

Sec. 16C-9. - Revenue allocation percentages.

(a) Effective October 1, 2015, distributable net revenue shall be distributed to fund per capita distributions, Tribal government operations, and the general welfare funds established under this Chapter as follows:

(1) For Harrah's Cherokee Casino Resort:

- (a) Per Capita Distributions (§§ [16C-5](#), -6).....50.00%
- (b) Endowment Fund No. 2 2.3%
- (c) Business & Economic Development Fund... 2.3%
- (d) Debt Service Sinking Fund (§ [16C-14](#))..... 5.0%
- (e) Capital Improvement Program (§ [16C-17](#))..... 3.4%

A portion not to exceed 37% of Harrah's Cherokee Casino Resort gaming net revenues as determined in a needs-based budget approach shall be allocated to the following Programs as approved by the Tribal Council in the adoption of the annual budget:

- (f) Tribal General Fund.
- (g) Housing Fund (§ [16C-15](#))
- (h) Higher Education Fund (§ [16C-16](#))
- (i) Cherokee Central Schools Assistance Fund (§ [16C-18](#))
- (j) Cherokee Indian Hospital Authority (§ [16C-19](#))
- (k) Kituwah Language Immersion (§ [16C-21](#))

(2) For Harrah's Cherokee Valley River Casino:

- (a) Per Capita Distributions (§§ [16C-5](#), -6).....50.00%
- (b) Technology Enhancement Fund..... 4.0%

A portion not to exceed 46% of Harrah's Cherokee Valley River Casino gaming net revenues as determined in a needs-based budget approach shall be allocated to the following Programs as approved by the Tribal Council in the adoption of the annual budget:

- (c) Health Program Supplemental Fund/PHHS
- (d) Police and Corrections Fund (§ [16C-20](#))

~~(Bb)~~ During the Annual Budget Process, the Finance Office will determine the Gaming Revenue to be budgeted for the fiscal year and this amount shall be the Baseline Gaming Revenue Amount by property. At all times, fifty (50) percent of the gaming revenues received will be deposited into the Per Capita Distribution fund listed above. For all funds other than the Per Capita Distribution, ~~Higher Education Fund, Cherokee Indian Hospital Authority and Cherokee Central Schools Assistance Fund,~~ if the Gaming Revenue from ~~Harrah's Cherokee Casino Resort~~ any Tribal Gaming Operation received from the fiscal year exceeds the Baseline Gaming Revenue Amount ~~by more than five (5) percent,~~ that excess shall be distributed ~~as follows: to the Budget Stabilization Line item in the General Fund to provide stability for future fluctuations in revenue and budgets. Excess funds shall be distributed to a designated reserve fund for the Cherokee Indian Hospital Authority and Cherokee Central Schools Assistance fund as provided for in Sections 16C-23 and Section 16C-24 respectively. Excess funds of the Higher Education Fund shall be distributed to the Higher Education Endowment Fund as provided for in Section 16C-16.~~ For all funds other than the Per Capita Distribution, if the Gaming Revenue from Harrah's Cherokee Casino Resort received for the fiscal year is less than the Baseline Gaming Revenue Amount by more than five (5) percent, that deficiency shall be distributed out of the Budget Stabilization Line item in the General Fund to the extent of available resources in the Budget Stabilization Line item and in accordance with 16C-9(d). In the event that resources are not available in the Budget Stabilization Line item, the Finance Office will obtain direction from Executive and Tribal Council on how to prioritize and reallocate resources within the Tribal Budget and such direction shall be approved by resolution of the Tribal Council.

- ~~(1) Higher Education Endowment Fund.....1%~~
- ~~(2) Endowment Fund No. 2.....70%~~
- ~~(3) Capital Improvement Program.....10%~~
- ~~(4) Debt Service Sinking Fund.....19%~~

~~(e)~~ If the Gaming Revenue from Harrah's Cherokee Valley River received from the fiscal year exceeds the Baseline Gaming Revenue Amount by more than five (5) percent, that excess shall be distributed to the Debt Service Sinking Fund. For the Health Program Supplemental/PHHS and Building Enhancement Funds if the Gaming Revenue from Harrah's Cherokee Valley River received for the fiscal year is less than the Baseline Gaming Revenue Amount by more than five (5) percent, that deficiency shall be distributed out of the Budget Stabilization Line item in the General Fund to the extent of available resources in the Budget Stabilization Line item and in accordance with 16C-9(d). In the event that resources are not available in the Budget Stabilization Line item, the Finance Office will obtain direction from Executive and Tribal Council on how to prioritize and reallocate resources within the Tribal Budget and such direction shall be approved by resolution of the Tribal Council.

