



## Legislation Text

File #: 21-052, Version: 2

### AN ACT AMENDING LA 35-17, "CHEROKEE NATION SOVERIEGN WEALTH FUND" AND DECLARING AN EMERGENCY

#### BE IT ENACTED BY THE CHEROKEE NATION:

#### Section 1. Title and Codification

This legislative act shall be known as the "Cherokee Nation Sovereign Wealth Fund Improvement Act of 2021" ("Act") and codified under Title 62, Public Finance; Chapter 13, Sovereign Wealth Fund.

#### Section 2. Purpose

The purpose of this Act is to amend the Cherokee Nation Sovereign Wealth Fund Act to clarify the former legislation.

#### Section 3. Legislative History

LA-35-17 (Dec. 14, 2017)

#### Section 4. Fund Established

This Act hereby establishes the Cherokee Nation Sovereign Wealth Fund ("Fund"), which shall be held by the Treasurer in accordance with the Act. Assets of the Fund shall be maintained in an interest bearing account or otherwise invested by the Treasurer [in accordance with Title 62 CNCA Chapter 3, Deposit and Investment of Public Funds \(as amended from time to time\)](#) to promote growth of the Fund's assets.

#### Section 5. Composition and Funding

A. There shall be established within the Fund an Emergency Reserve Fund ("Reserve Fund"), which shall receive a direct and continuing appropriation from the following sources:

1. Those for-profit corporations [governmental revenue entities](#) in which Cherokee Nation is the sole or majority shareholder and that are incorporated [formed](#) under the laws of the Cherokee Nation, shall issue a monthly cash dividend in the amount of two percent (2%) of the net income of such corporations [entities](#), which shall be in addition to any other dividend required to be paid by such corporation [entity](#) under the laws of the Cherokee Nation, including any dividend provided for under Title 18, Article 3, Section 18, of the Cherokee Nation Code; provided however:

- i. Any dividend payment required by this Section shall be conditioned upon such corporation **entity** remaining in compliance with any financial covenant or guaranty and not otherwise in default of any credit agreement; and
  - ii. The corporations **entities** described in this Section shall have authority to declare any special dividend into the Reserve Fund that such corporation **entity** may deem appropriate from time to time.
2. Not less than fifty percent (50%) of all funds received by the Cherokee Nation from a judgment or settlement of legal claims after the effective date of the Act; provided however, no allocation shall be made pursuant to this subsection where such funds are otherwise restricted under the laws of the Cherokee Nation, or applicable laws of the United States, and shall exclude claims brought to recover funds improperly expended by the Cherokee Nation or routine claims to recover the value of services or benefits provided by or on behalf of the Cherokee Nation.
3. The Fund shall also include the Motor Fuel Tax Education Trust ("Education Trust"), established by Legislative Act 08-00, which shall receive a continuing appropriation to its principal balance in the amount of twenty-five percent (25%) of each future Motor Fuel Tax payment received from the State of Oklahoma, in accordance with existing law. Assets of the Education Trust shall be for the purpose of Higher Education Scholarships.
4. Such current and future endowments, trusts, or other funds that may be incorporated into the Fund from time to time by the Treasurer.
5. All assets of the Fund shall be reported and accounted for separately and expenses incurred by maintenance and investment of the Fund shall be paid by the Fund.

#### **Section 6. Distribution**

- A. A distribution may be made from the Fund if approved by two-thirds (2/3) majority vote of the entire Tribal Council and approved by the Principal Chief; provided however:
  1. A distribution from the Reserve Fund may only be made in the event that a financial emergency exists, the severity of which threatens the life, property, or financial stability of the Nation.
  2. A distribution from the Education Trust may only be made to satisfy a substantial need in higher education scholarships resulting from an unexpected funding loss or shortfall.
- B. Distributions from all endowments, trusts, or other funds held in the Fund shall be made in accordance with any originating document or restriction applicable thereto, and subject to the appropriation laws of the Cherokee Nation.

#### **Section 7. Political Activities**

The resources of the Fund may not be used to finance or influence political activities.

#### **Section 8. No Waiver**

No provision in this Act shall be deemed a waiver of the Cherokee Nation's sovereign immunity for any purpose not expressly and unequivocally set forth herein.

#### **Section 9. Severability**

The provisions of this Act shall be severable and if any part of any provision hereof shall be held void by a court of competent jurisdiction, such holding shall not affect or impair the validity of any remaining provisions of this Act.

**Section 10.      Effective Date: Emergency Declared**

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect immediately upon its approval and signatures.