



The Grand Traverse Band of Ottawa and Chippewa Indians

Legal Department

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682-9275 • (231) 534-7601 • FAX 231-534-7600

MANDATORY 30-DAY POSTING

MEMORANDUM

TO: Tribal Membership
FROM: GTB Legal Department *JP*
RE: **30-day posting regarding Title 18 Chapter 16 Revenue Allocation
Amendments**
DATE: November 27, 2024

Please post the attached proposed amendments to the ordinance that was approved for a 30-day posting by Tribal Council at the Tribal Council Special Session on November 27, 2024. Please post the above referenced ordinance in an area where GTB tribal members can review it for 30 days. This is an opportunity for tribal members to provide comments, if any, about this proposed ordinance. Your comments will be provided to Tribal Council prior to the adoption of this ordinance. This posting will end on December 27, 2024 and can be removed at that time.

Any comments regarding the above referenced should be directed to the GTB Legal Department either by writing to the GTB Legal Department, 2605 N.W. Bayshore Dr., Peshawbestown, MI 49682, or by telephone (231) 534-7601, or by e-mail, to page.paul2@gtb-nsn.gov

Posting Sites: sent via email

Administration Building

Accounting Department Annex

Annex II – Human Resources Building

Benodjehn Child Care Center

Clinic

Elder's Complex

Housing

SBR Plant

Natural Resources/Conservation

Maintenance Department

Benzie Satellite Office

Charlevoix Satellite Office

Traverse City Satellite Office

Strongheart Center

Library/Yo Building/Youth Center

Tribal Court

EDC Building

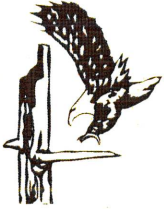
Leelanau Sands Casino –

Employees/Supervisors' Break-room

Leelanau Sands "The Lodge" –

Employees/Supervisors' Break-room

Turtle Creek Casino – Employees/Supervisors'
Break-room



The Grand Traverse Band of Ottawa and Chippewa Indians

2605 N. West Bay Shore Drive · Peshawbestown, MI 49682-9275 · (231) 534-7750

TRIBAL COUNCIL RESOLUTION Resolution #24-42.3731

AN OMNIBUS AMENDMENT OF THE REVENUE ALLOCATION ORDINANCE CONSISTENT WITH THE INDIAN GAMING REGULATORY ACT, 25 USC 2710 AND THE GENERAL WELFARE ACT, § 139E OF THE INTERNAL REVENUE CODE.

WHEREAS: The Grand Traverse Band of Ottawa and Chippewa Indians (GTB) became a federally recognized Indian Tribe having a government-to-government relationship with the United States effective May 27, 1980 (see 45 Fed. Reg. 18321-322 (March 25, 1980)) and GTB is organized under a Tribal Constitution approved by the Secretary of the Interior on March 29, 1988; and

WHEREAS: GTB has a full Tribal Council currently consisting of Sandra L. Witherspoon, Tribal Chairwoman; Jane Rohl, Vice Chair; Anna Miller, Secretary; Donna Swallows, Treasurer; Tina Frankenberger, Councilor; Brian Napont, Councilor; and Angelina Raphael, Councilor; and

WHEREAS: Article IV, Section (1)(h) of the Tribal Constitution provides that a power of the Tribal Council is “[t]o manage and control the economic affairs, enterprises, property, and all other interests of the Band; and

WHEREAS: GTB has a Secretarial approved Revenue Allocation Ordinance (RAO) consistent with Indian Gaming Regulatory Act (IGRA) 25 USC § 2710(a)((3)(A-D)); and

WHEREAS: GTB desires to amend the RAO consistent with the General Welfare Exclusion § 136E of the Internal Revenue Code; and

WHEREAS: The United States Department of Interior Process RAO amendment process is implemented by 25 CFR 290 and the 47 Internal Affairs Manual Chapter 3 #10-8 1.7 A 2. (a-c) (Superintendent review), 47 Internal Affairs Manual Chapter 3 1.7 B 1. and 2 (a-h) (Office of Indian Gaming review) for a 60 day review; and

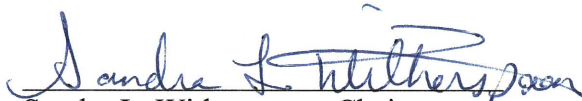
WHEREAS: Under the GTB Legislative Procedures Act, legislative 1 GTB § 106, Council must provide a 30-day review period for tribal members; and

NOW THEREFORE BE IT RESOLVED that the GTB Council hereby enacts the November 27, 2024, Omnibus Amendment of the Revenue Allocation Ordinance for submission to the United States Department of Interior forwith for approval or disapproval within the next 60 calendar days.

BE IT FURTHER RESOLVED that the Omnibus Amendment of Revenue Allocation Ordinance be published and posted for tribal citizen comment for 30 calendar days.

APPROVED:

ADOPTED:


Sandra L. Witherspoon, Chairwoman


Anna Miller, Secretary

CERTIFICATION

As Secretary of the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians, I hereby certify that the above resolution was approved and adopted at a Special Session of the Tribal Council held in Peshawbestown, Michigan, on November 27, 2024, by a vote of:

4 FOR, 0 AGAINST, 0 ABSTAINING, and 2 ABSENT.

ATTEST:


Anna Miller, Secretary

Chapter 16 Revenue Allocation

SUBCHAPTER 1 Revenue Allocation Ordinance.

~~NOTE: Appendixes A through F, which were included in the Revenue Allocation Ordinance enacted May 31, 2000, as amended, are not reproduced in this Code. Copies may be obtained through the Grand Traverse Band Legal Department. These appendixes are titled: Appendix A, Trust Agreement February 18, 1998; Appendix B, IRS Private Letter Ruling, March 8, 2000; Appendix C, IRS Private Letter Ruling, November 17, 1998; Appendix D, Deferred Per Capita Benefit Plans, Plan A and Plan B; Appendix E, Procedures for Incarcerated Individuals; and Appendix F, Administrative Procedures for Per Capita Emergency Loans.~~

§ 1601. Resolution and Repeal of Inconsistent Legislation. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

This Revenue Allocation Ordinance (hereafter this "RAO") is adopted pursuant to Article IV, Sections 1 (a), (h), and (j) of the Tribal Constitution (hereafter the "Constitution") of the Grand Traverse Band of Ottawa and Chippewa Indians (hereafter the "GTB"). Ordinance No. 94-117, as amended 3-21-1996; 8-21-1996 [affirmed 9-6-1996]; 12-16-1997 [enacted 2-17-1998]; 6-8-1998; 11-17-1998; ~~and 4-28-1999; and 6-1-2000~~, is hereby repealed. This RAO shall govern the allocation of available net revenues from the gaming enterprises, including Turtle Creek Casino, Leelanau Sands Casino, and any subsequent gaming enterprise of the GTB ("net revenues"), for each fiscal year of the GTB, including ~~per capita~~ distributions to qualified members of the GTB.

§ 1602. Policy. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) The GTB retains the inherent sovereign right to determine the best interests of its minor Tribal members by providing for their future welfare by contributing ~~per capita benefits~~ Tribal member distributions into one or more trusts to be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to those minor Tribal members ~~or contribution by such members to a deferred benefit plan in accordance with § 1605(g)~~. All assets accumulated in the trust or trusts for the benefit of a minor Tribal member shall be distributed in the manner set forth herein, ~~at such time as the minor reaches the ages of 21, 22, 23 and 24~~ and not before age 18, except in the limited extraordinary circumstances provided in § 1605(e)(3)(A) and (B).

Based on a survey of the GTB Tribal membership, the majority 79% of Tribal members who responded would endorse a GTB Tribal policy of no access to the ~~childrens'-minors'~~ trust funds. Based on this determination of the will of GTB Tribal membership, access to the

~~children's-minors'~~ trust funds described in § 1605(~~de~~) shall be limited under Tribal policy consistent with the United States Department of the Interior regulation codified at 25 C.F.R. 290-12, Tribal Revenue Allocation Plans, (ii). Loans to parents or guardians of children shall not be granted or secured by the ~~children's-minors'~~ trust fund.

- (b) The GTB has determined that it is in the best interests of minor Tribal members that ~~per capita Tribal member distributions payments~~ be contributed to a minor's irrevocable grantor trust or trust subject to the power of substitution by the grantor Tribe. The Trust Agreement ~~may contain additional terms consistent with the Indian Gaming Regulatory Act ("IGRA"), this RAO, Tribal law, and the Tribe's responsibility to protect and preserve the interests of its minor Tribal members, is attached hereto and incorporated by reference as Appendix A.~~

~~The non-fiduciary power of substitution shifts the income tax consequence to the grantor Tribe until the trust is distributed under the terms of the trust. In 1995 the Tribe sought a private letter ruling from the Internal Revenue Service (IRS) that such a trust did not create taxable income in the minor per capita payments made by the grantor Tribe.~~

~~The IRS issued a private letter ruling [PLR 114616-98] (March 8, 2000) sanctioning the above arrangement in the following language:~~

- ~~(1) Neither the creation of the trusts, nor the contributions of assets to the trusts, nor the accumulation of income in the trusts will result in taxable income for the minors or incompetent members of the GTB using the cash method of accounting.~~
- ~~(2) Benefits payable from the trusts will be includable in the gross income of the minor or incompetent members in the taxable year or years in which the benefits are actually distributed or otherwise made available.~~
- ~~(3) Provided that the circumstances surrounding the trusts' administration indicate that the power of administration held by the GTB over the trusts (i.e. the power to substitute assets for assets of equivalent value) is exercisable by the GTB in a nonfiduciary capacity without the approval or consent of a person in a fiduciary capacity, the GTB will be treated as the owner of the trusts under Section 675 [of the Internal Revenue Code].~~
- ~~(4) Assuming that the GTB is treated as the owner of the trusts under Section 675 [of the Internal Revenue Code], the GTB, which is not subject to federal income tax, shall not be subject to federal income tax on the income of the trusts nor will there be any tax consequences to the GTB upon funding of the trusts. Rev. Rul. 94-16, 1994-1 C.B. 19; Rev. Rul. 67-284, 1967-2 C.B. 55.~~