~~(Ce)~~ A fund balance of at least ten (10) percent and not to exceed fifty (50) percent of the Annual Tribal Budget shall be maintained in the General Fund to ensure cash flow continuity. Any balance in excess of that amount at the end of each fiscal year shall be distributed to the Endowment and Investment Funds. There are no fund balance limitations for the other governmental operations and general welfare funds established in this Chapter.

~~(d)~~ A fund balance for Budget Stabilization Fund shall be established as outlined in 16C-9(b). The fund shall only be utilized when revenue realized is significantly less than projected revenue and shall require a Tribal Council resolution defining how much will be utilized and why it is needed to be utilized. The Budget Stabilization Fund shall be managed by the Finance Office and reported to Tribal Council annually.

~~(eD)~~ In the event that the Gaming Revenue available creates a budget shortfall or a rebalancing of Tribal priorities in the budget is needed, the Finance Office will balance the budget utilizing available resources in accordance with limits identified in 16C-9(c).

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 952, 10-8-2007; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009; Ord. No. 400, 10-12-2010; Ord. No. 84, 3-23-2012; Ord. No. 33, 12-16-2013; Ord. No. 167, 7-8-2014)

Sec. 16C-10. - Cherokee Endowment and Investment Funds.

- (a) The Tribal Council shall create and fund separate Endowment and Investment Funds with distributable net revenue as set forth in [Section 16C-9](#). The purpose of these Funds shall be to provide a long-term investment and capital appreciation vehicle for the Tribe. Tribal management shall make monthly deposits from distributable net revenue into these Funds.
- (b) The first Endowment and Investment Fund ("Endowment Fund No. 1") shall be maintained for the long-term success of the Tribe with a soft-floor of 100 million dollars. If at any time there is a breach of the soft floor, the Investment Committee will monitor investment performance for a period not to exceed two quarters. If the floor should be breached for a period of two consecutive quarters the investment committee shall consider an adjustment to the asset allocation in order to restore an acceptable funding level within a time period deemed appropriate. Earnings of the Endowment Fund No. 1 shall be added to the principal of the Endowment Fund No. 1. The goal for the first Endowment and Investment Fund shall be to accumulate and grow capital for the long-term economic growth and security of the Tribe and its members grown to a funding level of two times the operational budget of the Tribe.
- (c) The second Endowment and Investment Fund ("Endowment Fund No. 2") shall be used as follows:
 - (1) The annual allocation in Endowment Fund No. 2 may be spent for the purposes in [Section 16C-11](#)
 - (2) All earnings in Endowment Fund No. 2 may be used for the purposes in [Section 16C-11](#); and provided, however, that the principal of Endowment Fund No. 2 may be used to purchase additional lands for the Tribe and make other investments, so long as other funds are not available for that purpose and in any fiscal year the amount expended does not exceed the amount deposited into the Fund under subparagraph (1) of this subsection; provided further that when the purchase or investment is for a specific economic development purpose and will generate revenue for the Tribe within five years, the principal of Endowment Fund No. 2 may be used so long as no individual land purchase or investment reduces the principal by more than \$10 million.
- (d) The first and second Endowment and Investment Funds shall be used only for the purposes expressed in [Sec. 16C-11](#). They shall not be used as supplements to the General Fund. The Principal Chief and Tribal Council shall review the requirements for the second Endowment and Investment Fund every two years to evaluate the need for, and adequacy of, that fund.

(Ord. No. 888, 10-13-2005; Ord. No. 120, 5-17-2006; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 566, 3-13-2009; Ord. No. 873, 9-18-2009; Ord. No. 84, 3-23-2012)

Sec. 16C-11. - Investment of Endowment and Investment Funds.

