

MONTANA DEPARTMENT OF JUSTICE GAMBLING CONTROL DIVISION

Biennial Report
Fiscal Years 2017 – 2018



and

Report of the Gaming Advisory Council

December 2018

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Executive Summary

Over the last two fiscal years, the gambling industry saw a steady revenue stream but with very little growth. The video gambling machine tax collections (a key indicator for the industry) plateaued with a .95% decrease in fiscal year 2017 and .56% increase in fiscal year 2018. As with last biennium, these tax collections provided approximately \$120 million to the state general fund over the reporting period.

The division issued approximately 19,000 permits for video gambling machines each fiscal year with an average of 16,700 machines active each quarter. This is down by approximately 1.8% compared to FY15 and FY16.

A substantial portion of the division's work relates to alcoholic beverage licensing, auditing, inspecting, and investigating. For example, 37% of the applications received by the division in FY17 and FY18 were for alcohol-only licenses, 60% were for alcohol and gambling licenses, and only 3% were for gambling-only licenses. Also, 49% of the premises inspections completed by our investigations staff were done at locations with an alcoholic beverage license (not a gambling license). The other 51% of inspections were done at locations with both a gambling operator license and an alcoholic beverage license.

The division increased its support for programs assisting those adversely affected by legalized gambling including compulsive gamblers and their families. The division continued its relationship with the Montana Council on Problem Gambling and collaborated with them on several outreach projects both during March's Problem Gambling Awareness Month and throughout the year.

The Gaming Advisory Council met five times during the reporting period. During meetings, they discussed a number of topics, appointed subcommittees to provide recommendations on matters requiring in-depth research and reviewed all gambling-related administrative rule proposals. In addition, the Council participated in discussions and voted to support statutory change proposals concerning the following areas (see page 23 for details):

- **Head or Tails**
- **Antique Gambling Devices**
- **Sports Pools**

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Gambling in Montana

Brief History

Montana's 1889 Constitution made all forms of gambling illegal. However, illegal gambling always existed in some local jurisdictions. In the 1930s and 1940s, the legislature legalized certain limited forms of gambling. The 1949 Legislature and the attorney general declared a "law enforcement emergency" to crack down on illegal gambling. In 1950, the State Supreme Court ruled that slot machines and punchboards were illegal under the state Constitution.

In 1972, Montana voters approved a new Constitution that allowed the legislature to approve specific gambling activities. The 1973 Legislature legalized bingo, raffles, card games, and sports pools. In 1976, the State Supreme Court ruled that video keno was a form of bingo, which marked the beginning of legal video gambling machines. The legislature added video poker to keno in 1985 and, in 1986, voters approved a state lottery. The legislature enacted a 15% tax on video gambling machines in 1987.

Prior to 1989, responsibility for regulating most forms of gambling in Montana rested with local governments. This decentralized system resulted in an inconsistent application of the law regarding gambling activities in the state. Some cities and counties vigorously controlled gambling within their boundaries while other jurisdictions took a more relaxed stance. A consistent approach to gambling regulation was nonexistent.

The 1989 Legislature centralized gambling regulation under the Department of Justice. Statutory duties assigned to the department included adopting administrative rules, licensing gambling providers and activities, collecting and distributing gambling taxes, testing and approving video gambling machines, and enforcing gambling laws.

Current Regulation

The Attorney General is responsible for the Department of Justice which includes the Gambling Control Division. The Gambling Control Division's jurisdiction extends to all forms of gambling except the Montana Lottery and horse racing.

The following gambling activities are authorized and regulated by the Division:

- video gambling machines that offer keno, poker, bingo, or line games;
- live card games including poker and panguingue;
- live bingo and live keno;
- certain sports pool and sport tab games;
- Calcutta pools;

- casino nights;
- raffles;
- certain dice games including shake-a-day and shaking for music or drinks;
- live fantasy sports leagues; and
- fishing derbies and betting on natural occurrences.

The Montana Lottery is attached to the Department of Administration and the Board of Horse Racing is administratively attached to the Department of Commerce.

Public Policy

The legislature has adopted the following public policy statement (23-5-110, MCA) with regard to gambling regulation in Montana:

“(1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 8 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 8 of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 8 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.”

Organization and Activities of the Gambling Control Division

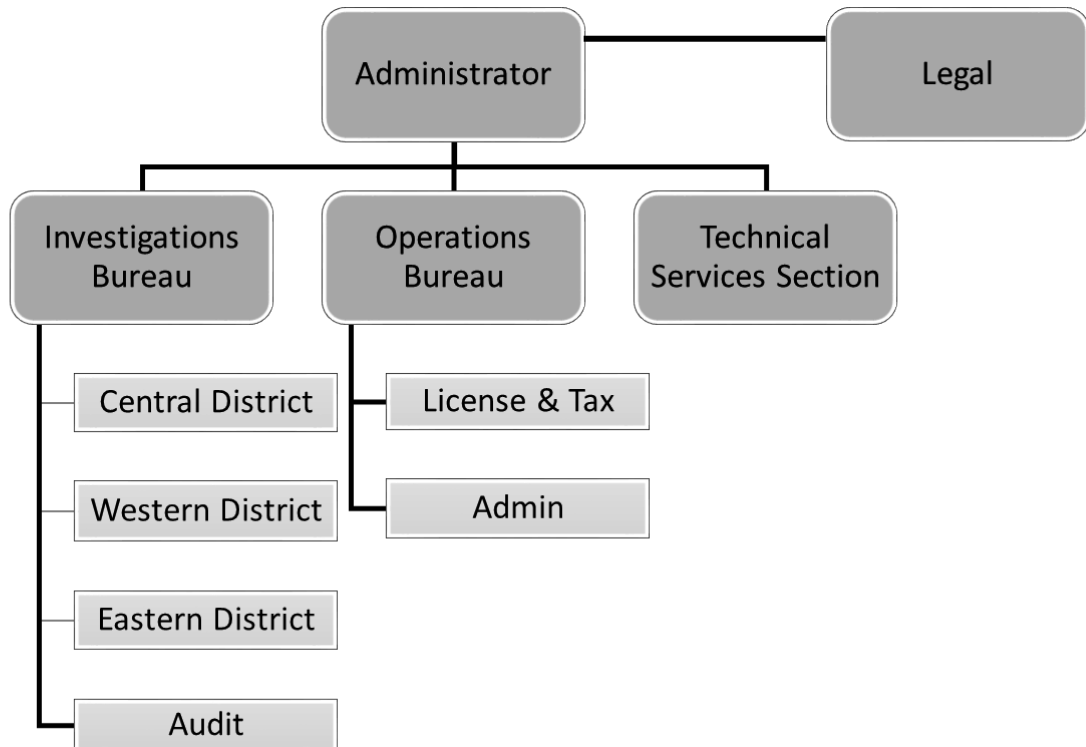
The mission of the Gambling Control Division (GCD) is to create and maintain a uniform regulatory climate to protect the businesses, players, organizations, citizens, and all who are affected by legalized gambling in Montana. The 46 division FTE accomplish this mission through licensing, permitting, auditing, inspecting, investigating, testing, and prosecuting.