~~The IRS private letter ruling [PLR 114616-98] (March 8, 2000) is attached hereto and incorporated by reference as Appendix B.~~

- (c) The GTB also has determined that it is in the best interests of its adult Tribal members who have been declared incompetent by a court of competent jurisdiction to contribute ~~per capita benefits Tribal member distributions~~ into one or more trusts to be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to those members as necessary for the beneficiary's health, ~~education, or welfare or economic security, including their support, maintenance, and education~~, as provided in § 1605(f).
- (d) The GTB also has determined that it is in the best interests of certain adult Tribal members,

who have adequate resources available for their current general welfare from other sources, to provide ~~deferred per capita benefits distributions~~ for such members in lieu of current ~~per capita benefits distributions~~ to ensure that they have adequate resources to provide for their general welfare in the future, provided that such members satisfy the eligibility criteria for such benefits as provided in

~~§ 1605(fg), and sanctioned by an IRS private letter ruling [PLR 36099-95] (November 17, 1998) which is attached hereto and incorporated by reference as Appendix C. The Deferred Per-Capita Plans A and B are attached hereto and incorporated by reference as Appendix D.~~

~~(e) For the per capita payment for the year of 2000, the GTB EDC shall use the gaming revenue figures of November 1, 1999 to October 31, 2000 on a projected income basis. For the per capita payment for the year of 2001, the GTB EDC shall use an eleven-month payment year of November 1, 2000 to September 30, 2001. The eleven-month payment year in the year 2001 is necessary to adjust the GTB EDC accounting year from a calendar year to a fiscal year to coincide with the fiscal year of the GTB Government. Thereafter, per capita payments shall be computed on an October 1 to September 30 fiscal year.~~

§ 1603. Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #96-14.392, enacted by Tribal Council on August 21, 1996 [and affirmed on September 6, 1996]; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

(a) Subject to § 1604 ("Use of Net Revenues; Tribal Economic Development"), the Tribal Council hereby allocates the following schedule of net revenues ~~in order to~~ provide funding for Tribal governmental operations and programs and the long term investment program:

Tribal governmental operations and programs:	25%
Long term investment program:	10%

(1) If it deems it necessary, the Tribal Council shall have the authority to revise and increase the percentage of net revenues allocated to funding for Tribal governmental operations and programs, the long term investment program or for various components thereof. Any overall percentage increase shall be drawn from the percentage set by § 1604 ("Use of Net Revenues; Tribal Economic Development"). The Tribal Council shall not decrease the allocated percentage set by this § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") to increase the percentage set by § 1605 ("Use of Net Revenues; ~~Individual Per Capita Benefits Tribal Member Distributions~~"). Any revision of the allocated percentage herein shall be documented by a Tribal Council resolution, a copy of which shall be provided to the Secretary.

(2) Any net revenues allocated to funding for Tribal governmental operations and programs that have not been encumbered as of the last date of any fiscal year of the Tribal government may, at the Tribal Council's discretion, be allocated to the purposes set forth in § 1604 ("Use of Net Revenues; Tribal Economic Development") or be allocated to funding for § 1603 ("Use of Net Revenues; Tribal Governmental Operations

and Programs and the Long Term Investment Program") Tribal governmental operations and programs for the subsequent fiscal year.

- (3) Any Tribal member shall have standing to raise the question of whether the Tribal Council is following the RAO distribution formula. Such challenges shall be brought in the Tribal Court under a cause of action styled as "RAO Distribution Cause of Action." The elements of cause of action shall be 1) must be a Tribal member; 2) the standards of the RAO alleged to have been violated; and 3) factual allegations that allege a present violation of the standards. The Tribal Court shall fashion the remedy consistent with Tribal law and generally accepted accounting principles (GAAP).
- (b) The net revenues allocated to Tribal governmental operations and programs shall be expended in accordance with the Tribal budget appropriation process. The Tribal Council is the sole decision-making body as to any actions taken upon budget reports and requests and as to the allocation of funds designated for Tribal governmental operations and programs. The Tribal Council or its appointed agent shall disburse the funds allocated to Tribal governmental operations and programs in accordance with the annual Tribal budget and the Tribal appropriation process. Any disbursements made hereunder shall be received by the receiving Tribal governmental operation or program and handled in a manner consistent with the operations or programs GAAP.
- (c) The net revenues to Tribal government operations and programs shall be remitted to the Tribal Government Accounting Office by the GTB EDC on a quarterly basis. The GTB Governmental Accounting Office and the GTB EDC Accounting Office shall sign a schedule of prospective payments ratified by the Tribal Council, to insure the timely transmittal of the Tribal Governmental Operations and Program proceeds to the GTB Governmental Accounting Office consistent with the GTB appropriation process.
- (d) The Tribal long-term investment program shall be operated pursuant to an investment policy to be adopted by resolution of the Tribal Council. At a minimum, this investment policy shall provide:
 - (1) That the net revenues allocated to investment shall be weighted toward investments that provide for the long-term security of the GTB and its Tribal members;
 - (2) A description of the types of investments made;
 - (3) A percentage allocation of equities and debt instruments;
 - (4) Investment objectives to be reviewed on a quarterly basis by the Tribal Council or its appointed agent;
 - (5) A list of investments that shall be excluded due to their lack of safety and liquidity; and
 - (6) A comprehensive investment plan incorporating principles of prudent but market-based portfolio management.

Investments shall be made with nationally recognized, reputable and safe investment companies in accordance with the GTB's goal of the long term economic security of the Tribe and its Tribal members. Interest earned on investments made pursuant to

this § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") shall not be used to provide ~~per capita benefits~~Tribal member distributions as defined in § 1605 ("Use of Net Revenues; ~~Individual Per Capita Benefits~~Tribal Member Distributions"). In accordance with the GTB's stated policy to provide for the long term economic security of itself and its Tribal members, a substantial portion of the interest earned on investments made pursuant to this § 1603 shall be reinvested at the discretion of the Tribal Council. The Tribal Council, in its discretion, may allocate the interest earned on investments made pursuant to this § 1603 in accordance with the provisions of IGRA or any other applicable federal law.

- (e) The Tribal Council shall publish an Annual Report and Audit of the long-term investment fund established by this § 1603. Such report shall contain reporting material consistent with the principles of full disclosure and designed to ~~inform the Tribal member to the fullest extent~~fully inform the Tribal member possible of the growth or decline and expenditure of the long-term investment account.
- (f) Each year the Tribal Council shall develop an annual plan for investment objectives and principal Tribal uses of the long-term investment fund. Such report shall be included in the investment report required by § 1603(~~e~~).
- (g) By January 1, 2001, the Tribal Council shall develop a position description of Tribal Money Manager. The position of the Tribal Money Manager shall be established after an extensive review and consultation with licensed, qualified money managers, certified public accountants (CPAs), attorneys, and such other professions identified by the Tribal Council. The Tribal Money Manager shall advise the Tribal Council on long-term investments, monitor the long-term investment fund and report on the long-term investment fund.

§ 1604. Use of Net Revenues; Tribal Economic Development. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #96-14.392, enacted by Tribal Council on August 21, 1996 [and affirmed on September 6, 1996]; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) Subject to § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program"), the Tribal Council hereby allocates the following schedule of net revenues ~~in order to~~ provide funding for Tribal economic development: 15% of net revenues from gaming revenue.
 - (1) The GTB EDC shall be charged with administering this 15% allocation.
 - (2) The GTB EDC shall develop an Economic Development Plan for the expenditure of this 15% allocation herein.

If it deems it necessary, the Tribal Council shall have the authority to revise and increase the percentage of net revenues allocated to funding for Tribal economic development. Any overall percentage increase shall be drawn from the percentage set by § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program"). The Tribal Council shall not decrease the allocated percentage set by this § 1604 to increase the percentage set by § 1605 ("Use of Net Revenues;

~~Individual Per Capita Benefits~~Tribal Member Distributions"). Any revision of the allocated percentage herein shall be documented by a Tribal Council resolution, a copy of which shall be provided to the Secretary.

- (b) The Tribal Council shall have the authority to appropriate and expend net revenues allocated to Tribal economic development to supplement funding for ongoing Tribal economic enterprises. Requests for supplemental funding for the Tribal ongoing businesses and enterprises shall be considered in accordance with GTB governmental procedures. The Tribal Council shall thereafter allocate those net revenues designated for Tribal economic development to the ongoing business or enterprise as it deems necessary and reasonable.
- (c) Separate accounting and audits shall be done for economic development projects of the GTB/EDC. All enterprises and businesses are to be treated as "stand-alone entities" in the accounting and audit statements.
- (d) The GTB Economic Development Plan shall be operated pursuant to the development policy adopted by resolution of the Tribal Council. At a minimum, this development policy shall provide:
 - (1) Criteria for business plans;
 - (2) A mission statement;
 - (3) The Tribal Council or its appointed agent shall review developments on a monthly basis; and
 - (4) Establish a minimum internal rate of return.

