

**HO-CHUNK NATION CODE (HCC)
TITLE 1 -- ESTABLISHMENT ACTS
SECTION 16 -- TRUST AND INVESTMENT COMMITTEE
TRUST AND INVESTMENT COMMITTEE ESTABLISHMENT
AND ORGANIZATION ACT OF 2011**

ENACTED BY LEGISLATURE: AUGUST 23, 2011

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1. Authority.

a. Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel.

c. Article V, Section 2(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation's lands, interests in lands or other assets.

d. Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the powers set forth in Article V, Section 2 of the Constitution.

2. **Purpose.** This Act establishes and organizes the Ho-Chunk Nation Trust and Investment Committee in order to strengthen the fiduciary oversight and provide enhanced protection over the Nation's investments.

3. **Establishment of the Trust and Investment Committee.** The Ho-Chunk Nation Trust and Investment Committee ("Committee") is hereby established as a committee responsible for the oversight of the Nation's investments, including investments on behalf of minors and legally incompetent members, employer retirement plan funds (401(k) plans), and any other investments made by the Nation with a time horizon of at least one year, and the Nation's long- and short-term portfolios.

4. **Committee Membership.**

a. The Committee shall consist of seven voting members. Each of these voting members must be an enrolled member of the Nation who is eligible to vote in Nation elections. At all times, the Committee shall consist of at least five members, appointed pursuant to Section 4 c (1) – (4) and Section 4d and 5b of this Act.

b. The Nation's Treasurer shall be the eighth member of the Committee and shall serve as Committee Chairperson. The Nation's Treasurer, serving as Committee Chairperson, shall not have a vote, except when necessary to break a tie.

c. The seven voting Committee members shall be initially appointed by the Legislature.

- (1) Two of the appointed Committee members shall serve two-year terms.
- (2) Two of the appointed Committee members shall serve four-year terms.
- (3) Three of the appointed Committee members shall serve six year terms.
- (4) The Legislature shall signal the length of each appointed Committee member's term at the time of appointment.

d. Upon the expiration of an initial appointment, or subsequent appointment, Committee members shall be appointed for four (4) year terms by application to, and recommendation of, the Committee, then final selection of the Legislature, as described in Section 5b herein.

e. Committee members shall not have term limits.

f. Four (4) Committee members shall constitute a quorum. A quorum is required to conduct business.

g. The Committee shall select the following officers from its members: Vice-Chairperson, Treasurer, and Secretary.

h. A Committee member may submit charges for removal of a Committee member in accordance with the Nation's *Code of Ethics Act* (2 HCC §1).

i. Within ninety (90) days of the enactment of this Act and after any amendments are approved by the Committee, the bylaws shall be submitted to the Legislature for ratification.

5. Committee Member Qualifications.

a. To be eligible for appointment, Committee members shall have one or more of the following qualifications.

- (1) Certified Public Accountant or Charter Financial Analyst;
- (2) An associates or, preferably, a bachelor's degree in accounting, business, finance;
- (3) Financial professional certification, including any of the following;

- Certified Financial Planner
- Certified Fund Specialist
- Chartered Financial Consultant
- Chartered Investment Counselor
- Certified Investment Management Analyst
- Chartered Market Technician
- Personal Financial Specialist

(4) At least three-years proven experience managing investments as a fiduciary on another's behalf.

b. If interested in appointment to the Committee, an individual shall submit a letter of interest and a resume as appropriate:

- For initial appointments: to the CTF Task Force for the initial appointments made by the Legislature.
- For subsequent appointments: to the Committee for review, who will then make a recommendation to the Legislature, who shall make any appointment(s).

c. All potential Committee members shall undergo a credit check and a criminal background check prior to the appointment. A potential Committee member shall not be eligible for service on the Committee if the criminal background check reveals either of the following.