- (a) Except as restricted in [Sec. 16C-10](#), money deposited in the Endowment and Investment Funds shall be invested in a balanced investment portfolio seeking long-term gain and capital appreciation, with investments not subject to investment limitations of GASB.
 - (1) The first Endowment and Investment Fund shall be maintained with a soft floor of 100 million dollars, which shall be maintained for the long-term success of the Tribe and grown to a level of two times the operational budget of the Tribe.

- (2) The second Endowment and Investment Fund may also be used to purchase additional lands for the Tribe; to acquire or make loans or investments in new or ongoing business enterprises for the Tribe; to acquire or make loans or investments in additional business enterprises and/or to supplement or loan funds to existing Tribal business enterprises; to fund, or provide a Tribal match for funds obtained from other sources for, major infrastructure projects; and to pay off existing indebtedness of the Tribe or Tribal enterprises, but such funds shall be limited to External Investments as defined in this Chapter. Any additional land purchases or any loans made to ongoing business enterprises, or loans made to additional business enterprises shall be approved by Tribal Council.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 566, 3-13-2009; Ord. No. 873, 9-18-2009; Ord. No. 84, 3-23-2012)

Sec. 16C-12. - Limitations on investment of Endowment and Investment Funds.

No more than fifteen (15) percent of the Funds may be invested in any single stock, bond, instrument, entity, company, or fund unless otherwise endorsed by the Investment Committee and approved by the Tribal Council.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 566, 3-13-2009; Ord. No. 873, 9-18-2009; Ord. No. 84, 3-23-2012)

Sec. 16C-13. - Management of Endowment and Investment Funds.

The Investment Committee shall manage the investment of the principal and earnings of the Endowment and Investment Funds and shall work with not less than three institutional managers to establish a balanced portfolio for the Funds.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 566, 3-13-2009; Ord. No. 873, 9-18-2009)

Sec. 16C-14. - Debt Service Sinking Fund.

The Tribal Council shall create and fund a separate Debt Service Sinking Fund with distributable net revenue as set forth in [section 16C-9](#). The original purpose of this Fund was to provide a long-term investment vehicle for the Tribe to retire the long-term debt. Funds in the Debt Service Sinking Fund may be used to secure, minimize, reduce, and/or retire other Tribal debts, projects as prioritized by resolution of the Tribal Council. The investment goal for the Fund shall be to accumulate and grow capital for the retirement of the Tribe's debts.

- (1) *Investment of Debt Service Sinking Fund.* Money deposited in this Fund shall be invested in a balanced investment portfolio seeking long-term gain and capital appreciation, with investments not subject to investment limitations of GASB.
- (2) *Limitations on investment of Debt Service Sinking Fund.* No more than fifteen (15) percent of the Fund may be invested in any single stock, bond, instrument, entity, company, or fund unless otherwise endorsed by the Investment Committee and approved by the Tribal Council.
- (3) The Investment Committee shall manage the investment of the principal and earnings of the Debt Service Sinking Fund and shall work with not less than three institutional managers to establish a balanced portfolio for the Fund.
- (4) The Debt Service Sinking Fund shall be maintained with a floor of 100 million dollars. If at any time this floor is breached no additional commitments or disbursements from the fund shall be made. Upon breach of the floor the Investment Committee shall consider adjusting the asset allocation, approved

by Tribal Council, in order to restore an appropriate funding level within a time period deemed reasonable. If at any time this floor is exceeded, any amount in excess of the floor shall be used for debt reduction.

- (5) Values in excess of the 100 million dollar floor shall be evaluated on an annual basis by the Tribal Department of Finance and the Investment Committee and paid against Tribal debts, if such debt exists. If no Tribal debt exists, funding in excess of the 100 million dollar floor may be used to offset or fund significant Tribal projects or purchases that would otherwise require external financing.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 566, 3-13-2009; Ord. No. 873, 9-18-2009; Ord. No. 84, 3-23-2012)

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Sec. 16C-15. - Housing Fund.