§ 1605. Use of Net Revenues; ~~Individual Per Capita Benefits~~Tribal Member Distributions. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #95-13.217, adopted by Tribal Council on March 21, 1995; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #98-16.646, enacted by Tribal Council in Special Session on October 14, 1998; as amended by Tribal Act #99-17.703, enacted by Tribal Council in Special Session on May 3, 1999; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Act #06-24.1696, enacted by Tribal Council in Special Session on July 26, 2006; as amended by Tribal Act #07-25.1742, enacted by Tribal Council on January 17, 2007; as amended by Tribal Act #08-26.1962 on September 17, 2008, as amended by Tribal Act #09-27.2125 on October 28, 2009; and as amended by Tribal motion, enacted by Tribal Council on September 15, 2016; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) In order to advance the current and long term personal health, safety and welfare of qualified Tribal members, and subject to § 1609 ("Child Support Obligations") and § 1610 ("Tribal Court Orders"), the Tribal Council hereby allocates 50% of all net gaming revenues, ~~less the costs of administration of the programs provided to be developed to implement the RAO in years 2001 through 2004, to be divided into equal shares and provided to all qualified Tribal members for distributions to qualified Tribal members,~~ with ~~benefits-distributions~~ for minor qualified Tribal members [as defined in § 1605(e)(1) below] being provided in accordance with the provisions of § 1605(e)(~~3~~) below, with ~~benefits-distributions~~ for adult qualified Tribal members who are legally incompetent being provided in accordance

with the provisions of § 1605(f) below, and with deferred benefits for other qualified Tribal members being provided pursuant to Plans A or B ~~described in Appendix D~~, established by the Tribal Council in accordance with eligibility criteria set forth in § 1605(~~g~~) below. Distributions to qualified Tribal members pursuant to this § 1605(a) may consist of either or both per capita payments and General Welfare Exclusion distributions. In accordance with 25 C.F.R. 290 Tribal Revenue Allocation Plans (effective date April 17, 2000), and for purposes of this RAO, "per capita ~~benefit payments~~" shall mean the distribution of money or other thing of value to all members of the tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity, those per capita payments deposited into trusts for minors [see § 1605(e)(3)] or other legally incompetent persons [see § 1605(f)], or set aside for future payment under a deferred payment plan [see § 1605(g)] to qualified Tribal members pursuant to this § 1605 ("Use of Net Revenues; Individual Per Capita Benefits") from net revenues; no other commonly accepted or used definition of the term "per capita benefit" affects the use of the term herein. However, such definition does not apply to payments which have been set aside by the Tribe for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs. For purposes of this RAO, payments made by the Tribe for special purposes or programs shall be considered General Welfare Exclusion distributions, and administered in accordance with IRS guidance interpreting Section 139E of the Internal Revenue Code. The Tribe shall set aside amounts for General Welfare Exclusion distributions in accordance with the provisions of § 1606 below.

- (b) Tribal member distributions shall be computed on an October 1 to September 30 fiscal year. ~~Per capita payments~~ Such distributions shall be paid, deposited into trusts for minors or other legally incompetent persons, or set aside for future payment under a deferred payment plan on a semiannual basis, coinciding with the qualified Tribal member's calendar year.
- (1) ~~Beginning with the year 2000, per capita benefits~~ Member distributions for each calendar year shall be paid, deposited within five business days into trusts, or set aside for future payment on June 3 and December 3 of that payment year.
 - (2) All net revenues designated for Tribal member distributions ~~as per capita benefits~~, other than to minors [which shall be made in accordance with the provisions of § 1605(e) below], to other legally incompetent persons [which shall be made in accordance with the provisions of § 1605(~~g~~) below] and to members participating in a deferred benefit plan established pursuant to § 1605(~~g~~) below, shall be deposited, when received by the GTB, into a low-risk, interest-bearing account with a federally insured financial institution prior to distribution. For purposes of this subsection, said deposits shall be made within five days of the date such revenue is received by the GTB and shall be made in accordance with the percentage allocation set forth above. Interest earned prior to distribution on net revenues deposited in this account shall be allocated among the ~~per capita~~ recipients and added to the ~~per capita benefits~~ Tribal member distributions.
- (c) "Qualified Tribal members" for purposes of this RAO shall mean any individual who is duly enrolled in the GTB in accordance with Article II of the Tribal Constitution and living as of June 1st of the benefit year in question. A Tribal member receiving semiannual distributions who dies before December 1st shall not be eligible for the December payment.
- (d) In addition, ~~in order for~~ any qualified Tribal member to be entitled to deferred payments,

the member must apply for benefits on a form prescribed by the Tribal Council on or before such date as may be prescribed by the Tribal Council.

- (1) Consistent with Article II, Section 3, ("Membership Procedure") of the Constitution, any "qualified Tribal member" shall have legal standing to challenge the membership of current "qualified Tribal members" as improperly enrolled for purposes of receiving Tribal ~~per capita~~member distributions.
- (2) Any person denied membership shall have the legal standing to challenge the denial of membership before the Tribal Council on an administrative review standard of de novo review.
- (e) In order to provide for the future ~~safety, health, education and well-being~~welfare of the children of the GTB, ~~per capita benefits~~distributions for minor qualified Tribal members shall be contributed by the Tribal Council to one or more trusts which are grantor trusts for federal income tax purposes.

(1) A "minor qualified Tribal member" means an individual who is a qualified Tribal member as defined in § 1605(c) except that he or she has not reached the age of 18 as of June 3rd and December 3rd of the benefit year in question.

(2) ~~Per capita benefits~~Tribal member distributions contributed to a trust or trusts shall be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to the minor qualified Tribal members. The trust shall segregate and separately track per capita payments and General Welfare Exclusion distributions contributed to the trust. In accordance with IGRA, the Internal Revenue Code, and related IRS guidance, any per capita payments contributed to the trust shall be included in the income of the beneficiaries upon distribution.

~~(3) Except as otherwise provided in this RAO, no disbursements from a trust shall occur until the beneficiary has attained the age of 18 years. The Tribal Council shall establish a distribution schedule in the trust that best protects and preserves the interests of the beneficiaries, and that takes into account goals of the Tribe, including but not limited to financial education and obtaining a high school diploma or equivalent. Providing sufficient evidence of eligibility, all assets accumulated in the trust or trusts for the benefit of a minor qualified Tribal member shall be distributed, upon application of the beneficiary and the completion of financial planning education provided by the Tribe at no cost to the minor, by the trustee or trustees or the Tribal Council in accordance with the following schedule:~~

~~(4) —~~

- ~~— At age 19, 33% of the then principal;~~
- ~~— At age 20, 50% of the then principal; and~~
- ~~— At age 21, the remaining assets of the trust.~~

~~(5) —~~

~~(6) —~~

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- ~~Eligibility requirements for distributions at ages 19 and 20 shall include graduation from high school or the achievement of a GED from an accredited educational institution; provided, however, that this requirement shall not extend to mentally disabled members as determined by health officials.~~
- ~~In the event a Tribal member provides sufficient proof of a high school diploma or GED after reaching the age of 19 but before reaching the age of 21, the date the degree was conferred shall replace the member's birthdate as the date on which the Tribal member is eligible for the first distribution. The first and second anniversaries of the date the degree was conferred shall be the dates on which the Tribal member is eligible for the second and third distribution, respectively. In the event a Tribal member does not achieve a high school diploma or a GED by age 21, the trust distribution shall be delayed until ages 21, 22, and 23.~~
- ~~Prior to the first distribution as determined in 18 GTBC § 1605, notification of possible investment options shall be mailed to the minor, along with notice that there are financial planning alternatives to direct distributions.~~

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(A) Prior to the time the minor beneficiary reaches the age of 21, the Tribal Court or the trustee or trustees, in their sole discretion, may make distributions from the trust or trusts to the parents or legal guardians of the beneficiary to defray the unreimbursed medical expenses in excess of \$250 incurred by the beneficiary in any one calendar year, provided that the Tribal Council concurs in the determination made by the trustee or trustees.

(B) Upon the petition of the parents or legal guardians of the minor beneficiary, trust assets may be distributed to the parents or legal guardians of such minor or minors in such amounts as from time to time the trustee or trustees or the Tribal Court, in their sole discretion, deem necessary for the minor's health, education or welfare. The Tribal Court may require that the petitioning parent or legal guardian submit receipts of expenditures made on behalf of the minor before any disbursements are made, and made and shall require that the petitioning parent or guardian account to the trustees for any expenditures made from distributions from the trust or trusts. The Tribal Court may, at its discretion, authorize the trustee or trustees or the Tribal Court to establish a regular monthly distribution from the trust for the minor.

~~(B)(C) In order to further protect and preserve the interests of minors' trust beneficiaries, upon reaching the age of 18, trust beneficiaries shall have the option to defer unvested trust assets into a plan established by the Tribe pursuant to § 1605(g).~~

~~(7)(3) For purposes of establishing standards for access to the minors' trust funds, the trustee, trustees or the Tribal Court shall follow standards that, to the extent permissible, preserve the child's estate consistent with federal and Tribal law.~~

~~(8) Based on the direction of RAO, Ordinance No. 94-117 and amendments thereafter, and~~

~~the resulting trust documents attached thereto and incorporated by reference, the Tribal Council shall not move the minors' trust assets from the current trust manager, Huntington National Bank (acquirer by merger with original Trustee, Empire National Bank), for a period of five years to the year 2006, if at all, unless Huntington National Bank has failed to meet the "Prudent Investor Rule" as established by the "Estates and Protected Individuals Code for the State of Michigan" (1998 PA 386, as amended by 199 PA 52 effective 4-1-2000). In addition, at least three bids would have to be received for consideration prior to replacing Huntington National Bank as investment manager. In return, Huntington National Bank commits to maintain investment management of the children's trust at a maximum explicit rate of 22.5 basis points or less until the expiration of this RAO in 2006.~~

~~(9)(4)~~ (4) The interest of each beneficiary shall be accounted for separately by the trustee, and a trust account statement shall be available at least semiannually to the parent or legal guardian of the beneficiary.

~~(10)(5)~~ (5) When the minor qualified Tribal member reaches the age of 18, said member shall receive the subsequent semiannual ~~per capita payment~~ Tribal member distribution(s) directly for that year and each year thereafter.

~~(11)(6)~~ (6) If any assets remain at the beneficiary's death, the trust shall terminate and the remaining trust assets (including any accrued net income) shall be distributed in equal shares to any surviving children of the beneficiary or to one or more trusts for the benefit of such children, or, shall be distributed to any surviving spouse or in equal shares to any surviving parents of the beneficiary who are members of the GTB, or, in the absence of any surviving children, surviving spouse, surviving parents, or surviving siblings, shall revert to the GTB.