Under Montana law, businesses must have an appropriate alcoholic beverage license before they can conduct or offer certain gambling activities, specifically live card games, sports tab games, and video gambling machines.

The Division has an MOU with Department of Revenue, Alcoholic Beverage Control Division to provide licensing, auditing, and investigative services. Through that role, the division serves as a point of contact for many alcoholic beverage licensees and applicants.

The Division also provides investigative services to DOR for tobacco tax enforcement.

The Division Administrator manages the Division's overall operations. In addition to management responsibility, the Administrator supports the activities of the Gaming Advisory Council. The organizational structure of the Division is indicated below:



Investigations Bureau

The Gambling Investigations Bureau consists of six regional field offices, which are organized into the Central, Eastern, and Western Districts, each managed by a District Supervisor. Field offices are located in Billings, Bozeman, Glendive, Great Falls, Kalispell and Missoula. In addition, the bureau includes the Audit Section.

The responsibilities of the Investigations Bureau include:

- investigating illegal gambling activity;
- investigating video gambling machine tampering, theft, and burglary;
- conducting background checks of applicants for a gambling or alcoholic beverage license;
- investigating any violations of laws related to tobacco taxes or the types of tobacco that can be sold;
- conducting routine inspections of gambling and/or alcoholic beverage licensed establishments;
- processing applications for temporary card dealer licenses;
- inspecting newly constructed or remodeled establishments that sell alcoholic beverages or offer gambling;
- evaluating variations of legal gambling activities submitted for approval;
- providing local law enforcement training; and
- providing assistance in the distribution of problem gambling resources.

The number of gambling, liquor, or tobacco cases (including licensing, criminal, and citizen complaints) completed by the Investigations Bureau was 1,257 in calendar year 2016, and 1,275 in calendar year 2017.

The Audit Section has staff located in Billings, Helena and Missoula and provides the following services:

- assists in licensing applicants for a gambling or alcoholic beverage license by conducting financial background reviews;
- conducts full financial reviews of gambling or alcoholic beverage license holders;
- conducts field tax audits; and
- provides support to the Investigations Bureau in interpreting and analyzing financial documents related to suspected illegal gambling activities.

Operations Bureau

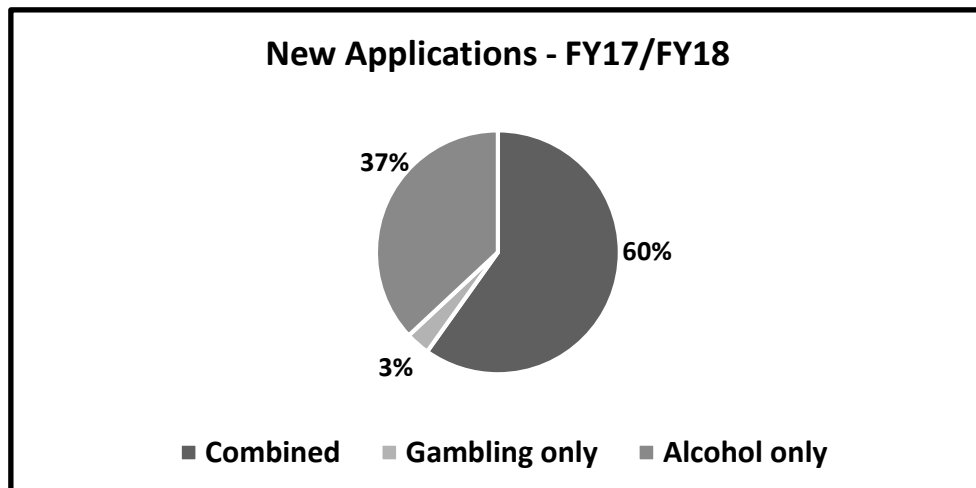
The Administrative Section performs a range of functions including:

- division management services;
- budget preparation;
- website maintenance;
- coordination of external communication;
- licensee and public education;
- compilation of gambling statistics and reports; and
- assistance in production of problem gambling resources.

The License and Tax Section provides many services including the following:

- processes and issues gambling licenses and permits, including video gambling machine permits;
- collects and distributes license and permit fees;
- maintains all license records;
- collects gambling taxes, fines and penalties; and
- processes machine service forms and tracks machine movement in the state.

The Gambling Control Division processes both alcoholic beverage and gambling (new and amended) license applications. The License and Tax Section is the first point of contact for all license applications based on a combined processing procedure, but the Department of Revenue retains responsibility for approving and issuing alcoholic beverage licenses. In fiscal year 2017 and fiscal year 2018, the division received a total of 406 applications. Of that total, 60% were Combined Alcohol/Gambling, 3% were Gambling-only, and 37% were Alcohol-only. Overall, the division received 9.8% less license applications over the last two fiscal years as compared to the previous two fiscal years.



Technical Services Section

Technical Services Section personnel are based in Helena with the exception of two machine inspectors: one in Billings and another in Missoula. The Technical Services Section serves as the primary technical resource for approving and testing video gambling machines.

Major responsibilities of the Technical Services Section include:

- testing video gambling software and hardware;
- testing automated accounting systems;
- providing interpretations of state law and rules to video gambling machine software designers;
- providing random testing of video gambling machines to ensure that software and hardware are functioning as tested; and
- tracking the movement of illegal machines in and out of the state.

The lab closed 57 cases in FY17 and 86 cases in FY18 for new gambling devices or software modifications. The average turnaround time on video gambling machine modifications was 51 days in FY17 and 35 days in FY18. The laboratory is primarily supported by hourly testing fees that are paid by the video gambling machine manufacturers.

