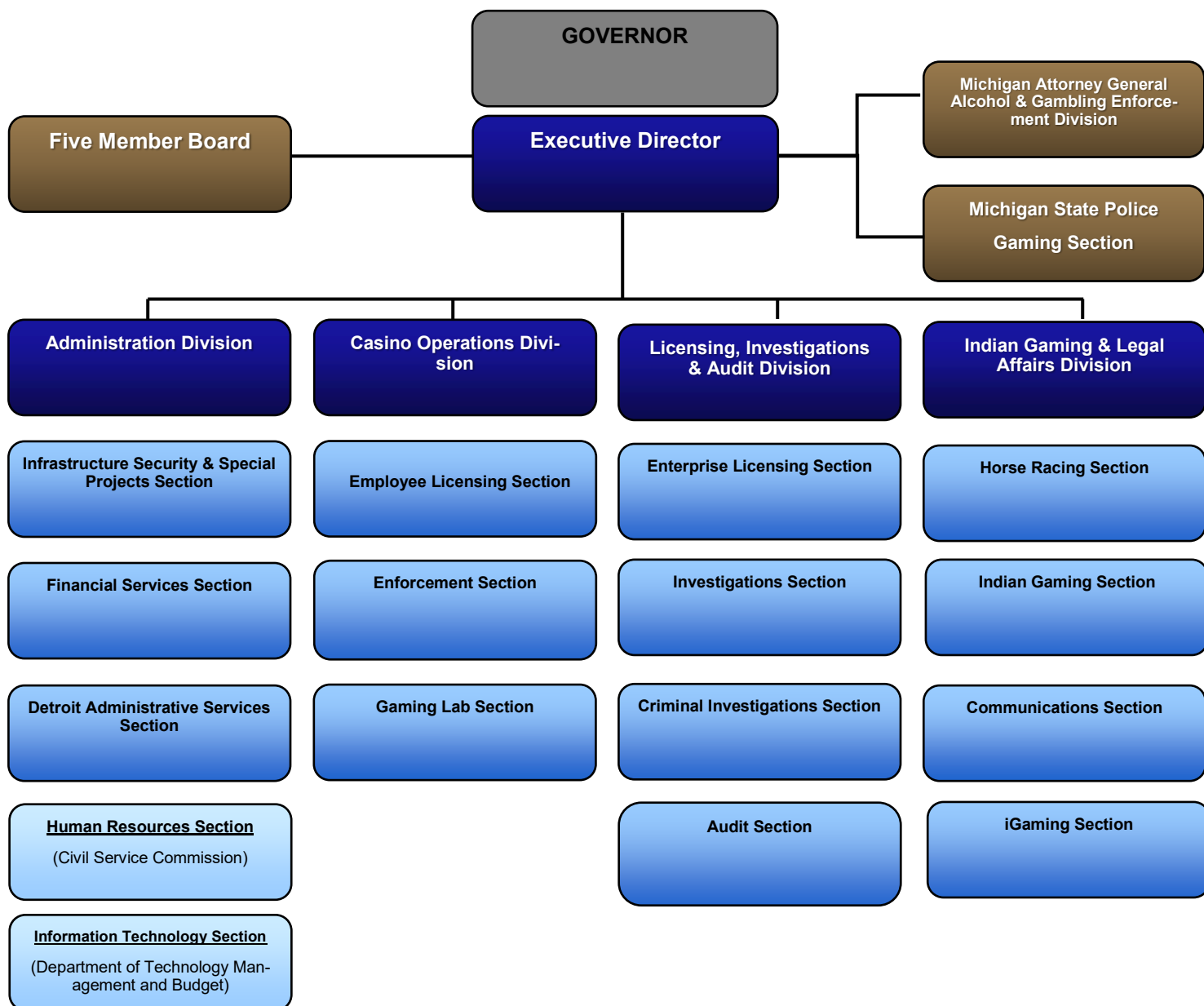
Section:	Page:
Michigan Gaming Control Board Organization Chart	1
Michigan Indian Gaming Regulatory Framework	2
Michigan Indian Gaming Year in Review	2-4
Indian Gaming Section Mission, Personnel, Source of Funding, and Total Expenditures	4
Payments to Local and State Government	4
Indian Gaming Chart of Revenue Sharing Provisions	5
Indian Gaming Section Oversight Accomplishments	6-7
Michigan's Tribal Class III Casinos - Map	8
Michigan Tribal Class III Casino Information	9