- (1) A felony.
- (2) Any crime of dishonesty, including, but not limited to, fraud, misrepresentation, theft or deception in any form.

d. A potential Committee member must be able to obtain a financial bond.

e. A potential Committee member must be able to successfully obtain an Accredited Investment Fiduciary (“AIF”) certification within 6 months of Committee appointment; once obtained, a Committee member must renew or recertify their AIF status annually.

f. Each Committee member shall honorably protect and uphold the purpose of the Committee with integrity, diligence and foresight.

g. Each Committee member shall avoid any conflicts of interest with other Committee members and vendors that come before the Committee, and disclose any dealings or interactions with such vendors to the Treasurer.

h. All the qualification requirements listed above must be maintained throughout a Committee member's term and shall be reviewed at least annually by the Ho-Chunk Nation Department of Justice.

6. Committee Member Removal. Committee members may be removed by the Legislature for good cause, after a member has been given a reasonable opportunity to be heard by the Legislature. To remove a Committee member, two-thirds of the Legislature seated in office must vote to support removal. Good cause may be found by the Legislature for a Committee member’s failure to follow the law of the Nation, including the Trust and Investment Committee Establishment Act, or the Investment Policy Statement for the Nation’s assets. The Trust and Investment Committee may recommend the removal of a Committee member or members, by majority vote. The Treasurer may bring to the attention of the Legislature any actions that justify the consideration of a removal. Before the Legislature takes a final vote to remove a Committee member, it must provide reasonable advance notice and an opportunity to be heard for the member.

7. Duties. The Legislature delegates to the Committee all its duties and responsibilities relating to the oversight and administration of the Nation's investment funds. The Committee shall have any necessary power and authority to carry out these delegated duties and responsibilities, except the power to remove any professional or firm providing third party financial services. The duties and responsibilities delegated to the Committee shall include, but not be limited to, the following.

a. Setting the investment strategy, including allowable investments, asset allocation, risk assessments, and benchmarks for measuring investment performance.

b. Revising the Investment Policy Statement.

c. Supervising the performance of all third-party financial professionals and reviewing such performance at least annually.

d. Modifying the third-party financial professionals' duties and recommending removal to the Legislature, if necessary.

e. Adopting a policy for socially responsible investing and ensuring that third-party financial advisors are complying with it.

f. Establishing custody, trading and control procedures.

8. Compensation and Personal Expenses.

a. Committee members shall be compensated in accordance with Section 27 of the *Finance Manual* (5 HCC § 5). Stipends and travel expenses shall only be paid for a duly called meeting or other official business.

b. Payment vouchers shall be submitted consistent with Section 27e of the *Finance Manual*.

c. Pursuant to the Nation's *Appropriations and Budget Process Act* (2 HCC § 4), annual appropriations shall be requested to fund the costs associated with paying for the Committee.

9. Conflicts of Interest and Nepotism Prohibited.

a. The Committee members' conduct and actions shall be subject to the Nation's *Code of Ethics Act* (2 HCC §1).

b. Elected or appointed Committee members must complete a conflict-of-interest-disclosure form and non-disclosure agreement. These forms must be completed and submitted to the Committee Chairperson before commencement of the elected or appointed Committee member's term. Any elected or appointed Committee member that fails to submit the required paperwork shall not be eligible to participate in Committee meetings, vote on Committee matters, or receive payment or reimbursements for service on the Committee.

10. Quarterly Reports to the Nation. The Committee shall report a written report detailing the actions of the Committee for Legislature's Finance Subcommittee no less frequently than every quarter.

11. Special Meetings. The Legislature may request to meet with the Committee, upon a motion adopted at a duly convened meeting with a quorum present. Any such meeting is not subject to the Nation's Open Meetings Act.

Legislative History:

06/21/11	Legislature places Trust and Investment Committee Establishment and Organization Act of 2011 out for forty-five (45) day Public Review.
08/23/11	Legislature adopts Resolution 08-23-11F, enacting the Trust and Investment Committee Establishment and Organization Act of 2011.
02/09/16	Legislature authorizes placing the Trust & Investment Committee Establishment Act out for public review and comment, including proposed amendments.
08/23/16	Legislature adopts Resolution 08-23-16K, which amends the Trust & Investment Committee Establishment Act.