(a) The Tribal Council shall create and fund a separate Housing Fund with distributable net revenue as set forth in [section 16C-9](#). The purposes of this Fund shall be:

- (1) To provide special mortgage lending including down payment assistance; interest rate reduction assistance and mortgage loans;
- (2) To provide long term lease/purchase options for tribally controlled housing;
- (3) To provide funding to assist Tribal members in obtaining adequate housing infrastructure;
- (4) To provide surveying services;
- (5) To provide road construction into new housing and redevelopment areas;
- (6) To provide utilities and site improvement construction into new housing areas;
- (7) To alleviate the backlog, if any, in the Home Improvement Program (HIP);
- (8) Reserved;
- (9) To provide housing rehabilitation and weatherization services;
- (10) To service existing revolving loans; rehabilitation loans and down payment assistance loans;
- (11) To pay administrative, operational and management expenses related to the programs established under this section; and
- (12) For such other housing-related functions as may be established by Tribal Council resolution.

(b) The Principal Chief and Tribal Council shall:

- (1) Develop a long-term strategic housing plan, updated annually, establishing priorities for expenditure and other relevant details; and
- (2) Create and approve an annual budget addressing how the available funds will be expended consistent with that strategic plan.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009)

Sec. 16C-16. - Higher Education Fund.

The Tribal Council shall create and fund a separate Higher Education Funding Program with distributable net revenue as set forth in [section 16C-9](#). The purpose of this Program shall be to provide funding to assist enrolled members with their higher education needs. The Higher Education Funding Program may be used to fund the Summer College Internship Program and special preparatory classes that assist applicants in gaining entrance to college, graduate or professional school. The Higher Education Funding Program shall not fund secondary school expenses or extra-curricular activities.

The Higher Education Endowment Fund shall be funded by excess revenues from gaming distribution ~~designated for the Higher Education Fund as outlined in [Section 16C-9](#);~~ ~~effectively exempting the Higher Education Fund from the Budget Stabilization line item requirements by redirecting excess gaming revenues to a restricted endowment fund.~~ The Higher Education Committee, in conjunction with the Finance Department, shall establish the criteria for distributions, investment management and administration of the Higher Education Endowment Fund through a comprehensive investment policy statement approved by the Tribal Council.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009; Ord. No. 167, 7-8-2014)

Sec. 16C-17. - Capital Improvement Program (CIP).

The Tribal Council shall create and fund a separate Capital Improvement Program with distributable net revenue as set forth in [section 16C-9](#). The purpose of this Fund shall be to provide for ongoing capital improvement of Tribal operations and programs.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009)

Sec. 16C-18. - Cherokee Central School Assistance Fund.

The Tribal Council shall create and fund a Cherokee Central School Assistance Fund with distributable net revenue as set forth in [section 16C-9](#). The purpose of this Fund shall be to implement the Cherokee Central Schools Strategic Plan and Facility Master Plan. These plans shall address academic, facilities operations and maintenance, and capital needs. The Cherokee Central Schools shall on an annual basis submit their overall budget outlining major revenue sources and expenditures, and provide justification to support the annual gaming allocation the Tribe annually, by May 31. This Fund shall be administered by the Cherokee Central School Administration under the budget approved by the Cherokee Central School Board. In each fiscal year the Cherokee Central Schools will seek to fund a percentage of the distributable net revenue that is distributed to the Cherokee Central School to a Cherokee Central School Endowment Fund, if funds are available. The Cherokee Central School Board shall establish the criteria for distributions from the Cherokee Central Schools Endowment Fund.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009; Ord. No. 400, 10-12-2010)

Sec. 16C-19. - Health Program Supplemental Fund.