Michigan Gaming Control Board

Indian Gaming Annual Report 2020

Michigan Gaming Control Board Organization Chart





Michigan Gaming Control Board

Indian Gaming Annual Report 2020

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, to 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 inspections of Class III gaming facilities and records pursuant to and in accordance with the provisions of the Compacts. This oversight authority includes conducting 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 Tribal-State Compacts.

Michigan Indian Gaming Year in Review

COVID-19 Impact on Tribal Casinos

Beginning in March 2020, the gaming industry faced significant economic disruptions due to the COVID-19 outbreak. All tribal casinos in Michigan voluntarily closed during the onset of the pandemic, with many shuttered for more than two months. On reopening in the spring and early summer, the casinos generally implemented health and safety measures, such as capacity and game restrictions, to help reduce the spread of the virus. Several casinos closed for an additional three-week period amid rising case numbers in November.

The closures and restrictions significantly impacted tribal governments and led to a decrease in tribal casino revenue sharing payments to local and state governments.



Michigan Indian Gaming Year in Review (Continued)

Indian Lands Eligible for Class III Gaming

Since 2014, the Sault Ste. Marie Tribe of Chippewa Indians has attempted to place land in Lansing and Huron Charter Township into trust with the intention of conducting gaming activities. The Department of Interior denied the Tribe's land-into-trust applications in 2017, prompting the Tribe to file a lawsuit against the Department in 2018. In March 2020, a United States District Court judge ruled that the Department of Interior overstepped its authority and misinterpreted section 108 of the Michigan Indian Land Claims Settlement Act of 1997 (MILCSA) in denying the Tribe's application for the Huron Charter Township site. The court vacated the denial and remanded the issue to the Department for further proceedings. The Tribe's claims regarding the Lansing site were deemed moot due to a pending reconveyance of the property and, therefore, were excluded from the ruling. The Department of Interior has appealed the decision.

Similarly, 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 a decade of back-and-forth litigation, the Tribe and State of Michigan agreed in November 2020 to dismiss their lawsuits regarding the Vanderbilt casino. While the parties did not resolve the question of whether the Vanderbilt site is eligible for gaming, the Tribe agreed it will not operate a gaming facility on the property for at least five years.

Finally, the Little River Band of Ottawa Indians has been advocating since 2008 to open a gaming facility in Fruitport Township, near Muskegon, at the site of the former Great Lakes Downs horse racing track. The U.S. Bureau of Indian Affairs (BIA) issued a final Environmental Impact Statement and Record of Decision on the project in late 2020. The BIA approved a proposal involving trust acquisition of the Fruitport Township property for the Tribe to develop a casino resort and other facilities. In addition, the BIA issued a secretarial determination under IGRA that, if concurred to by the governor, would make the property eligible for gaming. The BIA noted a decision on whether to take the land into trust will occur after the governor determines whether to concur with the secretarial determination. A Compact amendment would be necessary before the Tribe could conduct Class III gaming at the Fruitport Township site.

State of Michigan Gaming Acts of 2019

In December 2019, the State of Michigan enacted the Lawful Internet Gaming Act, Lawful Sports Betting Act and Fantasy Contests Consumer Protection Act. The acts allow commercial gaming facilities and Indian tribes operating Class III casinos in Michigan the option to conduct internet gaming, internet sports betting and fantasy contests. MGCB is tasked with licensing and regulating the new industries, making Michigan the first state to license tribes to conduct statewide internet gaming and internet sports betting.