Legal Services

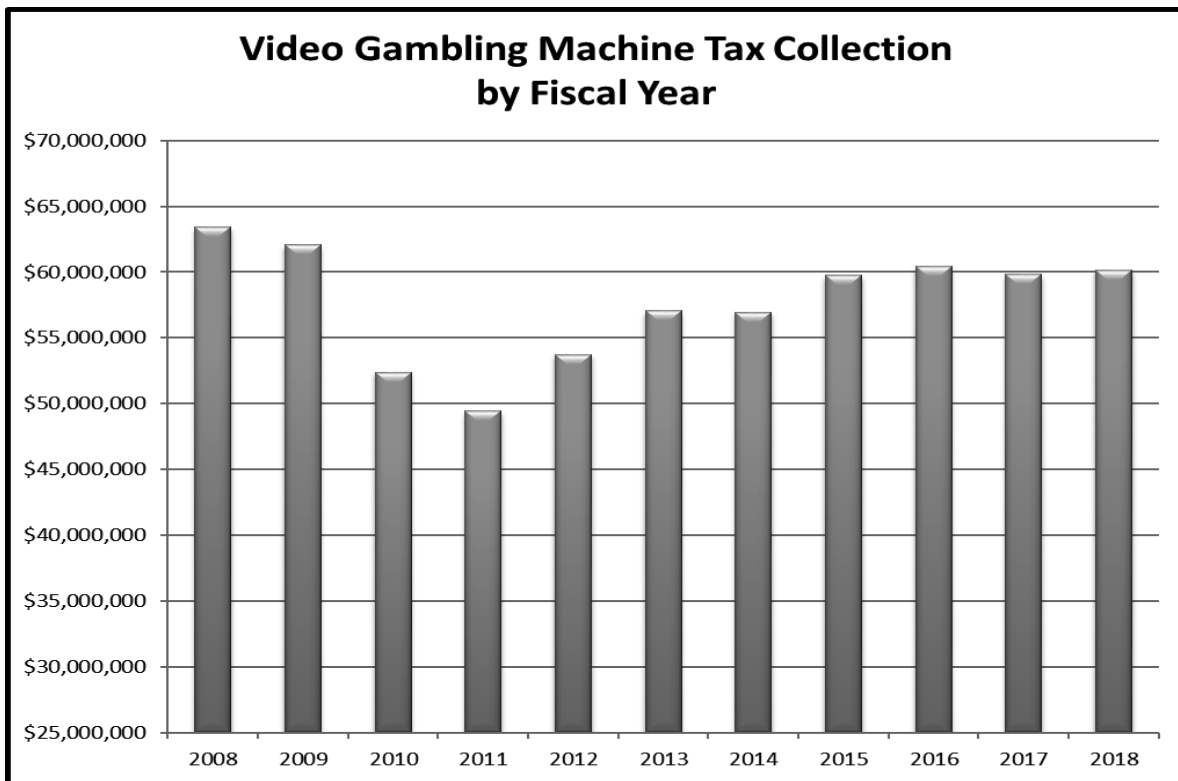
One attorney is assigned to the Gambling Control Division. The division employs an investigations/legal support staff person who provides clerical assistance. The attorney's focus is primarily on administrative action against licensees who violate Montana's gambling laws and rules, and on representing the Division in administrative proceedings. In addition, the Gambling Control Division's attorney may assist local county attorneys with gambling-related cases that fall within local jurisdictions. If county attorneys decline prosecution of a criminal case, the division attorney may prosecute the case. The division had 41 docketed legal cases in FY17 and 73 docketed legal cases in FY18.

Gambling Revenue and Permit Fees

Video Gambling Machine Gross Income Tax – The Video Gambling Machine Gross Income Tax is the most significant source of gambling revenue, and all the tax is distributed to the state general fund. This 15% tax is applied to the gross income from line game, bingo, keno, and poker video gambling machines. Gross machine income is the total receipts from a machine, less the machine’s cash payouts. For example, if during a day \$100 is inserted and played on a video gambling machine and \$60 is cashed out, the gross income for the day would be \$40. The tax would be 15% of that \$40, or \$6.

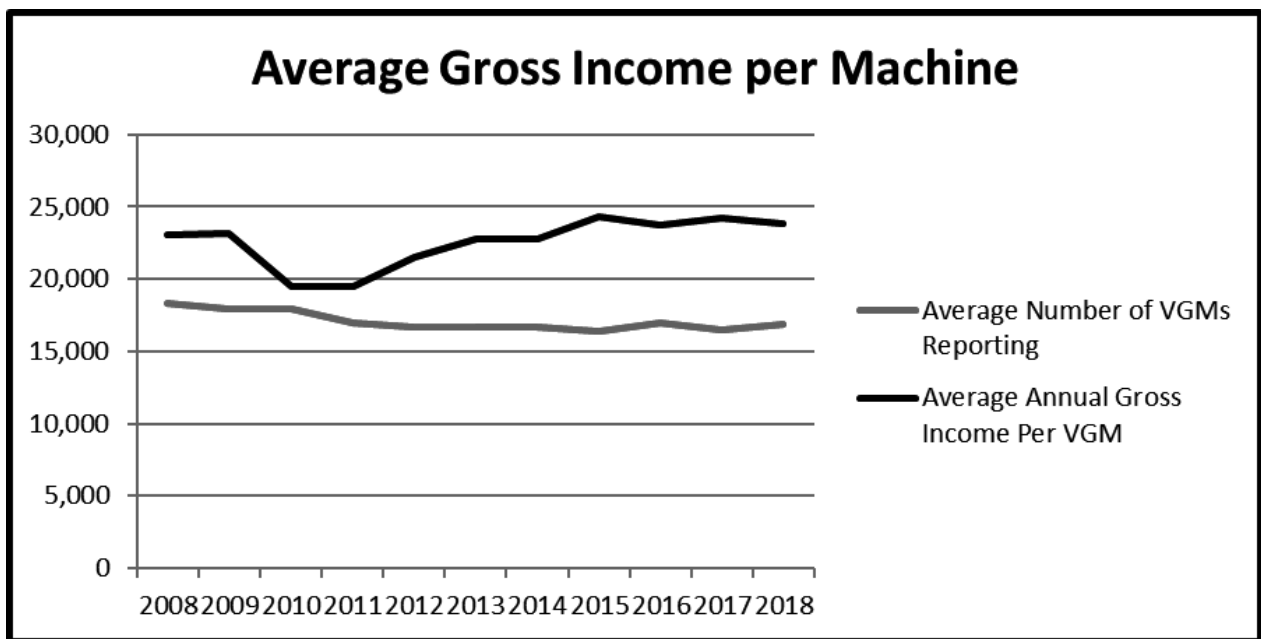
In fiscal year 2017, the Video Gambling Machine gross income tax generated \$59.95 million for the state general fund which represented a .95% decrease as compared to the amount collected in fiscal year 2016. In fiscal year 2018, the Video Gambling Machine tax generated \$60.3 million, which represented a 0.56% increase compared to FY17.