~~(12) Consistent with the USA Patriot Act [18 U.S.C. § 5381(1) (2001); Pub. L. No. 107-56, § 326, 115 Stat 273, 317 (Oct. 26, 2001), as amended], the Grand Traverse Band shall provide Huntington National Bank, as Trustee (and as acquirer by merger with original Trustee, Empire National Bank), copies of Grand Traverse Band documents sufficient to verify the identity of the beneficiary for whom the qualified minor trust is created.~~

(f) In order to provide for the current and future ~~safety and well being~~ health and welfare of adult qualified Tribal members, who have been declared incompetent by a court of competent jurisdiction, the ~~per capita benefits~~ distributions for such qualified Tribal members shall be contributed by the Tribal Council to one or more trust(s) which are grantor trusts for federal income tax purposes.

(1) It shall be the responsibility of the legal guardian for each such qualified Tribal member to provide the Tribal Council with a letter of authority 15 days prior to June 3rd and December 3rd of the ~~per capita benefits~~ year.

(2) ~~Per capita benefits~~ Tribal member distributions contributed to a trust or trusts shall be invested, with income earned on the trust principal to be accumulated in the trust, for future distribution to the judicially declared incompetent Tribal member. The trust shall segregate and separately track per capita payments and General Welfare Exclusion distributions contributed to the trust. In accordance with IGRA and the Internal Revenue Code, any per capita payments contributed to the trust shall be included in the income of the beneficiaries upon distribution. The trust may contain additional terms consistent with IGRA, this RAO, Tribal law, and the Tribe's responsibility to protect and preserve

the interests of its legally incompetent members.

- ~~(3) In accord with 25 U.S. 2710(b)(3)(B) of the Indian Gaming Regulatory Act and 25 C.F.R. 290.12(3)(1)(ii)(iii)(4) and (5), Tribal Revenue Allocation Plans, the following process and substantive standards shall apply to the criteria for the withdrawal of funds from judicially-declared incompetent Tribal members' trust funds.~~
- ~~(4) The Tribal Council and Huntington National Bank as Trustee (and as acquirer by merger with original Trustee, Empire National Bank) hereby delegate their trust responsibility and authority in this specific area of 25 C.F.R. 290.12(1)(ii)(iii) to the Tribal Court of the Grand Traverse Band established under Article V of the Grand Traverse Band Constitution.~~
- ~~(5) Upon the petition under the letter of authority, the legal guardian of the judicially declared incompetent Tribal member may request the Tribal Court to distribute trust assets to the legal guardian of the judicially declared incompetent Tribal member in such amounts as from time to time the Tribal Court deems necessary for the incompetent's health, education, or welfare. The Tribal Court shall require that the petitioning legal guardian submit receipts of expenditures made on behalf of the incompetent before any disbursements are made from distributions of the incompetent's trust. The Tribal Court may, at its discretion, authorize the establishment of a regular monthly distribution from the trust of the judicially declared incompetent Tribal member. The Tribal Court shall be authorized to make distributions from the trusts of the judicially declared incompetent Tribal member to the legal guardian to defray the unreimbursed medical expense incurred by the incompetent/beneficiary.~~
- ~~(6) Until the Tribal Council of the Grand Traverse Band acting in its legislative capacity formally enacts a Probate Code, the Tribal Court shall follow the Michigan Revised Probate Code M.C.L.A. 700.1 et al. and the following substantive Articles: 1. General Provision; 2. Administration and Probate of Decedents' Estates; 3. Independent Probate; 4. Guardianship and Protective Proceedings; 5. Fiduciaries; 6. Management of Property or Assets of Estate; 7. Claims against the Estate; and Trust and Trust Administration as guidelines in trust issues for purposes of establishing guidelines for access to the judicially declared incompetent Tribal members' trust funds. The Tribal Court shall follow guidelines that, to the extent permissible, preserve the incompetents trust funds while providing for the best interests of the incompetents' health, education, or welfare consistent with federal and Tribal law.~~
- ~~(7) The Tribal Court shall follow the case law decisions of M.C.L.A. 700.1 et al., as guidelines for deciding petitions in Tribal Court. Decisions of the Tribal Court under this section are subject to appeal to the Grand Traverse Band Appellate Court. The Grand Traverse Band Appellate Court decisions are final.~~
- ~~(8) The interest of each judicially declared incompetent Tribal member shall be accounted for separately by the trustee Huntington National Bank as Trustee (and as acquirer by merger with original Trustee, Empire National Bank) and a trust accounting statement shall be filed with the Tribal Court annually. The legal guardian of the judicially declared incompetent Tribal member shall receive a trust accounting statement from Huntington National Bank of the incompetent/beneficiaries' trust assets once every six months.~~

~~(9)~~(3) If any trust assets remain at the judicially declared incompetent/beneficiaries' death, the trust shall terminate and the remaining trust assets (including any accrued net

income) shall be distributed in equal shares to any surviving children or the beneficiary or to one or more trust for the benefit of such children, or, in the absence of surviving children shall be distributed to any surviving spouse, or in the absence of surviving children or surviving spouse, in equal shares to any surviving parents of the judicially declared incompetent/beneficiary, or, in the absence of any surviving children, surviving spouse, or surviving parents, in equal shares to any surviving siblings of the incompetent/beneficiary, or, in the absence of any surviving children, surviving spouse, surviving parents, or surviving siblings shall revert to the Grand Traverse Band.

~~(10) Consistent with the USA Patriot Act [18 U.S.C. § 5381(1) (2001); Pub. L. No. 107-56, § 326, 115 Stat 273, 317 (Oct. 26, 2001), as amended], the Grand Traverse Band shall provide Huntington National Bank, as Trustee (and as acquirer by merger with original Trustee, Empire National Bank), copies of Grand Traverse Band documents sufficient to verify the identity of the beneficiary for whom the qualified incompetent trust is created.~~

- (g) As acknowledged by the IRS private letter ruling [PLR 36099-95] (November 17, 1998), ~~which is attached hereto and incorporated by reference as Exhibit C~~ in order to provide for the future well being of adult qualified Tribal members, other than legally incompetent members, who have adequate resources available for their current general welfare from other sources, funds shall be set aside pursuant to GTB Plan A and B as identified in the IRS private letter ruling [PLR 36099-95] (November 17, 1998). If the Tribe makes per capita payments, A member shall be eligible ~~for deferred per capita to defer receipt of such benefits payments~~ under either of the following circumstances:
- (1) If the member has available to him or her from earnings or other sources income of at least \$25,000 for the benefit year in question, and the Tribal Council or its designee determines that it is appropriate and in the long term best interests of the member to receive deferred benefits-per capita payments in lieu of current benefits-per capita payments so that there is a source of funds available to him or her upon reaching retirement or becoming disabled.
 - (2) If the adult qualified Tribal member validly elects to receive deferred benefits-per capita payments under one or more plans established by the Tribal Council. In order to qualify for deferred per capita benefits-payments for any benefit year, the member must timely file an application for deferred benefits-payments for the year containing information required by the Tribal Council.
- (h) In order to further the policies and goals underlying the contribution of per capita benefits payments to one or more trusts for minors and other legally incompetent persons and to one or more deferred per capita benefit plans for qualifying adults, it is the intent of the Tribal Council that any benefits contributed to a trust or set aside for future payment under a deferred per capita payment plan shall be includable in the gross income of the member for federal income tax purposes no earlier than the date(s), and only to the extent, that the member is entitled to distributions from the trust or under the plan. This Tribal Council intent has been sanctioned by the IRS in two private letter rulings [PLR 36099-95] (November 17, 1998) and [PLR 114616-98] (March 8, 2000). Both of these IRS private letter rulings should be considered in construing this RAO.
- (i) If the Tribe makes per capita payments, it shall notify the members that the payments are subject to federal income taxation, and shall withhold taxes in accordance with applicable law. For deferred per capita payments, The-the GTB-Tribe shall notify the member that the

payments are subject to federal income taxation ~~in accord with the provisions of 26 U.S.C. § 3402, (r) "Extension of withholding to certain taxable payments of Indian casino profits," (2)(3)(4)(5)(6)(7) and the implementation of the IRS Code at 26 C.F.R. § 3402 (r) 1,~~ at such time as the ~~benefits-per capita payments~~ are paid to the member pursuant to § 1605(e), distributed to the member from a trust or trusts pursuant to § 1605(f) or distributed to the member pursuant to a deferred per capita benefit plan or plans pursuant to § 1605(g).

- (j) Any person enrolling in the GTB after December 1, 1994, shall not be entitled to any back payments of ~~per capita benefits~~Tribal member distributions. The first ~~per capita benefit~~distribution to a Tribal member enrolled after December 1, 1994, shall be on the first date for payment, deposit or set aside of ~~per capita benefits~~distributions, if any, that may be made after his or her qualified status is confirmed in accordance with § 1605(c).