- (a) The Tribal Council shall create and fund a Health Program Supplemental Fund with distributable net revenue as set forth in [section 16C-9](#). The purposes of this fund shall be:
- (1) To purchase Medicare Part B insurance for eligible enrolled members;
 - (2) To assist enrolled members needing Priority 1 medical procedures not otherwise covered by the contract health services program at Cherokee Indian Hospital;
 - (3) To supplement funding for a wound care center to serve enrolled members;
 - (4) To supplement necessary dental services for enrolled members who are children;
 - (5) To purchase pharmaceuticals for enrolled members pursuant to guidelines to be established by the Health Board and Tribal Council as described below;
 - (6) To supplement funding shortfalls at the Cherokee Indian Hospital;
 - (7) To supplement funding for Tsali Care nursing home;
 - (8) To supplement funding for Women's Wellness Center;
 - (9) To pay administrative expenses related to the programs established under this section; and
 - (10) For such other health-related purposes as the Tribal Council may determine by resolution.
- (b) With respect to distributable net revenue allocated through this fund, the Tribal health programs, in consultation with the Tribal health board, shall conduct needs assessments and develop plans for eligibility and other requirements for such programs, subject to final approval by the Tribal Council. Based on those plans, funds will be allocated to the various programs through the annual budget approval process. The Eastern Band shall be payer of last resort for all programs established to

purchase medical services, and shall not be responsible for coverage except to the extent that funds are specifically appropriated by the Tribal Council.

- (c) Distributable net revenue allocated through this fund shall be distributed to the Cherokee Indian Hospital Authority for services to enrolled members of the Tribe and for CIHA capital needs. This funding is provided in lieu of the authority to bill the Tribal health insurance program for direct services provided by CIHA. The Cherokee Indian Hospital Authority shall on an annual basis submit their overall budget outlining major revenue sources and expenditures, and provide justification to support the annual gaming allocation to the Tribe. The CIHA Governing Board shall allocate that funding for the purposes specified in this subsection through its operational and capital budgeting process.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009; Ord. No. 400, 10-12-2010)

Sec. 16C-20. - Police and Corrections Fund.

The Tribal Council shall create and fund a Police and Corrections Fund with distributable net revenue as set forth in [section 16C-9](#). The purpose of this Fund shall be to provide funding for personnel, training, equipment and other services and resources that serve the Tribe's goals of investigating, arresting, prosecuting and enhancing corrections efforts for violations of the Tribe's laws.

(Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009; Ord. No. 400, 10-12-2010)

Sec. 16C-21. - Kituwah Language Immersion Fund.

The Tribal Council shall create and fund a Kituwah Language Immersion Fund with distributable net revenue as set forth in [section 16C-9](#). The purpose of this Fund shall be to provide funding for personnel, training, equipment and other services and resources that serve to maintain and enhance the Tribe's Cherokee Language Immersion Program.

(Ord. No. 400, 10-12-2010)

Sec. 16C-22. - Amendments.

Except for technical amendments provided in [section 16C-8](#), this chapter may be amended by action of the Tribal Council in a meeting at which a quorum is present by a majority vote of the Council membership.

(Ord. No. 888, 10-13-2005; Ord. No. 457, 9-12-2006; Ord. No. 481, 10-3-2008; Ord. No. 873, 9-18-2009)

~~Sec. 16C-23. - Cherokee Indian Hospital Authority Reserve Account.~~

~~The Tribal Council hereby establishes the Cherokee Indian Hospital Authority Reserve Account for use by the Cherokee Indian Hospital to fund operations and capital improvements. This account shall be funded by excess revenues from gaming distribution designated for the Cherokee Indian Hospital Authority in [Section 16C-9](#), effectively exempting the Cherokee Indian Hospital from the Budget Stabilization line item requirements.~~

(Ord. No. 33, 12-16-2013)

~~**Sec. 16C-24. - Cherokee Central Schools Reserve Account.**~~

~~The Tribal Council hereby establishes the Cherokee Central Schools Reserve Account for use by the Cherokee Central Schools to fund operations and capital improvements. This account shall be funded by excess revenues from gaming distribution designated for the Cherokee Central Schools in Section 16C-9, effectively exempting the Cherokee Central Schools from the Budget Stabilization line item requirements.~~

(Ord. No. 33, 12-16-2013)

Sec. 16C-235. - Business & Economic Development Fund.

The Tribal Council hereby establishes the Business & Economic Development Fund for use by the Department of Commerce for business development and pursuit of diversified economic development opportunities in compliance with established Tribal objectives and economic strategies.

(Ord. No.)

Sec. 16C-246. - Technology Enhancement Fund.

The Tribal Council hereby establishes the Technology Enhancement Fund to be used to fund capital projects that enhance and expand the technology capabilities of the Tribal Government and Tribal entities.

(Ord. No.)