The following chart indicates the video gambling machine tax collection trend over the last ten years:



Average gross income for video gambling machines per fiscal year is indicated in the following chart:

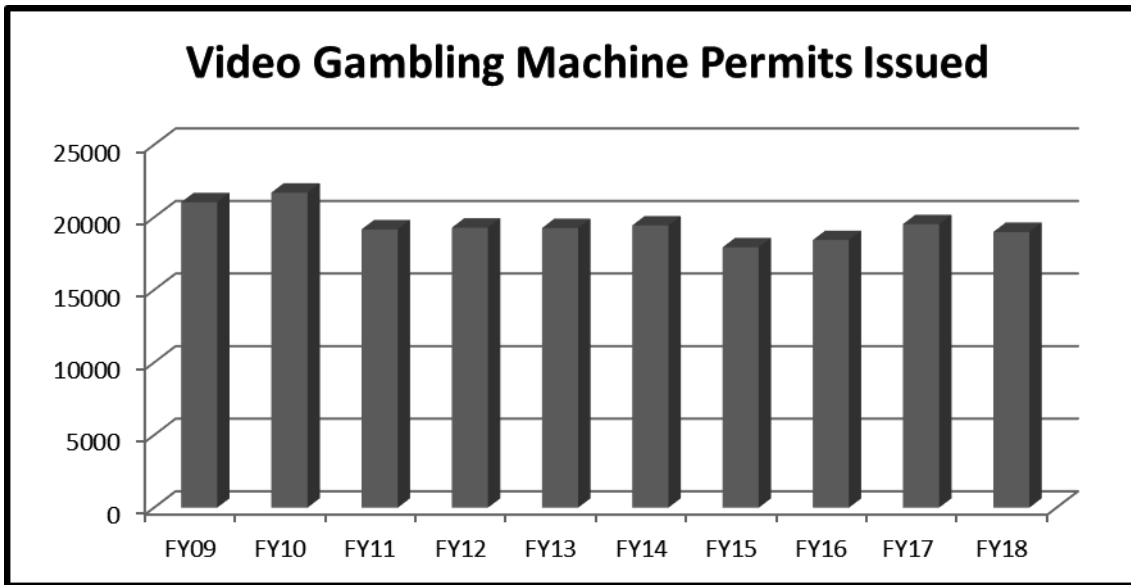
Fiscal Year	Average Number of Machines Reporting	Total Annual Gross Income	Average Annual Gross Income Per Machine
2008	18,350	\$422,829,120	\$23,042
2009	17,898	\$413,771,093	\$23,118
2010	17,892	\$349,259,553	\$19,520
2011	16,958	\$329,559,473	\$19,434
2012	16,649	\$358,218,613	\$21,516
2013	16,695	\$380,329,860	\$22,781
2014	16,684	\$379,607,573	\$22,753
2015	16,420	\$398,863,520	\$24,291
2016	17,007	\$403,212,940	\$23,708
2017	16,526	\$399,588,646	\$24,179
2018	16,864	\$402,120,393	\$23,844



Other Gambling Taxes – In addition to the Video Gambling Machine gross income tax, the Division collects taxes on live keno, live bingo, and sports tabs. Live bingo and live keno are taxed at the rate of 1% of gross proceeds and all of the tax collected is distributed to local government. Total collections are generally around \$7,000 per year.

Sports tab cards are taxed at a flat rate of \$1 per card and the Division retains all of the tax. Historically, this has been a regionally located activity and generally produces collections of approximately \$4,000 annually.

Permit Fees – The Gambling Control Division also collects a number of permit fees related to licensed gambling activities. The most significant permit fee is the \$240 per year fee for each video gambling machine. The fee is split to provide \$100 to local government where the machine is located and \$140 to the Gambling State Special Revenue Fund. If a video gambling machine is permitted after the first quarter of the fiscal year, the fee is prorated by quarter.



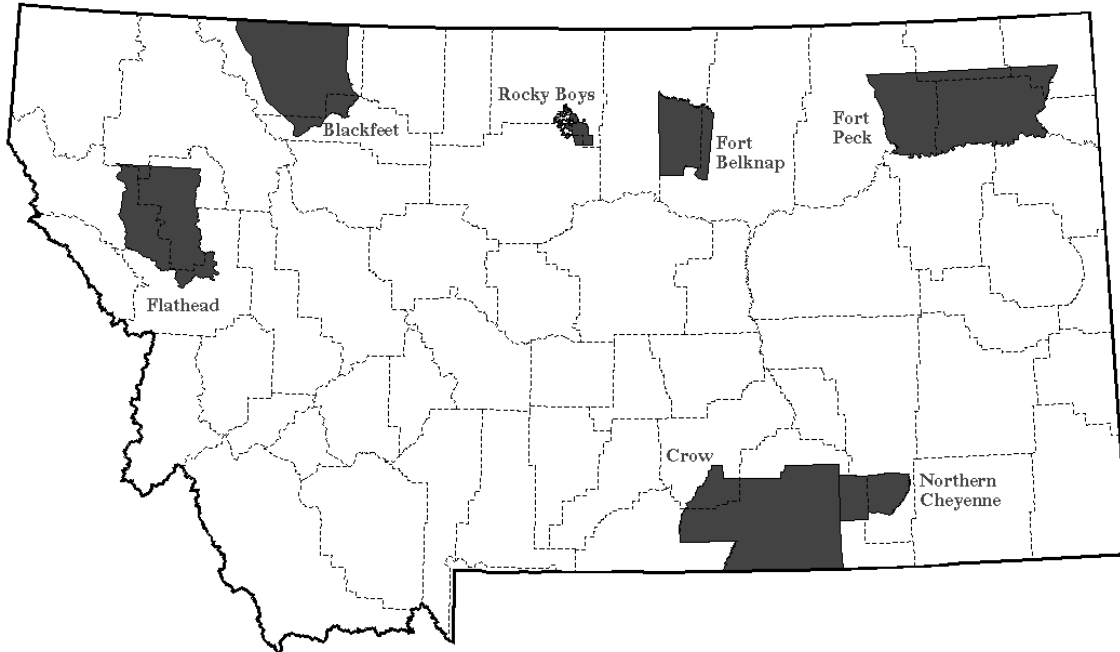
The number of video gambling machine permits issued has remained steady over the last four years, averaging around 18,700 permits issued per fiscal year.

