



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

ENACTED BY LEGISLATURE: AUGUST 23, 2011

Last Amended and Restated: April 3, 2024

CITE AS: 1 HCC § 16

TABLE OF CONTENTS

1. Authority	1
2. Purpose	2
3. Establishment of the Trust and Investment Commission	2
4. The Commission Membership	2
5. Commission Member Qualifications	3
6. Commission Member Removal	4
7. Duties	4
8. Compensation and Personal Expenses ...	5
9. Conflicts of Interest and Nepotism	5
10. Strategic Planning and Reporting	6
11. Quarterly Reports	6
12. Special Meetings.....	6

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

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

a. The Commission 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 shall consist of at least five voting members, appointed pursuant to Section 4 c (1) – (4) and Section 4d and 5c of this Act.

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

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

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

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

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

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

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

e. Commission members shall not have term limits.

f. Four (4) Commission members shall constitute a quorum. A quorum is required to conduct business. However, 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 are acceptable for quorum. If a quorum of Commission members is

not seated, such that the Commission cannot carry out its functions, the Legislature may directly address all matters delegated to the Commission by this Act.

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

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

i. Within ninety (90) days of the enactment of and any amendments to this Act by the Legislature, the Commission shall submit, upon approval by the Commission, bylaws and any necessary amendments to the bylaws to the Legislature for ratification. If the Commission wishes to amend the bylaws at any other time, it must approve of the amendments and submit them to the Legislature for ratification.

5. Commission Member Qualifications.

a. To be eligible for appointment, Commission 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, or 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
- Accredited Investment Fiduciary (AIF)

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

b. If there is a vacancy on the Commission, the Legislature shall issue a public notice of such vacancy and specify how an individual that is interested in an appointment to the Commission shall submit a letter of interest and a resume to the Legislature.

c. All potential Commission members shall undergo a credit check and a criminal background check prior to the appointment. A potential Commission member shall not be eligible for service on the Commission 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. Each Commission member shall honorably protect and uphold the purpose of the Commission with integrity, diligence and foresight.

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

f. All the qualification requirements listed above must be maintained throughout a Commission member's term and shall be verified at least annually by the Ho-Chunk Nation Legislature, pursuant to the process of fiscal quarterly reporting and annual review by the Legislative Finance Commission or Legislature set forth in Section 10 herein.

6. Commission Member Removal. Commission 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 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 member's failure to follow the law of the Nation, including the Trust and Investment Commission Establishment Act, or the Investment Policy Statement for the Nation's assets. The Trust and Investment Commission may recommend the removal of a Commission member or members, by majority vote. The Nation's 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 Nation's Treasurer does so. Before the Legislature takes a final vote to remove a Commission member, it must provide reasonable advance written notice and an opportunity for the Commission member to be heard.

7. Duties. The Legislature delegates to the Commission an advisory role relating to the oversight and administration of the Nation's investment funds. The Commission shall have the authority to carry out the-limited, delegated duties and responsibilities listed below. The advisory duties and responsibilities delegated to the Commission shall include, but not be limited to, the following:

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

b. Advising the Legislature, and making recommendations regarding any updates or amendments to the Investment Policy Statement(s).

c. Monitoring 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. Recommending a policy for socially responsible investing to the Legislature and monitoring compliance by third-party financial advisors with said policy.

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

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

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

h. The development, review and presentation of educational reports and summaries for all funds to include the Children's Trust Fund, as that term is defined within the Minors Trust Agreement approved by the Legislature.

i. 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 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 members shall be compensated in accordance with Section 27 of the *Finance Ordinance* (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*.

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.

9. Conflicts of Interest and Nepotism Prohibited.

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

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

10. Strategic Planning and Reporting.

a. The Commission shall be responsible for creating a Strategic Plan. This strategic plan shall at a minimum consist of the Mission Statement, goals of the Commission 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 the Nation's Treasurer for inclusion in the annual Treasury Budget submission.

b. Within thirty (30) days of the end of each fiscal quarter, the Commission shall provide an update on progress made towards annual goals and objectives as defined in the Strategic Plan; and in accordance with the Budget and Appropriations Act (2 HCC § 4).

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

d. Periodic Reviews of 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 fiscal quarterly basis to the Legislature and/or Legislative Finance Commission, in Executive Session.

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

12. Special Meetings. The Legislature may request to meet with the Commission, 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.
- 06.07.22 Legislature places the Trust and Investment Committee Act out for 45-day public review and comment, including proposed amendments for public consideration.
- 11.15.22 Legislature adopts Resolution 11-15-22O, placing the proposed amendments to the Trust and Investment Committee Establishment Act out for a 30-day comment period, after having received limited comments and updating the proposed amendments.
- 12.20.22 Legislature places the Trust and Investment Committee Establishment Act out for review and comment again, through adoption of Resolution 12-20-22C, in response to a request for further review by the Trust & Investment Committee.
- 12.19.23 Adopt Resolution 12-19-23AA, Quick Passage Amendment to Section 7, striking the delegation of all legislative duties and responsibilities to the Trust & Investment Committee, and instead giving the Committee an advisory role of the Nation’s investment funds.
- 01.03.24 Legislature places the Trust and Investment Committee Establishment Act out for review, via resolution 01.03.24A.
- 04.03.24 Legislature adopts Resolution 04-03-24B, adoptions of amendments.