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
RE: 30-day posting regarding Resolution #26-44.3844 Amendment of Revenue Allocation Ordinance… to Include the Grantor Children's Trust
DATE: February 19, 2026

Please post the attached proposed amendments to the above referenced ordinance that was approved for a 30-day posting by Tribal Council at the Tribal Council Regular Session on February 18, 2025. 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 March 21, 2025 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:

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 – via e-mail
Charlevoix Satellite Office – via e-mail
Traverse City Satellite Office - via e-mail
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

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Certification of Tribal Council Action

Regular Session of February 18, 2026

I hereby certify as the Tribal Council Secretary that the foregoing Motion was Approved and Adopted at the Regular Session of the Grand Traverse Band of Ottawa & Chippewa Indians Tribal Council

GWE for Minor Trust Accounts

Motion made by Tribal Council Member Frankenberger and Supported by Tribal Council Secretary Miller to approve Resolution #26-44.3844.

5-FOR; 0-AGAINST; 0-ABSENT; 1-ABSTAINING (Rohl)
Motion Carries

For Anna Miller, GTB Tribal Council Secretary

CC: John Petoskey-Legal

The Grand Traverse Band of Ottawa and Chippewa Indians

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TRIBAL COUNCIL RESOLUTION
Resolution #26-44.3844

AN AMENDMENT OF THE SECRETARIAL APPROVED REVENUE ALLOCATION ORDINANCE (JANUARY 21, 2025, APPROVAL LETTER) CONSISTENT WITH THE INDIAN GAMING REGULATORY ACT, 25 USC 2710 AND THE GENERAL WELFARE ACT, § 139E OF THE INTERNAL REVENUE CODE TO INCLUDE THE GRANTOR CHILDRENS TRUST ESTABLISHED BY THE FIRST GTB RAO IN 1994, (WITH APPROVED PRIVATE LETTER RULING ALLOWING DEFERRED FEDERAL INCOME TAXATION UNTIL DISTRIBUTION)

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) amended to a GWE RAO consistent with Indian Gaming Regulatory Act (IGRA) 25 USC § 2710(a)((3)(A-D)); and

WHEREAS: GTB desires to amend the GWE/RAO of January 25, 2025, consistent with the General Welfare Exclusion § 136E of the Internal Revenue Code to include the Children Grantor Trusts established under the original RAO of 1994; and

ENACTED AMENDMENT TO THE GTB REVENUE ALLOCATION PLAN-GENERAL WELFARE EXCLUSION BENEFITS (RAO)

Section 1617: Transition of Minor and Children Trust Funds to GWE-Exempt Status

1. Purpose and Authority
   Pursuant to the Tribal General Welfare Exclusion Act (IRC Section 139E) and the final Treasury regulations effective for 2026, the Grand Traverse Band of Ottawa and Chippewa Indians ("Tribe") hereby amends the Revenue Allocation Plan (RAO) GWE APPROVED AND ENACTED IN JANUARY 2025 to ensure that distributions intended for the long-term welfare of Tribal members' children are structured as tax-exempt benefits rather than taxable per capita payments.

2. Reclassification of Grantor Trusts
   Any minor's trust or children's trust fund previously established as a taxable Grantor Trust under the former RAO structure shall be re-established as a GTB RAO GWE Trust Account.

   - Tax-Exempt Status: All future distributions into these accounts from gaming revenues shall be classified as Tribal General Welfare benefits, not as per capita income, and are thus excluded from gross income for federal tax purposes.

   - Segregation of Funds: Effective immediately, funds distributed under the GWE program into these trusts shall be segregated from any existing principal that was previously distributed as taxable income to prevent the commingling of taxable and tax-exempt assets.

3. Treatment of Accumulated Income
   While principal distributions under this GWE program are tax-exempt at the time of contribution to the trust, the Tribe reserves its sovereign right to determine that the accumulation of such funds serves the essential welfare needs of Tribal youth, including but not limited to health, education, and housing stability upon reaching the age of majority.

4. Administrative Guidelines for GWE Trusts

- Non-Discrimination: Benefits shall be available to all eligible minor Tribal members on an equal basis.
- Not Compensation: Distributions to these trust accounts are for the promotion of general welfare and are not compensation for any services rendered.
- Deferred Distribution: Consistent with 25 C.F.R. § 290, access to these funds shall remain restricted until the beneficiary reaches the ages defined in the Tribal RAO-GAO SECTION 1612, unless extraordinary circumstances apply.

5. Compliance with Final 2026 Regulations
   The Tribe elects early adoption of the final GWE regulations (TD 10040) where applicable to maximize tax advantages for Tribal youth in 2026. The Tribal Council or its designee is authorized to execute all necessary documents to modify existing Grantor Trust agreements to reflect this tax-exempt GWE status.

6. Formalize Written Program Guidelines
   Under IRC Section 139E, for benefits to be excludable from gross income, they must be provided under a program with the following specific requirements:
   a. For Educational Related Expense
   b. For Housing Related Expenses
   c. For Transportation Related Expenses
   d. For Health-Related Expenses

7. Restructure and Amend Trust Agreements
   Existing trust documents created under the taxable RAO must be modified to meet GWE criteria. The third-party administrator of the Grantor Trust is directed to restructure and amend existing trust agreements to conform with this RAO-GWE amendment and existing IRS Section 239E and guidance. Amend Trust Language: Update individual trust agreements to classify incoming funds as GWE benefits rather than taxable grantor trust income.

