HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE
AUTHORIZATION TO PLACE HO-CHUNK NATION
TRUST AND INVESTMENT COMMITTEE
ESTABLISHMENT AND ORGANIZATION ACT OF 2011
OUT FOR PUBLIC REVIEW AND COMMENT

RESOLUTION 11-15-22 O

WHEREAS, on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and

WHEREAS, the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, pursuant to the Indian Reorganization Act of 1934; and

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

WHEREAS, Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power; and

WHEREAS, 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; and

WHEREAS, 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;

WHEREAS, 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 foregoing list of powers; and

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WHEREAS, the Legislature adopted the Trust and Investment Committee Establishment and Organization Act of 2011 (codified as 1 HCC §16) on August 23, 2011, in order to address fiduciary oversight for the Nation's investments and assets, and to clarify roles and capacities to assist the Nation;

WHEREAS, the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which has been amended from time to time; and

WHEREAS, the *Legislative Organization Act* ("LOA") provides the procedures for enacting or amending a Ho-Chunk Nation law; and

WHEREAS, pursuant to the LOA, the Legislature previously placed the Trust and Investment Committee Establishment and Organization Act ("Trust and Investment Committee Establishment Act"), codified at 1 HCC §16, along with proposed amendments, out for public review and comment on June 7, 2022; and

WHEREAS, the Legislature has reviewed additional proposed amendments to the Trust and Investment Committee Establishment Act and now finds it appropriate to place the Act, with updated draft amendments, out for a limited review period; and

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, and the LOA, places the Trust and Investment Committee Establishment Act, including proposed amendments set forth therein, out for public review and comment for thirty (30) days; and

BE IT FURTHER RESOLVED that the 30 days shall begin when the Trust and Investment Committee Establishment Act, with proposed amendments, is posted to the Ho-Chunk Nation website.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **13** constituting a quorum were present at a meeting duly called and convened and held that on the **15th day of November, 2022**, adopted the foregoing resolution at said meeting by an affirmative vote of **12 members, 0 opposed, and 1 abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation, approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Stephanie Begay

Rep. Stephanie Begay, Tribal Secretary

11.15.22

Date

11-15-22 Draft

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

ENACTED BY LEGISLATURE: AUGUST 23, 2011

Last Amended and Restated: September 22, 2020

CITE AS: 1 HCC § 16

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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 Commission ~~Committee~~ in order to strengthen the fiduciary oversight and provide enhanced protection over the Nation's investments.

3. **Establishment of the Trust and Investment Commission ~~Committee~~.** The Ho-Chunk Nation Trust and Investment Commission ~~Committee~~ ("Commission" "~~Committee~~") is hereby established as a commission ~~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~~ Commission Membership.**

a. The Commission ~~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 Commission ~~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 Commission ~~Committee~~ and shall serve as Commission ~~Committee~~ Chairperson. The Nation's Treasurer, serving as Commission ~~Committee~~ Chairperson, shall not have a vote, except when necessary to break a tie.

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

(1) Two of the appointed Commission ~~Committee~~ members shall serve two-year terms.

(2) Two of the appointed Commission ~~Committee~~ members shall serve four-year terms.

(3) Three of the appointed Commission ~~Committee~~ members shall serve six year terms.

(4) The Legislature shall signal the length of each appointed Commission ~~Committee~~ member's term at the time of appointment.

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

e. Commission ~~Committee~~ members shall not have term limits.

f. Four (4) Commission ~~Committee~~ members shall constitute a quorum. A quorum is required to conduct business provided, however, that in circumstances where there is not a confirmed Treasurer for the Nation and the Nation is in a Declaration of Emergency (as declared by the Legislature), three (3) members of the Commission ~~Committee~~ are acceptable for quorum.

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

h. A Commission ~~Committee~~ member may submit charges for removal of a Commission ~~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 Commission ~~Committee~~, the bylaws shall be submitted to the Legislature for ratification.

5. ~~Committee~~ **Commission Member Qualifications.**

a. To be eligible for appointment, Commission ~~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 Commission ~~Committee~~, an individual shall submit a letter of interest and a resume ~~as appropriate:,~~ as specified by, and to, the Legislature.

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

c. All potential Commission ~~Committee~~ members shall undergo a credit check and a criminal background check prior to the appointment. A potential Commission ~~Committee~~ member shall not be eligible for service on the Commission ~~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 Commission ~~Committee~~ member must be able to obtain a financial bond.