The following table sets out the distribution of gambling revenue and fees to state and local governments for fiscal years 2017 and 2018:

FY 2017 GCD Distribution of Revenue				
Revenue Source	Total Collected	Distribution of Funds		
		Local Govt.	Gambling Control	General Fund
Antique Slot Machine Dealer	\$ 50		\$ 50	
Bingo & Keno Permit Fees	\$ 17,250		\$ 17,250	
Calcutta Application Fees	\$ 6,225		\$ 6,225	
Card Dealer License Fees	\$ 9,356		\$ 9,356	
Card Room Contractor Fees	\$ 5,700		\$ 5,700	
Card Table Permit Fees	\$ 59,750	\$ 39,150	\$ 20,600	
Card Tournament Fees	\$ 8,980		\$ 8,980	
Casino Night Permit Fees	\$ 1,000		\$ 1,000	
Fines/Penalties	\$ 31,135			\$ 31,135
Lab Test Fees	\$ 165,565		\$ 165,565	
Live Bingo & Keno Tax	\$ 6,445	\$ 6,445		
Manufacturer/Route Operator License Fees	\$ 78,192		\$ 78,192	
Operator License Fees	\$ 104,326		\$ 104,326	
Sports Tab Tax	\$ 4,008		\$ 4,008	
VGM Gross Income Tax	\$ 59,955,851			\$59,955,851
VGM Permit Fees	\$ 4,276,428	\$1,780,350	\$2,496,078	
Totals	\$ 64,730,260	\$1,825,945	\$2,917,329	\$59,986,985
Percent of Total	100.00%	2.82%	4.51%	92.67%

FY 2018 GCD Distribution of Revenue				
Revenue Source	Total Collected	Distribution of Funds		
		Local Govt.	Gambling Control	General Fund
Antique Slot Machine Dealer	\$ -		\$ -	
Bingo & Keno Permit Fees	\$ 24,000		\$ 24,000	
Calcutta Application Fees	\$ 4,625		\$ 4,625	
Card Dealer License Fees	\$ 10,578		\$ 10,578	
Card Room Contractor Fees	\$ 4,950		\$ 4,950	
Card Table Permit Fees	\$ 59,250	\$ 38,000	\$ 21,250	
Card Tournament Fees	\$ 10,340		\$ 10,340	
Casino Night Permit Fees	\$ 1,200		\$ 1,200	
Fines/Penalties	\$ 51,761			\$ 51,761
Lab Test Fees	\$ 153,022		\$ 153,022	
Live Bingo & Keno Tax	\$ 9,551	\$ 9,551		
Manufacturer/Route Operator License Fees	\$ 84,208		\$ 84,208	
Operator License Fees	\$ 93,186		\$ 93,186	
Sports Tab Tax	\$ 3,362		\$ 3,362	
VGM Gross Income Tax	\$ 60,302,818			\$ 60,302,818
VGM Permit Fees	\$ 4,244,647	\$ 1,767,200	\$ 2,477,447	
Totals	\$ 65,057,498	\$ 1,814,751	\$ 2,888,169	\$ 60,354,579
Percent of Total	100.00%	2.79%	4.44%	92.77%

Tribal Gaming Compacts



The Indian Gaming Regulatory Act (IGRA) enacted by Congress in 1988 directs the State, upon the request of a tribe, to enter into negotiations for the conduct of class III gaming on Indian Reservations. Class III gaming, as defined under IGRA, includes video gambling machines and other casino-style games. No class III gaming, by tribal members or nonmembers, can be conducted on the reservation unless a compact is in place.

A team of representatives from the Governor's Office negotiates state-tribal compacts for the State on behalf of the Governor.

In existing tribal compacts, the State has negotiated the same types of games that are legal in Montana. With regard to conditions of play, the State has agreed to various payouts of up to \$5,000 for a limited number of tribally owned video gambling machines. The State has also agreed to allow a total number of video gambling machines on the reservation rather than limiting tribes to a specific number of machines to be placed in each tribal premises. State-licensed (e.g. non-tribal) facilities are limited to payouts of \$800 and may have no more than 20 video gambling machines.

In recent years, some tribes have introduced class II video gambling machines. The class II machines resemble class III video gambling machines but are not subject to a state compact because they are considered electronic aids to the play of bingo. The class II video gambling machines can be operated without a state-tribal gaming compact.

Status of Compact Negotiations

Blackfoot Tribe of the Blackfoot Reservation – A compact with the Blackfoot Tribe was terminated in 1997 after being in place for only a brief period of time. Negotiations with the Blackfoot Tribe began in June 2005 and another negotiation session was conducted in 2008 but did not result in a new gaming compact. Currently, the Blackfoot Nation operates the Glacier Peaks Casino, which offers class II gambling, in Browning.

Crow Tribe of the Crow Reservation – On February 7, 2014, the US Department of Interior published its approval of the 8th Amendment to the gaming compact with the Crow Tribe. The compact was originally entered into in 1998 and was scheduled to expire in 2003. A series of amendments continued the agreement, and now this 8th Amendment to the compact extends the agreement for another 15 years or until a new compact is signed, whichever occurs first. The Amendment calls for the parties to begin negotiations toward a new compact upon its approval by the Secretary of Interior.

Under the terms of the 8th Amendment to the compact, the number of class III video gambling machines the Tribe may offer was increased from 400 to 925. Of those class III video gambling machines, up to 1/3 may be categorized as “high stakes,” with wagers up to \$50 per play, and prizes up to \$5,000 per wager. The remaining two-thirds of the class III video gambling machines are categorized as “regular stakes,” with wagers up to \$10 per play, and prizes up to \$3,000 per wager.

Salish & Kootenai Tribes of the Flathead Reservation – The State and the Tribes entered into a five-year compact in 2001 which expired on November 30, 2006. The Tribes and the state negotiating team entered into negotiations in March 2006. Negotiations did not result in a new compact or an extension of the existing compact. On November 30, 2006, video gambling machine permits for 37 state-licensed gambling locations were canceled and all video gambling machines were removed from the reservation. The Tribes now operate the Kwa Taq Nuk and Gray Wolf Peaks casinos that offer class II video gambling machines and card games. There have been no negotiations since 2006.

Gross Ventre & Assiniboine Tribes of the Fort Belknap Reservation – The State and the Fort Belknap Indian Community Council signed a state-tribal gaming compact in August 2007. This is the first gaming compact signed between the Tribes and the State since IGRA was signed into law in 1988. Under the agreement, the Tribes may have up to 400 Class III video gambling machines with a maximum wager of \$5 and maximum payout of \$2,000.

Assiniboine & Sioux Tribes of the Fort Peck Reservation – In December 2012, the State and the Assiniboine and Sioux Tribes of Fort Peck signed a new class III gaming compact, which was approved by the U.S. Department of Interior on December 20, 2012. In addition to other forms of gambling that are legal in Montana, the 2012 compact allows up to a total of 750 Class III machines to be operated within the Reservation, which includes maximum wagers of \$10 and maximum payouts of \$2,500 for “regular stakes” machines. The compact also provides that up to 20% of the Class III machines on any premises may be “high stakes” which may have a maximum wager of \$50 and a maximum payout of \$5,000.

Northern Cheyenne Tribe of the Northern Cheyenne Reservation – In January 2013, the Northern Cheyenne Tribe and the State of Montana signed a new class III gaming compact, which was approved by the U.S. Department of Interior on March 8, 2013. In addition to other forms of gambling that are legal in Montana, the 2013 compact allows to be operated within the Reservation up to 750 class III machines at tribal casinos located within the Reservation and on the Tongue River Reservoir Trust Lands. The compact provides for maximum payouts of \$3,000.

