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Tribal Casino Gaming

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## Class III Casino Compacts

Tribal gaming was legalized nationwide in 1988 following the passage of the Federal Indian Gaming Regulatory Act, which permitted Class III casinos (tribal casinos used for economic development of the tribes). Individual tribes enter Tribal-State compacts between the individual tribe and the State of Michigan, which then are approved by a Federal judge. Compacts are created without the State having to enact legislation since the tribe operates as a sovereign entity. The compacts are submitted to the United States Department of Interior's Office of Indian Affairs for approval. While compacts differ by tribe, all compacts include some level of geographic gaming exclusivity, 2% revenue share payments from in-person electronic games of chance winning to local entities, a percentage payment on in-person electronic games of chance to the State for economic development, provisions allowing tribes to withhold payments, and a term limit for the compact. The National Indian Gaming Commission and government of the tribe regulate tribal casino operations. The State and Michigan Gaming Control Board have limited oversight over gaming compacts, which mostly includes general auditing for compliance with compact provisions.

In 1990, six tribes sued Governor John Engler to compel the State to enter compact agreements with individual tribes (a seventh later joined as a co-plaintiff). A consent judgment required the State to enter good-faith negotiations with the plaintiffs for compact agreements with each individual tribe for the creation of Class III casinos. In 1993, the Governor, on behalf of the State, entered compact agreements with the seven tribes. Since then, five additional tribes have entered into compact agreements with the State to operate Class III casinos. To date there are 12 tribes that have ongoing compacts, and between them, they operate a total of 23 Class III casinos in Michigan.

Compacts can be renegotiated after 20 years. Of the original seven compact tribes from 1993, only Keweenaw Bay Indian Community negotiated a new agreement (in 2002). Hannahville Indian Community signed a new compact with the State in 2017. The new compact reduced the percentage payment dedicated to the State from 8% to 2%. Thus far, no tribe has closed a Class III casino or dissolved a compact with the State.

The term 'geographic exclusivity' has been defined and interpreted differently from compact to compact. Tribes can withhold payments by notifying the State of a compact violation. The State then can negotiate a new agreement with the tribe. In 1998, the State approved three casinos in Detroit. Following this, eight tribes withheld payments to the State because of breaches of their compacts' geographic exclusivity. Only the Hannahville Indian Community has renegotiated its compact and continues to make payments. Following the 2015 iLottery launch, the Gun Lake Tribe temporarily stopped payments to the State over exclusivity concerns but resumed contributions after negotiations. The introduction of other gaming activities in the State, such as charitable gaming, also resulted in reduced or withheld payments submitted to the State by other tribes.

## Revenue from Tribal Gaming

Payments made to the State are directed to the Michigan Economic Development Corporation (MEDC) as corporate funds that remain distinct from State revenue. These funds support operational costs and a range of economic development programs, including Tribal Business Development. During fiscal year

(FY) 2023-24, the MEDC received \$39.0 million in tribal gaming revenue from four tribes, which is below the record level of \$60.0 million paid by eight tribes in FY 2015-16. In 2018, the Little Traverse Bay Bands of Odawa Indians began withholding all payments to the State, which averaged \$2.7 million annually. In 2023, the Little River Band of Ottawa Indians began withholding payments to the State, averaging \$4.3 million annually.

All 12 tribes that operate a Class III casino made their 2% revenue sharing payments to their designated local units of government. Payments to local units of government totaled \$30.5 million in FY 2023-24. Table 1 shows the 12 tribes that operate a Class III casino, the date of their first compact, the number of casinos they operate, the local revenue sharing payments, and State MEDC payments made in FY 2023-24. Figure 1 shows the seven-year history of payments made to local revenue sharing and to the MEDC.

**Table 1**

Tribe	Date of Compact	Casinos	FY 2023-24 Local 2% Distribution	FY 2023-24 MEDC Payment
Bay Mills Indian Community .....	1993	1	\$374,141	\$0
Grand Traverse Band of Ottawa and Chippewa	1993	2	1,457,647	0
Hannahville Indian Community.....	1993	1	1,233,029	616,515
Keweenaw Bay Indian Community.....	1993	2	742,251	0
Lac Vieux Desert Band of Lake Superior				
Chippewa Indians .....	1993	1	343,111	0
Saginaw Chippewa Indian Tribe.....	1993	3	6,594,805	0
Sault Ste. Marie Tribe of Chippewa Indians .....	1993	5	1,783,469	0
Little River Band of Ottawa Indians .....	1998	1	1,586,297	0
Little Traverse Bay Bands of Odawa Indians ...	1998	2	1,140,483	0
Nottawaseppi Huron Band of Potawatomi .....	1998	1	6,077,822	18,518,203
Pokagon Band of Potawatomi Indians .....	1998	3	4,637,999	10,452,233
Gun Lake Tribe.....	2007	1	4,500,516	9,400,533
<b>Total.....</b>		<b>23</b>	<b>\$30,471,570</b>	<b>\$38,987,484</b>

**Figure 1**