8. Coordinate with IRS and Seek Refunds To the extent permitted by IRS law, The final 2026 regulations allow for retroactive application to prior open tax years.
    a. Retroactive Reinstatement: If tax-exempt status was previously lost or if taxes were paid on distributions that could now qualify as GWE, the Tribe or members can apply the regulations retroactively to seek refunds for any open period (typically the last 3 years).
    b. Refund Deadline: For many calendar-year taxpayers, the deadline to claim a refund for the 2022 tax year remains open until April 15, 2026.
9. Management and Compliance
    a. Training: Ensure Tribal administrators complete the required GWE training in consultation with the Treasury Tribal Advisory Committee (TTAC).
    b. Forward-Looking Enforcement: Note that the IRS has committed to prospective enforcement only, meaning audits will generally not look back to years before this guidance was finalized, provided no fraud occurred.

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 THERFORE BE IT RESOLVED that the GTB Council hereby enacts the February 18, 2026, Grantor Amendment to the Children Trust Fund of the Revenue Allocation-General Welfare Exclusion Ordinance for submission to the United States Department of Interior forwith for approval or disapproval within the next 60 calendar days.

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

APPROVED:
Jane A. Bohl FOR
Sandra L. Witherspoon, Chairwoman

ADOPTED:
Anna Miller
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 Regular Session of the Tribal Council held in Peshawbestown, Michigan, on February 18th, 2026, by a vote of:

5 FOR, Ø AGAINST, 1 ABSTAINING, and Ø ABSENT.

ATTEST:

Anna Miller
Anna Miller, Secretary

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,

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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,

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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

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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

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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;

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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

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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.

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(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

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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:

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(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").

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§ 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

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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.]

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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

Section 1617: Transition of Minor and Children Trust Funds to GWE-Exempt Status

1. Purpose and Authority

   Pursuant to the Tribal General Welfare Exclusion Act (IRC Section 139E) and the final Treasury regulations effective for 2026, the Grand Traverse Band of Ottawa and Chippewa Indians ("Tribe") hereby amends the Revenue Allocation Plan (RAO) GWE APPROVED AND ENACTED IN JANUARY 2025 to ensure that distributions intended for the long-term welfare of Tribal members' children are structured as tax-exempt benefits rather than taxable per capita payments.

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2. Reclassification of Grantor Trusts

   Any minor's trust or children's trust fund previously established as a taxable Grantor Trust under the former RAO structure shall be re-established as a GTB RAO GWE Trust Account.

   - Tax-Exempt Status: All future distributions into these accounts from gaming revenues shall be classified as Tribal General Welfare benefits, not as per capita income, and are thus excluded from gross income for federal tax purposes.
   - Segregation of Funds: Effective immediately, funds distributed under the GWE program into these trusts shall be segregated from any existing principal that was previously distributed as taxable income to prevent the commingling of taxable and tax-exempt assets.

3. Treatment of Accumulated Income

   While principal distributions under this GWE program are tax-exempt at the time of contribution to the trust, the Tribe reserves its sovereign right to determine that the accumulation of such funds serves the essential welfare needs of Tribal youth, including but not limited to health, education, and housing stability upon reaching the age of majority.

4. Administrative Guidelines for GWE Trusts

   - Non-Discrimination: Benefits shall be available to all eligible minor Tribal members on an equal basis.
   - Not Compensation: Distributions to these trust accounts are for the promotion of general welfare and are not compensation for any services rendered.
   - Deferred Distribution: Consistent with 25 C.F.R. § 290, access to these funds shall remain restricted until the beneficiary reaches the ages defined in the Tribal RAO-GAO SECTION 1612, unless extraordinary circumstances apply.

5. Compliance with Final 2026 Regulations

   The Tribe elects early adoption of the final GWE regulations (TD 10040) where applicable to maximize tax advantages for Tribal youth in 2026. The Tribal Council or its designee is authorized to execute all necessary documents to modify existing Grantor Trust agreements to reflect this tax-exempt GWE status.

6. Formalize Written Program Guidelines

   Under IRC Section 139E, for benefits to be excludable from gross income, they must be provided under a program with the following specific requirements:

   a. For Educational Related Expense
   b. For Housing Related Expenses
   c. For Transportation Related Expenses

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d. For Health-Related Expenses

7. Restructure and Amend Trust Agreements

Existing trust documents created under the taxable RAO must be modified to meet GWE criteria. The third-party administrator of the Grantor Trust is directed to restructure and amend existing trust agreements to conform with this RAO-GWE amendment and existing IRS Section 239E and guidance. Amend Trust Language: Update individual trust agreements to classify incoming funds as GWE benefits rather than taxable grantor trust income.

8. Coordinate with IRS and Seek Refunds To the extent permitted by IRS law, The final 2026 regulations allow for retroactive application to prior open tax years.
    a. Retroactive Reinstatement: If tax-exempt status was previously lost or if taxes were paid on distributions that could now qualify as GWE, the Tribe or members can apply the regulations retroactively to seek refunds for any open period (typically the last 3 years).
    b. Refund Deadline: For many calendar-year taxpayers, the deadline to claim a refund for the 2022 tax year remains open until April 15, 2026.
9. Management and Compliance
    a. Training: Ensure Tribal administrators complete the required GWE training in consultation with the Treasury Tribal Advisory Committee (TTAC).
    b. Forward-Looking Enforcement: Note that the IRS has committed to prospective enforcement only, meaning audits will generally not look back to years before this guidance was finalized, provided no fraud occurred.

(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.]

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