Chippewa-Cree Tribe of the Rocky Boy’s Reservation – In December 2012, the State and the Chippewa Cree Tribe signed a new class III state-tribal gaming compact, which was approved by the U.S. Department of Interior on February 4, 2013. In addition to other forms of gambling that are legal in Montana, the 2012 compact allows up to 750 class III machines to be operated within the Reservation, with maximum wagers of up to \$10. The compact provides for maximum payouts of \$3,000 in up to 500 machines, and maximum payouts of \$5,000 in up to 250 machines.



2017 - 2018 Gaming Advisory Council Report to the Department of Justice and the 2019 Legislature

Council Members:

NAME	REPRESENTING	LOCATION	TERM
Ron Alles*	Local Government	Helena	Aug 2016-May 2018
Sen. Mark Blasdel	Legislature (Senate)	Kalispell	May 2015-May 2019
Tim Carson (Vice Chair)*	Gaming Industry	Billings	Jan 2001-Dec 2017
Merle Frank	Gaming Industry	Billings	Dec 2017-Jan 2019
Mike Kenneally	Gaming Industry	Butte	Jan 2014-Jan 2020
Mark Kennedy (Chair)	Public at Large	Billings	June 2007-Jan 2019
Carol Lankford	Native Americans	Ronan	Oct 2018-Oct 2021
Bob McAnally*	Native Americans	Poplar	Apr 2007-May 2018
Steve Morris	Gaming Industry	Helena	June 1999-Jan 2020
Rep. Dale Mortensen	Legislature (House)	Billings	Jul 2016-Jul 2019
Bill Slaughter	Local Government	Hall	Feb 2017-Feb 2020
Cory Swanson	Local Government	Townsend	Aug 2018-Aug 2021

* indicates member is no longer active.

The Gaming Advisory Council is authorized by statute (2-15-2021, MCA). The statutory duties assigned to the Gaming Advisory Council (GAC) are:

- to hold meetings and study all aspects of gambling in Montana;
- to review and comment on administrative rules proposed by the Department;
- and
- to submit a biennial report to the Department of Justice and the Legislature with recommendations regarding the state's gambling laws and the Department's administrative rules and operations.

The GAC has nine members: one member each from the Senate and House of Representatives, one public member, two local government representatives, one Native American representative and three gaming industry representatives. The President of the

Senate and the Speaker of the House appoint the legislators to the Council, while the Attorney General selects the remaining members. Each member serves a three-year term.

Gaming Advisory Council Deliberations and Activities

This section provides a brief summary of each of the meetings that took place in the interim between the 2017 and 2019 legislative sessions. The minutes of all Gaming Advisory Council Meetings are available on the Justice Department website at <https://dojmt.gov/gaming/gaming-advisory-council/>.

May 19, 2017 – The first meeting following the legislative session was held in Helena. The Council reviewed the liquor and gambling legislation that the 2017 Legislature acted upon. Specifically, Administrator Nunn discussed the passing of Senate Bill 25 (DOJ/GAC bill) regarding nonprofit fundraising, financial institution exception to gift enterprise prohibition, machine tampering, and 150-foot rule.

Administrator Nunn brought to the Council a conceptual form of the proposed administrative rules that were related to the bills that had passed during the 2017 Legislative Session.

Issues identified as future topics of discussion for the next biennium included:

- Problem Gambling Funding
- Unclaimed Sports Pools/Sports Tabs
- Card Dealer License/Renewal Process
- Licensee Education
- Historic Horse Racing
- Sports Pools
- Machine Possession

The Chairman of the Montana Indian Gaming Association attended the meeting and provided an update to the Council.

September 15, 2018 – The Council met in Helena to further discuss the issues brought up during the May meeting. Division staff provided updates for the Operations Bureau, Investigations Bureau, and the Technical Services Section.

Administrator Nunn explained to the Council that both the Funding and VGM Subcommittees had not met since the May 19th meeting.

Chairman Kennedy appointed Councilman Merle Frank to replace Councilman Tim Carson to sit on both subcommittees.

Administrator Nunn mentioned to the Council that the MAR notice was sent out to the Council prior to meeting for review and provided a high-level summary of the rules. She also mentioned that these changes were based on the legislation passed during the 2017 Legislative Session.

Administrator Nunn explained that Unclaimed Sports Pools has been a topic that had been discussed in the past. She noted that an employee from the Department of Revenue Unclaimed Property Section attended a past meeting and explained what the process should be. There was also discussion that the Division is looking at ways to provide something specific in the statute or administrative rule which would allow operators a more efficient alternative to the current unclaimed property process.

The Council voted unanimously to approve the Division to move forward with the Unclaimed Sports Pools proposed conceptual rule change.

Administrator Nunn noted that the Department of Justice received a request for an Attorney General Opinion regarding historic horse racing machines.

Updates were provided by the Alcoholic Beverage Control Division, Montana Board of Horse Racing, Montana Lottery, and the Montana Council on Problem Gambling. The Montana Indian Gaming Association was invited but unable to attend.

January 26, 2018 – This Council meeting was held in Helena. Division staff provided updates for the Operations Bureau, Investigations Bureau, and the Technical Services Section.

Administrator Nunn explained to the Council the Funding Subcommittee did not have a meeting since the last full GAC meeting. She mentioned the Division was working on a few internal projects related to information gathering for the subcommittee. She explained that the subcommittee wanted the Division to analyze the funding provided by the Alcohol Beverage Control Division.

Administrator Nunn also noted the VGM subcommittee did meet and that a large piece of this meeting was reviewing the Administrative Rules the Technical Services Section was working on. She also mentioned the subcommittee made a few recommendations which the division incorporated into the draft.

She provided an update regarding the previously discussed Unclaimed Sports Pool issue. It was determined that a rule change would not be sufficient to address the issue and a legislative change would be necessary if the industry was interested in pursuing it.

Information related to an inconsistency between two statutes regarding Sports Pools was provided to the Council. Councilman Morris made a motion for approval of the legislative proposal that indicated only those who have an appropriate alcoholic beverage license can offer sports pools. The motion passed unanimously.

Administrator Nunn also informed the Council of how there are two issues that overlap in regard to machine possession (by unlicensed people or entities) and antique video gambling machines (legal and illegal). She provided various scenarios and sought input on how the Council thought those situations should be handled as the division comes across them. Industry and Council members discussed their position. The division will take the comments into consideration and will continue to research the issue before coming back with a proposal.

Updates were provided by the Alcoholic Beverage Control Division and the Montana Council on Problem Gambling. The Montana Indian Gaming Association, the Montana Board of Horse Racing, and the Montana Lottery were invited but unable to attend.

May 11, 2018 – This Council meeting was held in Helena. Division staff provided updates for the Operations Bureau, Investigations Bureau, and the Technical Services Section.