~~(k)~~ ~~(Reserved)~~

§ 1606. ~~Per Capita Distribution~~Tribal Member Distributions; General Welfare Doctrine~~Exclusion~~. [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) ~~The Tribal Council shall annually determine, based on an evaluation of community needs, the portion of the net gaming revenues allocated to § 1605 ("Use of Net Revenues: Tribal Member Distributions") that will be set aside to make equal distributions to qualifying Tribal members for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs. The Tribal Council shall establish an optional per capita payment process under the General Welfare Doctrine as identified in Bannon v. C.I.R., 99 T.C. 59, 62 (1992), that recognizes the exceptions to I.R.C. § 61(a). Such per capita payments shall be distributed exempt from federal income taxes consistent with the General Welfare Doctrine recognized in the private letter ruling [PLR 199924024] (June 17, 1997). The Tribal Council shall develop appropriate procedures to implement this § 1606 ("Per Capita Distribution/Tribal Member Distributions; General Welfare Doctrine~~Exclusion~~").~~
- ~~(b) The Tribal Council shall establish additional per capita payment standards similar to the general welfare distribution doctrine of gaming per capita consistent with Bannon v. C.I.R. supra; and tax exempt payments of child care; Rev. Rul. 78 170, 1978 1 C.B. 24, energy subsidy payments; Rev. Rul. 76 144, 1976 1 C.B. 17, disaster relief; Notice 99 3, 1999 2 I.R.B. 10, estate work payments. The Tribal Council shall develop appropriate procedures to implement this § 1606 ("Per Capita Distribution; General Welfare Doctrine").~~
- ~~(c) The Tribal Council is authorized to seek a private letter ruling from the IRS that the GTB optional per capita payment standards comply with the General Welfare Doctrine of Bannon v. C.I.R. supra, as a tax exempt income payment under this § 1606 ("Per Capita Distribution; General Welfare Doctrine") and applicable federal law.~~

§ 1607. ~~Leveraging Per Capita Contingent Income~~(Reserved). [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- ~~(a) The Tribal Council shall establish a substantive and procedural program that permits Tribal members to collateralize their future per capita payments for present monetary loans. Such~~

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~~loans may only be negotiated through regulated financial institutions and/or the Tribe itself and in conformity with the procedures established by the Tribal Council. The primary instrument for securing a loan shall be a single maturity note attached to a credit life insurance policy for the value of the single maturity note. The financial institution shall become the beneficiary of the per capita payments to the value of the single maturity note upon filing the appropriate documents with the designated Tribal official. The filing of the single maturity note with the appropriate Tribal officials and the Per Capita Officer, in accord with the GTB Secured Transactions Ordinance, shall be perfected for purposes of notice to third party creditors. The single maturity notes shall be subject to child support obligations and Tribal Court orders, regardless of the sequence of filing. Nothing in such program shall create duty, financial obligation, or liability on the part of the Tribal Court or Tribal government to any third party obligee.~~

~~(b) The leveraging of future per capita payments shall be operated pursuant to a loan policy to be adopted by resolution of the Tribal Council. At a minimum, this development policy shall provide:~~

- ~~(1) Qualifications for loans;~~
- ~~(2) Guidelines for setting interest rates;~~
- ~~(3) Maximum term of loans;~~
- ~~(4) Maximum principle for loans; and~~
- ~~(5) Maximum fee on loans.~~

~~For purposes of the RAO, the future per capita income shall be viewed as contingent income for leveraging transactions with regulated financial institutions based upon the contingent income. The Administrative Procedures for Per Capita Emergency Loans is attached hereto as Appendix F and is incorporated by reference.~~

§ 1608. Application of Generally Accepted Accounting Principles (GAAP) [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; and as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000. As amended by Tribal Act #06-24.1635 enacted by Tribal Council February 15, 2006; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) For purposes of this RAO, the accounting principles recognized as GAAP shall apply to issues of preparation, interpretation, and auditing of the gaming enterprise financial statements and the computation of net revenues. For purposes of this RAO, "available net revenues" shall be defined as gross income of tribal gaming activities less operating expenses less the costs of the administration of the benefit programs provided for in § 1605 ("Use of Net Revenues; ~~Individual Per Capita Benefits~~ Tribal Member Distributions") and less amounts needed to satisfy any obligations of indebtedness to which tribal gaming revenues are pledged.
- (b) With regard to noncompliance with GAAP, the Tribal Council shall establish administrative procedures for a Tribal member to challenge the application of GAAP principles by the management of the Tribal gaming operation. Resolution of all disputes shall be determined by qualified nonparty C.P.A.s in a written method that presents policy accounting options on

the posting, journaling, or entry of any accounting transaction to the books of the gaming operator. The end selection of the disputed procedure shall be made by the Tribal Council, provided the disputed procedure is authorized by GAAP.

- (c) The GTB EDC Tribal gaming operator shall publish an annual report detailing the expenses of the gaming operation. The expenses of gaming operation must conform with the average financial operation ratio of five small cap public gaming companies as established by the annual reports of the public gaming companies.

§ 1609. Child Support Obligations. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; ~~as amended by Tribal Council in Special Session on November 27, 2024.~~]

The Tribal Council shall establish a program to ensure that, if the GTB has knowledge that any recipient of a ~~per capita benefit~~ Tribal member distribution is delinquent with respect to a duty of support under an order issued by the court of any state or Indian Tribe, such ~~per capita benefit~~ Tribal member distribution shall be allocated to the satisfaction of such support obligation in priority over any distribution ~~or allocation of such benefit~~ otherwise provided for under this RAO. Such program shall include cooperation with federal, state, and Tribal governments under the Uniform Reciprocal Enforcement of Support Act, the Social Security Act, and similar statutes. Nothing in such program shall create a duty of financial obligation on the part of the Tribe to any support obligee or third party.

§ 1610. Tribal Court Orders. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; ~~as amended by Tribal Council in Special Session on November 27, 2024.~~]

The Tribal Court shall establish a program to ensure that, if the Tribal Court has knowledge that any recipient of a ~~per capita benefit~~ Tribal member distribution is delinquent with respect to a valid existing GTB Tribal Court Order establishing liability of the recipient as a result of a Tribal Court action, then the Tribal Court shall receive satisfaction of the Tribal Court's outstanding claim prior to ~~making such distribution of such benefit~~ under this RAO. Nothing in such program shall create any duty, financial obligation, or liability on the part of the Tribal Court or the Tribal government to any third party obligee or party obligee. ~~Obligations from per capita trust will be paid five working days subsequent to distribution.~~

§ 1611. Distributions [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994. As amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #98-16.646, enacted by Tribal Council in Special Session on October 14, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Act #07-25.1742, enacted by Tribal Council on January 17, 2007; and as amended by Tribal Act #08-26.1962, enacted by Tribal Council on September 17, 2008; ~~as amended by Tribal Council in Special Session on November 27, 2024.~~]

- (a) Except for the members for whom ~~per capita benefits~~ distributions are being contributed to trusts pursuant to § 1605(c) ~~or § 1605(f)~~, or set aside for future payment under a deferred

benefit plan pursuant to § 1605(~~fg~~) ~~or (g)~~, and except for the members subject to the requirements of § 1609 ("Child Support Obligations"), and § 1610 ("Tribal Court Orders"), the ~~per capita benefits distributions~~ for any qualified Tribal member shall be mailed to the last known address of the member on file with the GTB Tribal enrollment office unless the Tribal member has made arrangements for direct deposit pursuant to § 1611(b) or such other procedures established by the Tribal Council from time to time.

- (b) Direct deposit procedures are the following: 1. File a notarized "Distribution Direct Deposit Form" with the GTB Office of Management and Budget (GTB OMB)- 2. Notarization of the form is required. 3. The Tribal member bears the burden that all information on "Distribution Direct Deposit Form" is correct. 4. Nothing in the GTB OMB implementation of the notarized "Distribution Direct Deposit Form shall create a duty or liability to a support obligee or a third party. ~~timely filed a "Per-Capita Direct Deposit Form" with the per capita officer to receive per capita benefits in a direct deposit transaction into the Tribal members' personal bank account. Notarization of the Direct Deposit Form shall not be required; however, the tribal member must obtain the signature of two witnesses prior to filing the form with the per capita officer. The direct deposit program for per capita benefits is strictly voluntary and Tribal members are not obligated to enroll into the program. The burden of registration with the GTB Tribal enrollment office is with the member to ensure that the enrollment office has the member's correct and current address or correct information as stated on the "Per-Capita Direct Deposit Form" including the account number and routing number of the bank account and proper verification the Tribal members' name is on the bank account. Nothing in such program shall create a duty of financial obligation or liability on the part of the Tribe to any support obligee or third party.~~
- (c) ~~Per capita benefit~~Distributions returned to the GTB as undeliverable shall be maintained by the GTB and/ or deposited into an interest-bearing escrow account. The eligible member has until five business days before the next scheduled distribution ~~of benefits~~ to claim the returned ~~benefits distribution~~. If the returned ~~benefits distributions~~ are not claimed within that time period, the ~~distributions benefits~~ revert back to the GTB ~~per capita fund~~ for Tribal member distributions.

§ 1612. ~~Per-Capita Personnel(Reserved)~~. [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000. As amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) ~~Per Capita Officer. The Tribal Council shall develop a position description and budget for a "Per Capita Officer" to administer and coordinate the administration of this RAO for the benefit of individual Tribal members. At the minimum, such Per Capita Officer shall have a bachelor's degree in accounting or other similar professional license that demonstrates numerical and analytical competency in the investment area. The Per Capita Officer shall report to the Chief Financial Officer of the Tribe. The Per-Capita Officer position description shall be filled by January 1, 2001.~~
- (b) ~~Financial Advisor. The Per Capita Officer shall, upon request of a Tribal member, arrange financial counseling or advice for a Tribal member in issues related to the expenditure of per capita funds.~~

§ 1613. Severability. [History: Revenue Allocation Ordinance adopted by Tribal Council on

December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

If any section, or any part thereof, of this RAO or the application thereof to any party, person or entity or in any circumstances shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by the Department of the Interior, the remainder of the section or part of this RAO shall not be affected thereby and shall remain in full force and effect as though no section or part thereof has been declared to be invalid.

§ 1614. No Waiver of Sovereign Immunity. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

Nothing in this RAO shall provide or be interpreted to provide a waiver of the sovereign immunity from suit of the GTB or any of its governmental officers and/or agents.

§ 1615. Amendment or Repeal of Ordinance [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) ~~This RAO may be amended by the Tribal Council. No amendments shall be authorized prior to December 3, 2005, changing the allocation in § 1605(a) of 50% of all net revenues for per capita benefits or changing the definition in § 1605(e) of "qualified Tribal members," without the consent of 60% of the registered voters of the GTB in a special election held for the purpose of authorizing such amendment or amendments.~~
- ~~(b) Prior to January 1, 2004, the Tribal Council shall prepare a comprehensive analysis and impact study of the benefits and detriments associated with per capita distributions. The Tribal Council shall then propose a new Revenue Allocation Ordinance, for implementation including a house to house membership survey, in the year 2005, that addresses the issues identified in the impact study.~~
- ~~(c)~~(b) Beginning with the year ~~2000~~2025, this RAO shall be reviewed by a RAO Committee every five years to provide any further recommendations to the Tribal Council. The RAO Committee shall be comprised of at least seven members but not more than 12 Tribal members. The Committee will be formed at least six months prior to the due date of the recommendation to Tribal Council on the RAO Committee.