MGCB began drafting rules to implement the new acts in early 2020, collaborating with tribes and other stakeholders throughout the rulemaking process. The rules for internet gaming and internet sports betting were adopted and took effect on December 2, 2020.

MGCB authorized three commercial casinos and nine Indian tribes to launch internet gaming, internet sports betting, or both in early 2021. The agency continues to work with the remaining three tribes on regulatory requirements that must be met before launch.



Michigan Gaming Control Board

Indian Gaming Annual Report 2020

Michigan Indian Gaming Year in Review (Continued)

In general, internet gaming, internet sports betting and fantasy contests are operated under state law and are not considered Indian gaming conducted pursuant to the Compacts and related Consent Judgments. Therefore, taxes and payments and MGCB operations related to these industries are not captured in this report.

Onsite Tribal Sports Betting

Several of Michigan's federally recognized Indian tribes opened sportsbooks in their casinos during 2020. MGCB has oversight authority over any provisions of the Compacts that apply to onsite tribal sports betting in Michigan.

MGCB will continue to monitor for any future developments.

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 manager and five audit staff. The section conducts 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 and Legal Affairs 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, as 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 \$735,794 and \$11,861, respectively, during calendar year 2020.

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 the reporting period 2020, tribes collectively remitted \$24.4 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 2020.*)

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 2020, tribes remitted \$28.9 million in payments to the MEDC and MSF. (*Please see the table on page 5 for the MEDC/MSF payments by tribe for 2020.*)



Michigan Gaming Control Board

Indian Gaming Annual Report 2020

Indian Gaming Chart of Revenue Sharing Provisions

Tribe	Compact Year	Percentage of Net Win to Local Gov't	2020 Amount ⁽⁷⁾	Percentage of Net Win to MEDC/MSF	2020 Amount ⁽⁷⁾
Bay Mills Indian Community	1993	2%	\$ 230,541	0%	\$ -
Grand Traverse Band of Ottawa and Chippewa Indians	1993	2%	\$ 1,146,286	0%	\$ -
Hannahville Indian Community	1993	2%	\$ 930,538	2-7%	\$ 236,127 ⁽¹⁾
Keweenaw Bay Indian Community	1993	2%	\$ 283,849 ⁽²⁾	8%	\$ 496,028 ⁽³⁾
Lac Vieux Desert Band of Lake Superior Chippewa Indians	1993	2%	\$ 195,597	0%	\$ -
Saginaw Chippewa Indian Tribe	1993	2%	\$ 5,293,564	0%	\$ -
Sault Ste. Marie Tribe of Chippewa Indians	1993	2%	\$ 1,135,199	0%	\$ -
Little River Band of Ottawa Indians	1998	2%	\$ 1,378,609	6%	\$ 2,562,770
Little Traverse Bay Bands of Odawa Indians	1998	2%	\$ 832,657	6-10%	\$ - ⁽⁴⁾
Nottawaseppi Huron Band of the Potawatomi	1998	2%	\$ 4,918,734	4-8%	\$ 10,770,893 ⁽⁵⁾
Pokagon Band of Potawatomi Indians	1998	2%	\$ 4,396,495	6-8%	\$ 7,133,594
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	2007	2%	\$ 3,684,810	8-12%	\$ 7,712,026 ⁽⁶⁾
Total⁽⁵⁾			\$ 24,426,879		\$ 28,911,438