Administrator Nunn explained the Funding Subcommittee met in March and was continuing to study how much Alcoholic Beverage Control Division (ABCD) contributes to GCD's overall budget by analyzing each position type in regard to case work and workload. The Division was also comparing the time spent on gambling-related business to the time spent on alcohol-related business.

Administrator Nunn refreshed the Council on a discussion during the last Gaming Advisory Council meeting related to sports pools and who can offer them. She explained how there were some inconsistencies with a couple statutes, and the Division presented a couple options. During that meeting the Council recommended to refine this activity to those who have an appropriate alcoholic beverage license as defined under 23-5-119, MCA. Administrator Nunn explained that further clarification was needed under 23-5-503, MCA for nonprofits, and proposed to the Council to add language addressing how

nonprofits are permitted to offer this activity if they have an appropriate license to sell alcoholic beverages. Councilman Morris made a motion to approve the Division's proposal and recommended they add language that indicates only those who have a gambling operator license are authorized to offer sports pools. The motion carried unanimously.

Administrator Nunn also informed the Council that the Department is currently researching other jurisdictions on how they regulate machine possession and did not have a proposal at that time.

Draft Administrative Rules regarding terminology, clarification, and organization for rules impacting the Technical Services Section were also presented to the Council. Administrator Nunn touched on a few other rule updates pertaining to timely records submissions and the card dealer application/renewal process.

Updates were provided by the Alcoholic Beverage Control Division, Montana Lottery, and the Montana Council on Problem Gambling. The Montana Indian Gaming Association and the Montana Board of Horse Racing were invited but unable to attend.

October 5, 2018 – This Council meeting was held in Helena. Division staff provided updates for the Operations Bureau, Investigations Bureau, and the Technical Services Section.

Administrator Nunn explained to the Council that although sports pool and machine possession changes have been presented and discussed at past meetings, the proposed changes had evolved. Packets were handed out to the Council to follow what has changed in these proposals.

The first change that was discussed was the matter of clarification on whom can offer a sports pool. She refreshed the Council of a discrepancy between two statutes. The Council recommended to require those who offer sports pools to not only have an appropriate alcoholic beverage license, but also have a gambling operator license. She also reported back to the Council the information requested regarding how many licensees with an appropriate alcoholic beverage license had not been issued a gambling operator license. Councilman Morris made a motion to approve the proposed changes. The motion passed unanimously.

Next, Administrator Nunn explained to the Council the issue regarding machine possession. This included a brief discussion of the current law and explanation of the

difficulties experienced by the Department. She noted that the purpose of this proposal was to clarify the terminology and eliminate the distinction of “illegal” and “legal” devices, as well as change how old a machine must be for possession from 25 years to 30 years. Statistics were provided in regard to how many machines would become legal antiques if the change was approved and passed in the upcoming Legislative Session. Councilman Slaughter made a motion to approve the proposed change for machine possession. The motion passed unanimously.

Administrator Nunn explained that gaming had been significantly changed in the United States due to the Supreme Court repealing the Professional and Amateur Sports Protection Act (PASPA) in May 2018. She also noted nothing had changed in Montana upon that repeal but had opened up the opportunity for the Legislature to act on sports betting and authorizing other activities. Based on the research, training, and meetings, a list of potential areas that need to be considered in order to regulate this activity properly was compiled. Chairman Kennedy opened the discussion to the floor for Industry Representatives to weigh in on the matter. Councilman Morris recommended a subcommittee be formed to further research sports betting. This recommendation was approved.

Administrator Nunn explained to the Council that the department has had some discussions with Industry in regard to Alcohol Beverage Control Division’s rule that requires doors in a licensed location to be unlocked while the public is on the licensed premises and requires immediate access for law enforcement. She indicated there was some interest from licensees in having the ability to lock doors at a given point during the night. She also explained to the Council that both departments are working with Industry to come up with a solution.

Mr. John Iverson of the Montana Tavern Association (MTA) provided a white paper handout to the Council in regard to the nonprofit fundraising activity “heads or tails”. Mr. Iverson explained that this activity is currently illegal because it is not specifically authorized in statute, therefore has proposed that this be included in the GAC/DOJ bill. Councilman Frank made a motion for it to be included. The proposal passed unanimously.

Updates were provided by the Alcoholic Beverage Control Division, Montana Board of Horse Racing, and the Montana Council on Problem Gambling. The Montana Indian Gaming Association and the Montana Lottery were invited but unable to attend.

Recommendations of the Gaming Advisory Council

Statutory changes recommended by the Gaming Advisory Council are set out below:

- **Heads or Tails**
 - Authorize the gambling activity “heads or tails” and allow only nonprofit organizations to offer the game as a fundraising activity.
- **Antique Gambling Devices**
 - Change the definition of antique gambling devices from those that are at least 25 years old to those that are at least 30 years old.
 - Remove the reference to antique “illegal” gambling devices.
 - Provide a grandfather provision for those antique illegal gambling devices which are currently 25 years old by including a transition period in the definition of antique gambling device.
- **Sports Pools**
 - Amend 23-5-502, MCA to clarify that an appropriate alcoholic beverage license is necessary to offer a sports pool board.
 - Require a gambling operator license in order to offer a sports pool board.
 - Allow a licensed location to offer a charitable sports pool or sports tab board in which up to 50% of the proceeds can be donated to a nonprofit organization.

APPENDIX

Fiscal Year 2017 Video Gambling by City					
CITY	Number of Video Gambling Machines	*Estimated Population (7/1/2017)	Average persons per VGM	Number of Gambling Locations	Video Gambling Tax Collected
Belgrade	241	8,556	36	13	\$892,519
Billings	2,846	109,642	39	145	\$10,992,353
Bozeman	630	46,596	74	41	\$2,267,786
Columbia Falls	243	5,355	22	14	\$753,004
Deer Lodge	130	2,932	23	9	\$337,746
Dillon	158	4,264	27	17	\$340,329
Glendive	242	5,107	21	13	\$659,260
Great Falls	1,575	58,876	37	97	\$5,399,135
Hamilton	285	4,728	17	16	\$759,901
Havre	429	9,784	23	30	\$954,047
Helena	750	31,429	42	46	\$3,270,464
Kalispell	756	23,212	31	40	\$2,894,999
Laurel	262	6,791	26	14	\$839,887
Lewistown	235	5,918	25	18	\$462,134
Livingston	213	7,529	35	18	\$626,833
Miles City	371	8,483	23	26	\$967,118
Missoula	1,329	73,340	55	84	\$5,043,891
Sidney	321	6,328	20	19	\$934,563
Whitefish	223	7,608	34	13	\$550,491