§ 1616. Effective Date. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

This RAO becomes effective under GTB Tribal Law upon adoption by the Tribal Council. Per capita payments to GTB Tribal members are subject to the approval of the Area Bureau Officer in

accord with the Tribal Revenue Allocation Plans, Department of Interior regulations codified at 25 C.F.R. 290 et al., (April 17, 2000).

NOTE: Appendixes A through F, which were included in the Revenue Allocation Ordinance enacted May 31, 2000, as amended, are not reproduced in this Code. Copies may be obtained through the Grand Traverse Band Legal Department. These appendixes are titled: Appendix A, Trust Agreement February 18, 1998; Appendix B, IRS Private Letter Ruling, March 8, 2000; Appendix C, IRS Private Letter Ruling, November 17, 1998; Appendix D, Deferred Per Capita Benefit Plans, Plan A and Plan B; Appendix E, Procedures for Incarcerated Individuals; and Appendix F, Administrative Procedures for Per Capita Emergency Loans.

SUBCHAPTER 2

(Reserved)

[History: Former Subchapter 2 - Administrative Trust Procedures Implementing § 1605(j) of the Revenue Allocation Ordinance - Adopted by Tribal Council by motion on October 15, 1996, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998, was NOT included in the revised Revenue Allocation Ordinance adopted by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

Chapter 16 Revenue Allocation

SUBCHAPTER 1 Revenue Allocation Ordinance.

§ 1601. Resolution and Repeal of Inconsistent Legislation. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

This Revenue Allocation Ordinance (hereafter this "RAO") is adopted pursuant to Article IV, Sections 1 (a), (h), and (j) of the Tribal Constitution (hereafter the "Constitution") of the Grand Traverse Band of Ottawa and Chippewa Indians (hereafter the "GTB"). Ordinance No. 94-117, as amended 3-21-1996; 8-21-1996 [affirmed 9-6-1996]; 12-16-1997 [enacted 2-17-1998]; 6-8-1998; 11-17-1998; 4-28-1999; and 6-1-2000, is hereby repealed. This RAO shall govern the allocation of available net revenues from the gaming enterprises, including Turtle Creek Casino, Leelanau Sands Casino, and any subsequent gaming enterprise of the GTB ("net revenues"), for each fiscal year of the GTB, including distributions to qualified members of the GTB.

§ 1602. Policy. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) The GTB retains the inherent sovereign right to determine the best interests of its minor Tribal members by providing for their future welfare by contributing Tribal member distributions into one or more trusts to be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to those minor Tribal members or contribution by such members to a deferred benefit plan in accordance with § 1605(g). All assets accumulated in the trust or trusts for the benefit of a minor Tribal member shall be distributed in the manner set forth herein, and not before age 18, except in the limited extraordinary circumstances provided in § 1605(e)(3)(A) and (B).

Based on a survey of the GTB Tribal membership, the majority 79% of Tribal members who responded would endorse a GTB Tribal policy of no access to the minors' trust funds. Based on this determination of the will of GTB Tribal membership, access to the minors' trust funds described in § 1605(e) shall be limited under Tribal policy consistent with the United States Department of the Interior regulation codified at 25 C.F.R. 290-12, Tribal Revenue Allocation Plans, (ii). Loans to parents or guardians of children shall not be granted or secured by the minors' trust fund.

- (b) The GTB has determined that it is in the best interests of minor Tribal members that Tribal member distributions be contributed to a minor's irrevocable grantor trust or trust subject to the power of substitution by the grantor Tribe. The Trust Agreement may contain additional terms consistent with the Indian Gaming Regulatory Act ("IGRA"), this RAO, Tribal law,

and the Tribe's responsibility to protect and preserve the interests of its minor Tribal members.

- (c) The GTB also has determined that it is in the best interests of its adult Tribal members who have been declared incompetent by a court of competent jurisdiction to contribute Tribal member distributions into one or more trusts to be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to those members as necessary for the beneficiary's health, education, or welfare, as provided in § 1605(f).
- (d) The GTB also has determined that it is in the best interests of certain adult Tribal members, who have adequate resources available for their current general welfare from other sources, to provide deferred distributions for such members in lieu of current distributions to ensure that they have adequate resources to provide for their general welfare in the future, provided that such members satisfy the eligibility criteria for such benefits as provided in § 1605(g).

§ 1603. Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #96-14.392, enacted by Tribal Council on August 21, 1996 [and affirmed on September 6, 1996]; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) Subject to § 1604 ("Use of Net Revenues; Tribal Economic Development"), the Tribal Council hereby allocates the following schedule of net revenues to provide funding for Tribal governmental operations and programs and the long term investment program:

Tribal governmental operations and programs:	25%
Long term investment program:	10%

- (1) If it deems it necessary, the Tribal Council shall have the authority to revise and increase the percentage of net revenues allocated to funding for Tribal governmental operations and programs, the long term investment program or for various components thereof. Any overall percentage increase shall be drawn from the percentage set by § 1604 ("Use of Net Revenues; Tribal Economic Development"). The Tribal Council shall not decrease the allocated percentage set by this § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") to increase the percentage set by § 1605 ("Use of Net Revenues; Tribal Member Distributions"). Any revision of the allocated percentage herein shall be documented by a Tribal Council resolution, a copy of which shall be provided to the Secretary.
- (2) Any net revenues allocated to funding for Tribal governmental operations and programs that have not been encumbered as of the last date of any fiscal year of the Tribal government may, at the Tribal Council's discretion, be allocated to the purposes set forth in § 1604 ("Use of Net Revenues; Tribal Economic Development") or be allocated to funding for § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") Tribal governmental operations and programs for the subsequent fiscal year.

- (3) Any Tribal member shall have standing to raise the question of whether the Tribal Council is following the RAO distribution formula. Such challenges shall be brought in the Tribal Court under a cause of action styled as "RAO Distribution Cause of Action." The elements of cause of action shall be 1) must be a Tribal member; 2) the standards of the RAO alleged to have been violated; and 3) factual allegations that allege a present violation of the standards. The Tribal Court shall fashion the remedy consistent with Tribal law and generally accepted accounting principles (GAAP).
- (b) The net revenues allocated to Tribal governmental operations and programs shall be expended in accordance with the Tribal budget appropriation process. The Tribal Council is the sole decision-making body as to any actions taken upon budget reports and requests and as to the allocation of funds designated for Tribal governmental operations and programs. The Tribal Council or its appointed agent shall disburse the funds allocated to Tribal governmental operations and programs in accordance with the annual Tribal budget and the Tribal appropriation process. Any disbursements made hereunder shall be received by the receiving Tribal governmental operation or program and handled in a manner consistent with the operations or programs GAAP.
- (c) The net revenues to Tribal government operations and programs shall be remitted to the Tribal Government Accounting Office by the GTB EDC on a quarterly basis. The GTB Governmental Accounting Office and the GTB EDC Accounting Office shall sign a schedule of prospective payments ratified by the Tribal Council, to insure the timely transmittal of the Tribal Governmental Operations and Program proceeds to the GTB Governmental Accounting Office consistent with the GTB appropriation process.
- (d) The Tribal long-term investment program shall be operated pursuant to an investment policy to be adopted by resolution of the Tribal Council. At a minimum, this investment policy shall provide:
 - (1) That the net revenues allocated to investment shall be weighted toward investments that provide for the long-term security of the GTB and its Tribal members;
 - (2) A description of the types of investments made;
 - (3) A percentage allocation of equities and debt instruments;
 - (4) Investment objectives to be reviewed on a quarterly basis by the Tribal Council or its appointed agent;
 - (5) A list of investments that shall be excluded due to their lack of safety and liquidity; and
 - (6) A comprehensive investment plan incorporating principles of prudent but market-based portfolio management.

Investments shall be made with nationally recognized, reputable and safe investment companies in accordance with the GTB's goal of the long term economic security of the Tribe and its Tribal members. Interest earned on investments made pursuant to

this § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program") shall not be used to provide Tribal member distributions as defined in § 1605 ("Use of Net Revenues; Tribal Member Distributions"). In accordance with the GTB's stated policy to provide for the long term economic security of itself and its Tribal members, a substantial portion of the interest earned on investments made pursuant to this § 1603 shall be reinvested at the discretion of the Tribal Council. The Tribal Council, in its discretion, may allocate the interest earned on investments made pursuant to this § 1603 in accordance with the provisions of IGRA or any other applicable federal law.

- (e) The Tribal Council shall publish an Annual Report and Audit of the long-term investment fund established by this § 1603. Such report shall contain reporting material consistent with the principles of full disclosure and designed to fully inform the Tribal member possible of the growth or decline and expenditure of the long-term investment account.
- (f) Each year the Tribal Council shall develop an annual plan for investment objectives and principal Tribal uses of the long-term investment fund. Such report shall be included in the investment report required by § 1603(e).
- (g) By January 1, 2001, the Tribal Council shall develop a position description of Tribal Money Manager. The position of the Tribal Money Manager shall be established after an extensive review and consultation with licensed, qualified money managers, certified public accountants (CPAs), attorneys, and such other professions identified by the Tribal Council. The Tribal Money Manager shall advise the Tribal Council on long-term investments, monitor the long-term investment fund and report on the long-term investment fund.

§ 1604. Use of Net Revenues; Tribal Economic Development. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #96-14.392, enacted by Tribal Council on August 21, 1996 [and affirmed on September 6, 1996]; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) Subject to § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program"), the Tribal Council hereby allocates the following schedule of net revenues to provide funding for Tribal economic development: 15% of net revenues from gaming revenue.
 - (1) The GTB EDC shall be charged with administering this 15% allocation.
 - (2) The GTB EDC shall develop an Economic Development Plan for the expenditure of this 15% allocation herein.

