

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA
DEC 03 2020

DATE

ORDINANCE NO. 342 (2021)

WHEREAS, the Eastern Band of Cherokee Indians has adopted a balanced budget approach as outlined in Cherokee Code Section 117-47 requiring the Executive Committee to propose and Tribal Council to adopt only a balanced budget; and

WHEREAS, the Executive Committee is required under the provisions of Section 21 of the Charter and Governing Document of the Eastern Band of Cherokee Indians to present a budget to the Tribal Council no later than July 1st of each year; and

WHEREAS, the Eastern Band of Cherokee Indians under the provisions of the Indian Gaming Regulatory Act (IGRA) has adopted a Revenue Allocation Plan that governs the allocation of net distributable revenues from its Tribal Casino Gaming Enterprise operations; and

WHEREAS, in response to the COVID-19 pandemic the Eastern Band of Cherokee Indians took deliberate and necessary steps to close non-essential businesses and its casino gaming operations to protect the health, safety, and wellbeing of tribal citizens, employees, and the visiting public; and

WHEREAS, these actions significantly limited the revenue generating capacity of the tribe's casino gaming operations which is the primary source of revenue to the tribal government supporting direct member benefits and essential governmental services; and

WHEREAS, the Eastern Band of Cherokee Indians has adopted a conservative budget approach to minimize the impact of fluctuations in gaming revenues on the tribal government while at the same time adopting comprehensive revenue diversification strategies; and

WHEREAS, due to the COVID-19 response and in alignment with a conservative budget approach there was a need for short-term amendments to the revenue allocation plan of net distributable gaming revenues in order to balance the proposed budget of the tribal government for fiscal year 2021; and

WHEREAS, revenue has have been generated at a rate higher than anticipated following the re-opening of casino gaming operations warranting a change to the Revenue Allocation Plan.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present the Revenue Allocation Plan percentages as prescribed in Section 16C-9 of the Cherokee Code is hereby amended to read as attached.

BE IT FURTHER ORDAINED the Tribal Council directs the Executive Committee and Secretary of Treasury to develop a strategy to monitor the performance of the tribe's casino gaming operations to make recommendations to the Tribal Council on an on-going basis to adjust the Revenue Allocation Plan and fiscal year 2021 operating budget of the Tribal Government as the casino gaming operations demonstrate revenue generating capacity.

BE IT FINALLY ORDAINED this ordinance shall become effective upon ratification by the Principal Chief and the Principal Chief shall carryout the intent of this ordinance.

Submitted By: EBCI Executive Committee & Division of Treasury
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, 16C-6)50.00%

(b) Endowment Fund No. 2 ____%

(c) Business and Economic Development Fund ____%

(d) Debt Service Sinking Fund (§ 16C-14) ... ____%

(e) Capital Improvement Program (§ 16C-17) ... ____%

A portion not to exceed ____% 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) Kituwah Language Immersion (§ 16C-21). ____%

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

(a) Per Capita Distributions (§§ 16C-5, 16C-6)50.00%

(b) Technology Enhancement Fund ____%

A portion not to exceed ____% of Harrah's Cherokee Valley River Casino earning 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) Tribal General Fund; ____%

(d) Health Program Supplemental Fund/PHHS; ____%

(e) Police and Corrections Fund (§ 16C-20). ____%

(B) In accordance with 130B-13(b) effective October 1, 2016, the Cherokee Indian Hospital Authority shall be funded at a percentage of 4.5% of net distributable gaming revenues from Harrah's Cherokee Casino Resort and Harrah's Cherokee Valley River Casino. This value shall be calculated as a static percentage of net distributable revenues and not a static monetary or budgetary value.

(C) 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, 50 percent of the gaming revenues received will be deposited into the Per Capita Distribution Fund listed above. For purposes of the Cherokee Central Schools Assistance Fund, if the gaming revenue from Harrah's Cherokee Casino Resort received from the fiscal year exceeds the baseline gaming revenue amount by more than five

percent, that excess shall be distributed to a designated reserve fund for the Cherokee Central Schools Assistance Fund as provided for in Section 16C-24. For all other funds other than the Per Capita Distribution, if the Gaming Revenue from any Tribal Gaming Operation received from the fiscal year exceeds the Baseline Gaming Revenue Amount that excess shall be distributed as follows:

(1) Higher Education Endowment Fund10%

(2) Endowment Fund No. 240%

(3) Capital Improvement Program10%

(4) Debt Service Sinking Fund15%

(5) Cherokee Sovereign Wealth Fund10%

(6) Endowment Fund No. 110%

(7) Technology Enhancement Fund5%

(D) A fund balance of at least ten percent and not to exceed 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.

(E) 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; Ord. No. 44, 12-15-2015; Ord. No. 487, 3-16-2017; Ord. No. 620, 8-9-2017; Ord. No. 485, 4-2-2019)