

Legislative Corner:

Dear Tribal Citizens,

I respectfully submit this letter in response to a request for an explanation of the “per capita” distribution and the necessary steps needed to change/increase the current amount. I hope this letter will provide answers to your questions and give further explanation of how net gaming revenues can be used by a Tribe.

Before we begin with the steps necessary to change the per capita amount, I will briefly explain what 25 U.S.C is, what § 2701 (subsection 2701) addresses, acceptable use of net gaming revenue and the definition of per capita payment.

- Title 25 U.S.C. outlines the role of Indians in the United States Code
- 25 U.S.C. § 2701 et seq. is a 1988 United States federal law that established the jurisdictional framework that governs Indian Gaming, also known as the Indian Gaming Regulatory Act (IGRA)
- Net revenues from any tribal gaming are not to be used for purposes other than, to fund tribal government operations or programs; to provide for the general welfare of the Indian tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies;
- Per capita payment means the distribution of money, paid from net gaming revenues to all members of the tribe.

The current per cap budgeted amount is \$500.00/member, equaling an annual payment of \$2,312,541.00, or 18.2% of net gaming revenue. The additional amount of \$99.00/member that has been approved through a separate supplemental funding request is still in keeping with the RAP approved percentage of 20%, however, as membership continues to increase and if RAP is maintained at 20%, this amount may decrease. In order to change the per capita payment amounts per 25 U.S.C. § 2701 et seq. *Indian Gaming Regulatory Act*, the following steps must occur:

- 1) LTBB/Tribe must pass a Resolution that modifies the Revenue Allocation Plan (RAP) and forward to the Bureau of Indian Affairs (BIA) for review and approval.
Note: The current LTBB RAP percentage designated for per capita distribution is capped at 20%.
- 2) The BIA Superintendent of the field office having immediate administrative responsibility of the tribe, shall review and determine if the RAP meets the required gaming net revenue usage, and determine whether or not to approve the percentages presented.
Note: If a per capita distribution is over 50% of the net gaming revenue the following detailed information will be used to determine that it complies with IGRA: the number of enrolled members of the Tribe; the number of enrolled

members residing on the Reservation; the number of enrolled members residing on the Reservation that are unemployed; the number of businesses owned and/or operated by the Tribe; the amount of revenues generated by each business that is available to the Tribe for economic development; the level of essential government services, such as water, sewer, housing, law enforcement, fire protection, road maintenance, tribal court, social service programs provided on the Reservation; and whether the level of government services is curtailed because of lack of revenue.

- 3) Once RAP or modified RAP is approved by the BIA the Tribe can schedule distributions not to exceed the approved percentage amount.
Note: Failure to attain an approved RAP or modified RAP could bring an enforcement action against the Tribe that could result in a fine or, in the case of a substantial violation, temporary and/or permanent closure of your gaming facility or facilities.

Thank you for the opportunity to answer your questions and I hope my explanation has brought some clarity on the steps required before a per capita can increase from \$500.00 to \$2,500.00. Please note raising the per capita to \$2,500/member will equal 90% of the Tribes net gaming revenue and would greatly impact/curtail the current level of government services. In order to maintain current level of services while increasing per capita to \$2,500.00/member, the Tribe would need a 350% increase from what the Tribe is currently receiving from the casino.

If you would like more details about the Tribal annual budget, please visit the Citizens' Only Portal that can be found on the LTBB website at <http://www.ltbbodawa-nsn.gov>. The Treasurer's 2014 Annual Report is posted on the portal, and it includes FY 2014 budget and the proposed budget for 2016.

If you have any comments on this matter please feel free to contact me personally at: jshananaquet@ltbbodawa-nsn.gov.

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Julie Shananaquet, Tribal Council Secretary