If it deems it necessary, the Tribal Council shall have the authority to revise and increase the percentage of net revenues allocated to funding for Tribal economic development. Any overall percentage increase shall be drawn from the percentage set by § 1603 ("Use of Net Revenues; Tribal Governmental Operations and Programs and the Long Term Investment Program"). The Tribal Council shall not decrease the allocated percentage set by this § 1604 to increase the percentage set by § 1605 ("Use of Net Revenues;

Tribal Member Distributions"). Any revision of the allocated percentage herein shall be documented by a Tribal Council resolution, a copy of which shall be provided to the Secretary.

- (b) The Tribal Council shall have the authority to appropriate and expend net revenues allocated to Tribal economic development to supplement funding for ongoing Tribal economic enterprises. Requests for supplemental funding for the Tribal ongoing businesses and enterprises shall be considered in accordance with GTB governmental procedures. The Tribal Council shall thereafter allocate those net revenues designated for Tribal economic development to the ongoing business or enterprise as it deems necessary and reasonable.
- (c) Separate accounting and audits shall be done for economic development projects of the GTB/EDC. All enterprises and businesses are to be treated as "stand-alone entities" in the accounting and audit statements.
- (d) The GTB Economic Development Plan shall be operated pursuant to the development policy adopted by resolution of the Tribal Council. At a minimum, this development policy shall provide:
 - (1) Criteria for business plans;
 - (2) A mission statement;
 - (3) The Tribal Council or its appointed agent shall review developments on a monthly basis; and
 - (4) Establish a minimum internal rate of return.

§ 1605. Use of Net Revenues; Tribal Member Distributions. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #95-13.217, adopted by Tribal Council on March 21, 1995; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #98-16.646, enacted by Tribal Council in Special Session on October 14, 1998; as amended by Tribal Act #99-17.703, enacted by Tribal Council in Special Session on May 3, 1999; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Act #06-24.1696, enacted by Tribal Council in Special Session on July 26, 2006; as amended by Tribal Act #07-25.1742, enacted by Tribal Council on January 17, 2007; as amended by Tribal Act #08-26.1962 on September 17, 2008, as amended by Tribal Act #09-27.2125 on October 28, 2009; and as amended by Tribal motion, enacted by Tribal Council on September 15, 2016; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) In order to advance the current and long term personal health, safety and welfare of qualified Tribal members, and subject to § 1609 ("Child Support Obligations") and § 1610 ("Tribal Court Orders"), the Tribal Council hereby allocates 50% of all net gaming revenues for distributions to qualified Tribal members, with distributions for minor qualified Tribal members [as defined in § 1605(e)(1) below] being provided in accordance with the provisions of § 1605(e) below, with distributions for adult qualified Tribal members who are legally incompetent being provided in accordance

with the provisions of § 1605(f) below, and with deferred benefits for other qualified Tribal members being provided pursuant to Plans A or B, established by the Tribal Council in accordance with eligibility criteria set forth in § 1605(g) below. Distributions to qualified Tribal members pursuant to this § 1605(a) may consist of either or both per capita payments and General Welfare Exclusion distributions. In accordance with 25 C.F.R. 290 Tribal Revenue Allocation Plans (effective date April 17, 2000), and for purposes of this RAO, "per capita payments" shall mean the distribution of money or other thing of value to all members of the tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity. However, such definition does not apply to payments which have been set aside by the Tribe for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs. For purposes of this RAO, payments made by the Tribe for special purposes or programs shall be considered General Welfare Exclusion distributions, and administered in accordance with IRS guidance interpreting Section 139E of the Internal Revenue Code. The Tribe shall set aside amounts for General Welfare Exclusion distributions in accordance with the provisions of § 1606 below.

- (b) Tribal member distributions shall be computed on an October 1 to September 30 fiscal year. Such distributions shall be paid, deposited into trusts for minors or other legally incompetent persons, or set aside for future payment under a deferred payment plan on a semiannual basis, coinciding with the qualified Tribal member's calendar year.
 - (1) Member distributions for each calendar year shall be paid, deposited within five business days into trusts, or set aside for future payment on June 3 and December 3 of that payment year.
 - (2) All net revenues designated for Tribal member distributions, other than to minors [which shall be made in accordance with the provisions of § 1605(e) below], to other legally incompetent persons [which shall be made in accordance with the provisions of § 1605(f) below] and to members participating in a deferred benefit plan established pursuant to § 1605(g) below, shall be deposited, when received by the GTB, into a low-risk, interest-bearing account with a federally insured financial institution prior to distribution. For purposes of this subsection, said deposits shall be made within five days of the date such revenue is received by the GTB and shall be made in accordance with the percentage allocation set forth above. Interest earned prior to distribution on net revenues deposited in this account shall be allocated among the recipients and added to the Tribal member distributions.
- (c) "Qualified Tribal members" for purposes of this RAO shall mean any individual who is duly enrolled in the GTB in accordance with Article II of the Tribal Constitution and living as of June 1st of the benefit year in question. A Tribal member receiving semiannual distributions who dies before December 1st shall not be eligible for the December payment.
- (d) In addition, for any qualified Tribal member to be entitled to deferred payments, the member must apply for benefits on a form prescribed by the Tribal Council on or before such date as may be prescribed by the Tribal Council.
 - (1) Consistent with Article II, Section 3, ("Membership Procedure") of the Constitution, any "qualified Tribal member" shall have legal standing to challenge the membership of current "qualified Tribal members" as improperly enrolled for purposes of receiving Tribal member distributions.

- (2) Any person denied membership shall have the legal standing to challenge the denial of membership before the Tribal Council on an administrative review standard of de novo review.
- (e) In order to provide for the future health, education and welfare of the children of the GTB, distributions for minor qualified Tribal members shall be contributed by the Tribal Council to one or more trusts which are grantor trusts for federal income tax purposes.
- (1) A "minor qualified Tribal member" means an individual who is a qualified Tribal member as defined in § 1605(c) except that he or she has not reached the age of 18 as of June 3rd and December 3rd of the benefit year in question.
 - (2) Tribal member distributions contributed to a trust or trusts shall be invested, with income earned on trust principal to be accumulated in the trust, for future distribution to the minor qualified Tribal members. The trust shall segregate and separately track per capita payments and General Welfare Exclusion distributions contributed to the trust. In accordance with IGRA, the Internal Revenue Code, and related IRS guidance, any per capita payments contributed to the trust shall be included in the income of the beneficiaries upon distribution.
 - (A) Except as otherwise provided in this RAO, no disbursements from a trust shall occur until the beneficiary has attained the age of 18 years. The Tribal Council shall establish a distribution schedule in the trust that best protects and preserves the interests of the beneficiaries, and that takes into account goals of the Tribe, including but not limited to financial education and obtaining a high school diploma or equivalent. Prior to the time the minor beneficiary reaches the age of 21, the Tribal Court or the trustee or trustees, in their sole discretion, may make distributions from the trust or trusts to the parents or legal guardians of the beneficiary to defray the unreimbursed medical expenses in excess of \$250 incurred by the beneficiary in any one calendar year, provided that the Tribal Council concurs in the determination made by the trustee or trustees.
 - (B) Upon the petition of the parents or legal guardians of the minor beneficiary, trust assets may be distributed to the parents or legal guardians of such minor or minors in such amounts as from time to time the trustee or trustees or the Tribal Court, in their sole discretion, deem necessary for the minor's health, education or welfare. The Tribal Court may require that the petitioning parent or legal guardian submit receipts of expenditures made on behalf of the minor before any disbursements are made and shall require that the petitioning parent or guardian account to the trustees for any expenditures made from distributions from the trust or trusts. The Tribal Court may, at its discretion, authorize the trustee or trustees or the Tribal Court to establish a regular monthly distribution from the trust for the minor.
 - (C) In order to further protect and preserve the interests of minors' trust beneficiaries, upon reaching the age of 18, trust beneficiaries shall have the option to defer unvested trust assets into a plan established by the Tribe pursuant to § 1605(g).
 - (3) For purposes of establishing standards for access to the minors' trust funds, the trustee, trustees or the Tribal Court shall follow standards that, to the extent permissible, preserve the child's estate consistent with federal and Tribal law.
 - (4) The interest of each beneficiary shall be accounted for separately by the trustee, and a trust account statement shall be available at least semiannually to the parent or legal

guardian of the beneficiary.