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

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

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

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

6. **~~Committee~~ Commission Member Removal**. Commission ~~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 Commission ~~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 Commission ~~Committee~~ member's failure to follow the law of the Nation, including the Trust and Investment Commission ~~Committee~~ Establishment Act, or the Investment Policy Statement for the Nation's assets. The Trust and Investment Commission ~~Committee~~ may recommend the removal of a Commission ~~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., though the Legislature may independently consider such actions regardless of whether the Treasurer does so. Before the Legislature takes a final vote to remove a Commission ~~Committee~~ member, it must provide reasonable advance notice and an opportunity to be heard for the member.

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

a. Advising the Legislature regarding ~~Setting the~~ investment strategy, including allowable investments, asset allocation, fees, risk assessments, and benchmarks for measuring investment performance.

b. Advising the Legislature, and making recommendations regarding any ~~Revising~~ the Investment Policy Statement(s).

c. Supervising the performance of all third-party financial professionals and reviewing such performance at least annually, and providing advice and recommendations to the Legislature regarding such performance.

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

d. Recommending ~~Adopting~~ a policy for socially responsible investing to the Legislature and monitoring compliance by third-party financial advisors with said policy. ~~ensuring that third-party financial advisors are complying with it~~.

e. Recommending ~~Establishing~~ custody, trading and control procedures~~.~~ to the Legislature, regarding the Nation's investment funds.

g. The provision of advice and recommendations on portfolio rebalancing.

h. The provision of advice and recommendations on the selection, replacement, and/or termination of third party financial professionals.

i. The development, review and presentation of educational reports and summaries for all funds to include the Children's Trust Fund.

The Commission shall provide a report to the Legislative Finance Commission on a monthly basis, or as requested by the Presiding Officers of the Finance Commission, summarizing its activities and addressing any recommendations or advice to the Finance Commission. The same may reporting, advice or recommendations may be provided to the Legislature. Due to the sensitive and confidential nature of such information, any such reporting shall be done in Executive Session under the *Open Meetings Act*, unless the Legislature authorizes reporting or release outside of Executive Session.

8. **Compensation and Personal Expenses**.

a. Commission ~~Committee~~ members shall be compensated in accordance with Section 27 of the *Finance Ordinance* ~~*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 Ordinance* ~~*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 Commission ~~Committee~~.

9. **Conflicts of Interest and Nepotism Prohibited**.

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

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

10. **Strategic Planning and Reporting**.

a. The Commission ~~Committee~~ shall be responsible for creating a ~~Departmental~~ Strategic Plan. This strategic plan shall at a minimum consist of the ~~Departmental~~ Mission Statement, goals of the Commission ~~Department~~ in support of that mission, the actions necessary to achieve those

goals, and a timeline to regularly review and update the strategic plan as necessary. The plan will be presented to Legislature upon completion.

b. On a semi-annual basis, with *(1) October for the first semi-annual review (October-November); and (2) March for the second semi-annual review (March-April)*, the Commission ~~Committee~~ shall provide an update on progress made towards annual goals and objectives as defined in the ~~Departmental~~ Strategic Plan, as well as the goals and objectives stated in the annual budget request made in accordance with the Budget and Appropriations Act (2 HCC § 4).

c. The Commission ~~Committee~~ will conduct an annual review of the ~~Departmental~~ Strategic Plan, and make updates or revisions based on the Commission's ~~department's~~ achievement, or lack of progress, regarding the completion and fulfillment of the Commission's ~~department's~~ strategic goals and objectives for the previous fiscal year. The updated ~~Departmental~~ Strategic Plan shall be presented to the Legislative ~~Development~~ Finance Commission ~~Committee~~, or any relevant commission ~~committee~~ as required by the Legislative Organization Act (2 HCC §11) and shall be submitted to that commission ~~committee~~ by January 1st of each year.

d. ~~Episodic~~ Periodic Reviews of ~~Departmental~~ Strategic Plans, as requested by the Legislature, shall be presented to the Legislature upon completion.

e. The Commissions shall report on the performance of the Nation's Portfolio on a Quarterly basis to the Legislature and/or Legislative Finance Commission, in Executive Session.

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

12. **Special Meetings**. The Legislature may request to meet with the Commission ~~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.

02.07.17	Legislature adopts Resolution 02.07.17W placing all Establishment and Organization Acts out for Forty-Five Day Public Comment.
06.05.17	Legislature passed Resolution 06.05.17M which adopted proposed amendments to all Nation Establishment and Organization Acts, including 1 HCC § 19 and 1 HCC § 20, while excluding 1 HCC § 3, with amendments consisting of some general changes as suggested by public commentary, as well as the "Strategic Planning and Reporting" language, which was originally placed out for Forty-Five (45) Day Public Comment in Resolution 02.07.17W.
09.22.20	Quick Passage Amendments, per Resolution 09-22-20G, to Section 4f regarding quorum.