- (1) Per the Hannahville Agreement and Stipulation for Entry of a Consent Judgment, dated March 14, 2017, the Hannahville Indian Community's payments to the MEDC/MSF should include allocations to Travel Michigan and the MSF. For the first semiannual period of 2020, the MEDC indicated it received the MSF payment but not the Travel Michigan payment. For the second semiannual period of 2020, the MEDC indicated it did not received either payment. The amounts presented above do not include payments made to an interest-bearing escrow account designated for Bark River-Harris School District.
- (2) As of the date of this report, the Keweenaw Bay Indian Community has not provided information on its payments to local governments for the second semi-annual period of 2020. The amount presented above includes the Tribe's payments for the first semiannual period only.
- (3) The Keweenaw Bay Indian Community began withholding payments owed to the MEDC/MSF on December 20, 2019 due to the passage of the Lawful Internet Gaming Act. The amount presented above represents a partial payment for the first semiannual period of 2020.
- (4) The Little Traverse Bay Bands of Odawa Indians began withholding payments owed to the MEDC/MSF starting in the 2018 payment period.
- (5) 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.
- (6) 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 figure presented above includes only those amounts remitted to the MSF.
- (7) Totals are based on the tribes' payment periods. In addition, the totals may differ from those presented on the MGCB's website due to rounding.



Indian Gaming Section Oversight Accomplishments

COVID-19 Impact on Indian Gaming Section

In March 2020, the State of Michigan and MGCB began implementing safety protocols in response to the COVID-19 pandemic. Travel restrictions and other mitigation strategies prevented the Indian Gaming Section from conducting onsite fieldwork for the remainder of the year. The Indian Gaming Section was able to complete work on oversight inspections commenced prior to March 2020 but was unable to initiate any new inspections.

In addition to working on in-process oversight inspections, the Indian Gaming Section contributed to other critical projects impacting tribes in Michigan, including rulemaking and regulatory efforts related to internet gaming and internet sports betting. MGCB maintained contact with tribes on these and other matters throughout the year.

Net Win Inspections

MGCB's oversight authority includes performing financial inspections 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 2020, the Indian Gaming Section presented three final net win inspection reports to three tribes, which encompassed six fiscal years, as follows:

Tribe	Fiscal Year
Little Traverse Bay Bands of Odawa Indians	2017
Little Traverse Bay Bands of Odawa Indians	2018
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	2017
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	2018
Little River Band of Ottawa Indians	2017
Little River Band of Ottawa Indians	2018

Fieldwork and write-up were performed for one additional tribe covering two fiscal years. The final report from this inspection is forthcoming.



Indian Gaming Section Oversight Accomplishments (Continued)

Compliance Inspections

The Compacts contain several provisions that require compliance oversight. MGCB’s Indian Gaming Section performs 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 2020, the Indian Gaming Section presented three final compliance inspection reports to three tribes, which provide detail on the extent of compliance with various sections of the Compacts. These are:

Tribe	Fieldwork Year
Little Traverse Bay Bands of Odawa Indians	2019
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	2019
Little River Band of Ottawa Indians	2019