- (5) When the minor qualified Tribal member reaches the age of 18, said member shall receive the subsequent semiannual Tribal member distribution(s) directly for that year and each year thereafter.
- (6) If any assets remain at the beneficiary's death, the trust shall terminate and the remaining trust assets (including any accrued net income) shall be distributed in equal shares to any surviving children of the beneficiary or to one or more trusts for the benefit of such children, or, shall be distributed to any surviving spouse or in equal shares to any surviving parents of the beneficiary who are members of the GTB, or, in the absence of any surviving children, surviving spouse, surviving parents, or surviving siblings, shall revert to the GTB.
- (f) In order to provide for the current and future health and welfare of adult qualified Tribal members, who have been declared incompetent by a court of competent jurisdiction, the distributions for such qualified Tribal members shall be contributed by the Tribal Council to one or more trust(s) which are grantor trusts for federal income tax purposes.
 - (1) It shall be the responsibility of the legal guardian for each such qualified Tribal member to provide the Tribal Council with a letter of authority 15 days prior to June 3rd and December 3rd of the year.
 - (2) Tribal member distributions contributed to a trust or trusts shall be invested, with income earned on the trust principal to be accumulated in the trust, for future distribution to the judicially declared incompetent Tribal member. The trust shall segregate and separately track per capita payments and General Welfare Exclusion distributions contributed to the trust. In accordance with IGRA and the Internal Revenue Code, any per capita payments contributed to the trust shall be included in the income of the beneficiaries upon distribution. The trust may contain additional terms consistent with IGRA, this RAO, Tribal law, and the Tribe's responsibility to protect and preserve the interests of its legally incompetent members.
 - (3) If any trust assets remain at the judicially declared incompetent/beneficiaries' death, the trust shall terminate and the remaining trust assets (including any accrued net income) shall be distributed in equal shares to any surviving children or the beneficiary or to one or more trust for the benefit of such children, or, in the absence of surviving children shall be distributed to any surviving spouse, or in the absence of surviving children or surviving spouse, in equal shares to any surviving parents of the judicially declared incompetent/beneficiary, or, in the absence of any surviving children, surviving spouse, or surviving parents, in equal shares to any surviving siblings of the incompetent/beneficiary, or, in the absence of any surviving children, surviving spouse, surviving parents, or surviving siblings shall revert to the Grand Traverse Band.
- (g) As acknowledged by the IRS private letter ruling [PLR 36099-95] (November 17, 1998), in order to provide for the future well being of adult qualified Tribal members, other than legally incompetent members, who have adequate resources available for their current general welfare from other sources, funds shall be set aside pursuant to GTB Plan A and B as identified in the IRS private letter ruling [PLR 36099-95] (November 17, 1998). If the Tribe makes per capita payments, a member shall be eligible to defer receipt of such payments under either of the following circumstances:

- (1) If the member has available to him or her from earnings or other sources income of at least \$25,000 for the benefit year in question, and the Tribal Council or its designee determines that it is appropriate and in the long term best interests of the member to receive deferred per capita payments in lieu of current per capita payments so that there is a source of funds available to him or her upon reaching retirement or becoming disabled.
- (2) If the adult qualified Tribal member validly elects to receive deferred per capita payments under one or more plans established by the Tribal Council. In order to qualify for deferred per capita payments for any benefit year, the member must timely file an application for deferred payments for the year containing information required by the Tribal Council.
- (h) In order to further the policies and goals underlying the contribution of per capita payments to one or more trusts for minors and other legally incompetent persons and to one or more deferred per capita benefit plans for qualifying adults, it is the intent of the Tribal Council that any benefits contributed to a trust or set aside for future payment under a deferred per capita payment plan shall be includable in the gross income of the member for federal income tax purposes no earlier than the date(s), and only to the extent, that the member is entitled to distributions from the trust or under the plan. This Tribal Council intent has been sanctioned by the IRS in two private letter rulings [PLR 36099-95] (November 17, 1998) and [PLR 114616-98] (March 8, 2000). Both of these IRS private letter rulings should be considered in construing this RAO.
- (i) If the Tribe makes per capita payments, it shall notify the members that the payments are subject to federal income taxation, and shall withhold taxes in accordance with applicable law. For deferred per capita payments, the Tribe shall notify the member that the payments are subject to federal income taxation at such time as the per capita payments are paid to the member pursuant to § 1605(e), distributed to the member from a trust or trusts pursuant to § 1605(f) or distributed to the member pursuant to a deferred per capita benefit plan or plans pursuant to § 1605(g).
- (j) Any person enrolling in the GTB after December 1, 1994, shall not be entitled to any back payments of Tribal member distributions. The first distribution to a Tribal member enrolled after December 1, 1994, shall be on the first date for payment, deposit or set aside of distributions, if any, that may be made after his or her qualified status is confirmed in accordance with § 1605(c).

§ 1606. Tribal Member Distributions; General Welfare Exclusion. [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) The Tribal Council shall annually determine, based on an evaluation of community needs, the portion of the net gaming revenues allocated to § 1605 ("Use of Net Revenues: Tribal Member Distributions") that will be set aside to make equal distributions to qualifying Tribal members for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs. The Tribal Council shall develop appropriate procedures to implement this § 1606 ("Tribal Member Distributions; General Welfare Exclusion").

§ 1607. (Reserved). [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

§ 1608. Application of Generally Accepted Accounting Principles (GAAP) [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; and as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000. As amended by Tribal Act #06-24.1635 enacted by Tribal Council February 15, 2006; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) For purposes of this RAO, the accounting principles recognized as GAAP shall apply to issues of preparation, interpretation, and auditing of the gaming enterprise financial statements and the computation of net revenues. For purposes of this RAO, "available net revenues" shall be defined as gross income of tribal gaming activities less operating expenses less the costs of the administration of the benefit programs provided for in § 1605 ("Use of Net Revenues; Tribal Member Distributions") and less amounts needed to satisfy any obligations of indebtedness to which tribal gaming revenues are pledged.
- (b) With regard to noncompliance with GAAP, the Tribal Council shall establish administrative procedures for a Tribal member to challenge the application of GAAP principles by the management of the Tribal gaming operation. Resolution of all disputes shall be determined by qualified nonparty C.P.A.s in a written method that presents policy accounting options on the posting, journaling, or entry of any accounting transaction to the books of the gaming operator. The end selection of the disputed procedure shall be made by the Tribal Council, provided the disputed procedure is authorized by GAAP.
- (c) The GTB EDC Tribal gaming operator shall publish an annual report detailing the expenses of the gaming operation. The expenses of gaming operation must conform with the average financial operation ratio of five small cap public gaming companies as established by the annual reports of the public gaming companies.

§ 1609. Child Support Obligations. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

The Tribal Council shall establish a program to ensure that, if the GTB has knowledge that any recipient of a Tribal member distribution is delinquent with respect to a duty of support under an order issued by the court of any state or Indian Tribe, such Tribal member distribution shall be allocated to the satisfaction of such support obligation in priority over any distribution otherwise provided for under this RAO. Such program shall include cooperation with federal, state, and Tribal governments under the Uniform Reciprocal Enforcement of Support Act, the Social Security Act, and similar statutes. Nothing in such program shall create a duty of financial obligation on the part of the Tribe to any support obligee or third party.

§ 1610. Tribal Court Orders. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special

Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

The Tribal Court shall establish a program to ensure that, if the Tribal Court has knowledge that any recipient of a Tribal member distribution is delinquent with respect to a valid existing GTB Tribal Court Order establishing liability of the recipient as a result of a Tribal Court action, then the Tribal Court shall receive satisfaction of the Tribal Court's outstanding claim prior to making such under this RAO. Nothing in such program shall create any duty, financial obligation, or liability on the part of the Tribal Court or the Tribal government to any third party obligee or party obligee.

§ 1611. Distributions [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994. As amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Act #98-16.646, enacted by Tribal Council in Special Session on October 14, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Act #07-25.1742, enacted by Tribal Council on January 17, 2007; and as amended by Tribal Act #08-26.1962, enacted by Tribal Council on September 17, 2008; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) Except for the members for whom distributions are being contributed to trusts pursuant to § 1605(e) or § 1605(f), or set aside for future payment under a deferred benefit plan pursuant to § 1605(g), and except for the members subject to the requirements of § 1609 ("Child Support Obligations"), and § 1610 ("Tribal Court Orders"), the distributions for any qualified Tribal member shall be mailed to the last known address of the member on file with the GTB Tribal enrollment office unless the Tribal member has made arrangements for direct deposit pursuant to § 1611(b) or such other procedures established by the Tribal Council from time to time.
- (b) Direct deposit procedures are the following: 1. File a notarized "Distribution Direct Deposit Form" with the GTB Office of Management and Budget (GTB OMB). 2. Notarization of the form is required. 3. The Tribal member bears the burden that all information on "Distribution Direct Deposit Form" is correct. 4. Nothing in the GTB OMB implementation of the notarized "Distribution Direct Deposit Form shall create a duty or liability to a support obligee or a third party.
- (c) Distributions returned to the GTB as undeliverable shall be maintained by the GTB and/ or deposited into an interest-bearing escrow account. The eligible member has until five business days before the next scheduled distribution to claim the returned distribution. If the returned distributions are not claimed within that time period, the distributions revert back to the GTB fund for Tribal member distributions.

§ 1612. (Reserved). [History: Revenue Allocation Ordinance adopted by Tribal Council at Special Session on May 31, 2000. As amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

§ 1613. Severability. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

If any section, or any part thereof, of this RAO or the application thereof to any party, person or entity or in any circumstances shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by the Department of the Interior, the remainder of the section or part of this RAO shall not be affected thereby and shall remain in full force and effect as though no section or part thereof has been declared to be invalid.

§ 1614. No Waiver of Sovereign Immunity. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

Nothing in this RAO shall provide or be interpreted to provide a waiver of the sovereign immunity from suit of the GTB or any of its governmental officers and/or agents.

§ 1615. Amendment or Repeal of Ordinance [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000; as amended by Tribal Council in Special Session on November 27, 2024.]

- (a) This RAO may be amended by the Tribal Council.
- (b) Beginning with the year 2025, this RAO shall be reviewed by a RAO Committee every five years to provide any further recommendations to the Tribal Council. The RAO Committee shall be comprised of at least seven members but not more than 12 Tribal members. The Committee will be formed at least six months prior to the due date of the recommendation to Tribal Council on the RAO Committee.

§ 1616. Effective Date. [History: Revenue Allocation Ordinance adopted by Tribal Council on December 27, 1994; as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998; as amended by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]

This RAO becomes effective under GTB Tribal Law upon adoption by the Tribal Council. Per capita payments to GTB Tribal members are subject to the approval of the Area Bureau Officer in accord with the Tribal Revenue Allocation Plans, Department of Interior regulations codified at 25 C.F.R. 290 et al., (April 17, 2000).

SUBCHAPTER 2

(Reserved)

[History: Former Subchapter 2 - Administrative Trust Procedures Implementing § 1605(j) of the Revenue Allocation Ordinance - Adopted by Tribal Council by motion on October 15, 1996, and as amended by Tribal Act #98-16.635, enacted by Tribal Council in Special Session on August 31, 1998, was NOT included in the revised Revenue Allocation Ordinance adopted by Tribal Council in Special Session on May 31, 2000; as amended by Tribal Council in Special Session on June 1, 2000.]