Fiscal Year 2018 Video Gambling by City					
CITY	Number of Video Gambling Machines	*Estimated Population (7/1/2017)	Average persons per VGM	Number of Gambling Locations	Video Gambling Tax Collected
Belgrade	239	8,556	36	13	\$822,715
Billings	2,994	109,642	37	147	\$9,459,199
Bozeman	525	46,596	89	37	\$2,053,577
Columbia Falls	224	5,355	24	13	\$784,870
Deer Lodge	97	2,932	30	7	\$370,569
Dillon	119	4,264	36	12	\$429,773
Glendive	237	5,107	22	14	\$1,286,310
Great Falls	1,607	58,876	37	91	\$4,257,210
Hamilton	261	4,728	18	15	\$849,439
Havre	353	9,784	28	25	\$1,234,065
Helena	878	31,429	36	49	\$2,651,077
Kalispell	701	23,212	33	35	\$3,034,426
Laurel	249	6,791	27	13	\$836,002
Lewistown	177	5,918	33	15	\$541,982
Livingston	188	7,529	40	16	\$601,491
Miles City	349	8,483	24	22	\$908,462
Missoula	1,249	73,340	59	79	\$4,146,851
Sidney	236	6,328	27	16	\$3,385,904
Whitefish	218	7,608	35	13	\$621,419

* Data Access and Dissemination Systems (DADS). "American FactFinder." U.S. Census Bureau. U.S. Census Bureau, n.d. Web. 10 Oct. 2018.

Fiscal Year 2017 Video Gambling by County			
COUNTY	Number of Video Gambling Machines	Number of Gambling Locations	Video Gambling Tax Collected
BEAVERHEAD	191	25	\$375,365
BIG HORN	158	10	\$461,868
BLAINE	109	11	\$191,017
BROADWATER	198	14	\$459,238
CARBON	257	23	\$595,815
CARTER	15	4	\$17,201
CASCADE	1,895	127	\$6,280,281
CHOUTEAU	81	13	\$127,794
CUSTER	360	26	\$970,412
DANIELS	56	8	\$61,176
DAWSON	248	18	\$786,972
DEER LODGE	297	26	\$692,379
FALLON	77	8	\$169,032
FERGUS	257	28	\$520,220
FLATHEAD	1,606	102	\$5,359,759
GALLATIN	1,010	83	\$3,668,987
GARFIELD	13	2	**
GLACIER	204	12	\$447,071
GOLDEN VALLEY	12	3	\$34,208
GRANITE	43	6	\$45,868
HILL	503	38	\$1,105,465
JEFFERSON	191	16	\$416,756
JUDITH BASIN	31	7	\$55,517
LAKE	21	4	\$25,822
LEWIS AND CLARK	1,155	84	\$4,383,360
LIBERTY	25	4	\$21,244
LINCOLN	583	41	\$1,112,378
MADISON	98	15	\$203,002
MCCONE	28	5	\$51,821
MEAGHER	76	10	\$126,735
MINERAL	257	16	\$345,658
MISSOULA	1,674	117	\$6,065,090
MUSSELSHELL	74	7	\$210,030
PARK	330	33	\$886,240
PETROLEUM	4	2	**
PHILLIPS	112	14	\$247,234
PONDERA	98	13	\$205,552
POWDER RIVER	42	5	\$112,728
POWELL	142	14	\$355,974
PRAIRIE	22	3	\$32,113
RAVALLI	570	40	\$1,439,990
RICHLAND	413	29	\$1,393,822
ROOSEVELT	361	25	\$1,169,440
ROSEBUD	200	20	\$437,728
SANDERS	296	23	\$509,596
SHERIDAN	153	13	\$389,949
SILVER BOW	1,169	88	\$3,358,930
STILLWATER	214	19	\$459,435
SWEET GRASS	64	7	\$143,093
TETON	81	13	\$139,530
TOOLE	193	19	\$323,105
TREASURE	4	1	**
VALLEY	193	21	\$418,969
WHEATLAND	48	9	\$88,660
WIBAUX	52	4	\$150,912
YELLOWSTONE	3,158	176	\$12,205,877
GRAND TOTAL	19,722	1,504	\$59,856,418

**Confidential tax information (only two or less licensed gambling locations in this county)

Fiscal Year 2018 Video Gambling by County			
COUNTY	Number of Video Gambling Machines	Number of Gambling Locations	Video Gambling Tax Collected
BEAVERHEAD	144	17	\$363,896
BIG HORN	185	11	\$457,763
BLAINE	82	9	\$168,762
BROADWATER	147	11	\$456,086
CARBON	283	23	\$630,807
CARTER	9	3	\$18,754
CASCADE	1,931	121	\$6,280,964
CHOUTEAU	91	14	\$118,941
CUSTER	352	24	\$967,824
DANIELS	55	7	\$59,849
DAWSON	279	19	\$864,422
DEER LODGE	271	25	\$672,542
FALLON	74	8	\$142,987
FERGUS	212	26	\$561,376
FLATHEAD	1,534	93	\$5,488,453
GALLATIN	978	80	\$3,898,913
GARFIELD	12	2	**
GLACIER	198	11	\$391,008
GOLDEN VALLEY	13	3	\$27,208
GRANITE	47	7	\$47,988
HILL	459	33	\$994,886
JEFFERSON	171	17	\$422,011
JUDITH BASIN	35	6	\$56,537
LAKE	38	7	\$40,250
LEWIS AND CLARK	1,223	85	\$4,450,749
LIBERTY	26	4	\$22,059
LINCOLN	57	41	\$1,132,476
MADISON	113	16	\$198,583
MCCONE	28	5	\$59,165
MEAGHER	45	8	\$113,121
MINERAL	219	15	\$385,698
MISSOULA	1,516	102	\$6,092,427
MUSSELSHELL	77	7	\$214,057
PARK	313	32	\$944,554
PETROLEUM	4	2	**
PHILLIPS	106	13	\$250,209
PONDERA	89	13	\$222,711
POWDER RIVER	36	4	\$112,006
POWELL	117	14	\$353,032
PRAIRIE	18	3	\$28,888
RAVALLI	517	33	\$1,498,968
RICHLAND	363	25	\$1,374,917
ROOSEVELT	330	21	\$1,107,278
ROSEBUD	169	19	\$423,042
SANDERS	266	20	\$528,104
SHERIDAN	173	15	\$376,731
SILVER BOW	1,134	86	\$3,412,620
STILLWATER	172	14	\$460,691
SWEET GRASS	52	8	\$131,997
TETON	81	13	\$135,405
TOOLE	153	16	\$339,505
TREASURE	4	1	**
VALLEY	166	17	\$415,877
WHEATLAND	50	9	\$103,253
WIBAUX	50	4	\$167,976
YELLOWSTONE	3,277	176	\$12,055,076
GRAND TOTAL	18,544	1,418	\$60,245,053

**Confidential tax information (only two or less licensed gambling locations in this county)