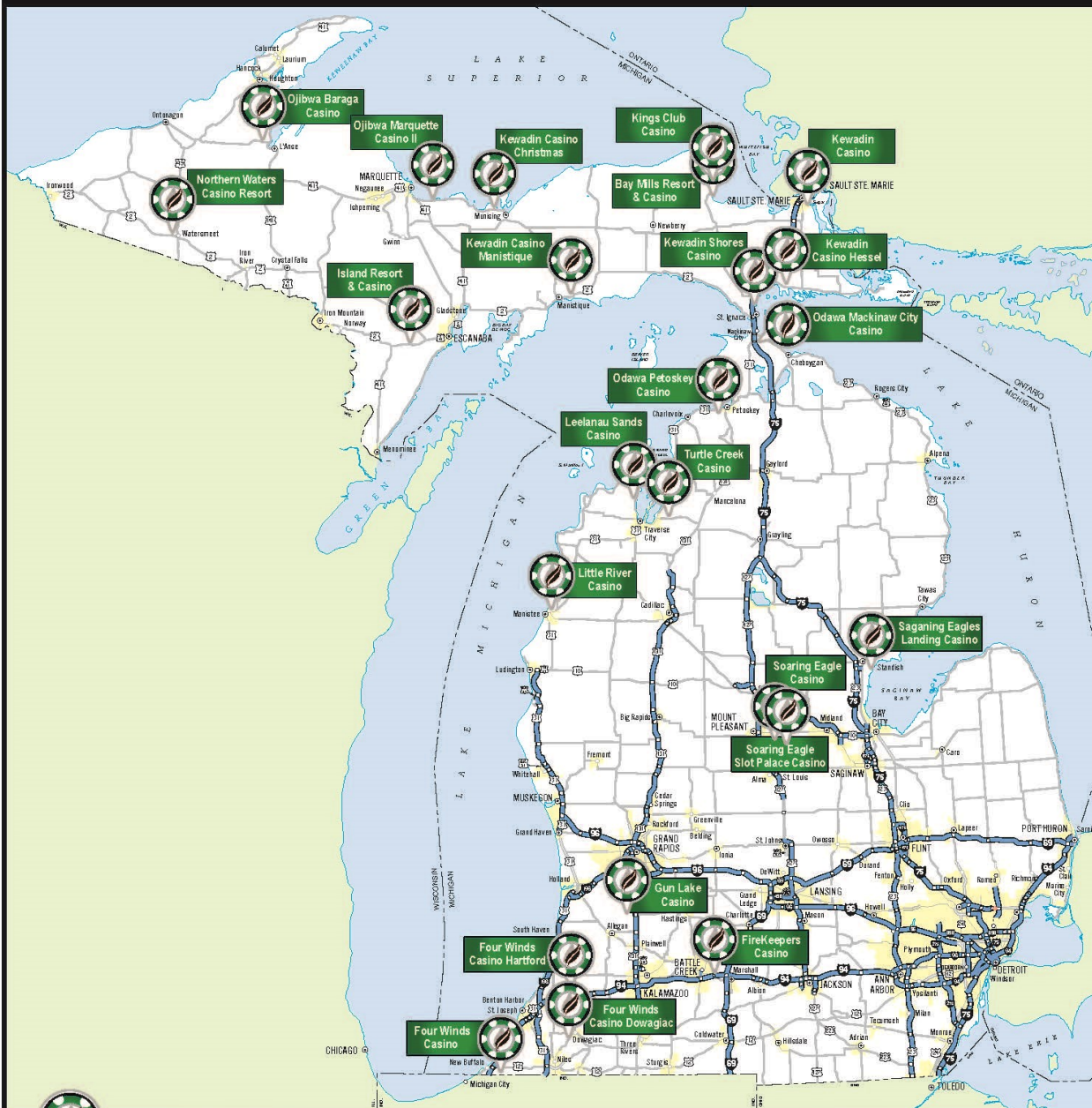
Fieldwork and write-up were performed for one additional tribe representing one compliance inspection. The final report from this inspection is forthcoming.



Michigan Gaming Control Board

Indian Gaming Annual Report 2020

MICHIGAN'S TRIBAL CLASS III CASINOS



TRIBAL CASINOS

- | | | | | |
|----------------------------|--------------------------|---------------------------|-------------------------------|----------------------------------|
| Bay Mills Resort & Casino | Gun Lake Casino | Kewadin Casino Manistique | Northern Waters Casino Resort | Saganing 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 | |



Michigan Gaming Control Board

Indian Gaming Annual Report 2020

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	1,300
1	Hannahville Indian Community	
	Island Resort & Casino - Harris, MI	1,200
2	Keweenaw Bay Indian Community	
	Ojibwa Casino Resort - Baraga, MI	350
	Ojibwa Casino - Marquette, MI	500
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	2,700
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	4,000
	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	250
	Kewadin Casino - Hessel, MI	150
	Kewadin Casino - Manistique, MI	250
	Kewadin Casino - Sault Ste. Marie, MI	800
	Kewadin Casino - St. Ignace, MI	700
24	Total	23,140