

# TABLED

CHEROKEE COUNCIL HOUSE  
CHEROKEE, NORTH CAROLINA  
MAR 11 2021

DATE

ORDINANCE NO. 395 (2021)

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8 WHEREAS, the Eastern Band of Cherokee Indians has established multiple investment funds under  
9 Cherokee Code Section 16-C that are designated for various purposes to protect the  
10 assets of the tribe for future use; and  
11 WHEREAS, the tribe's Endowment Fund No. 1 is the permanent reserve account as defined in  
12 Section 16C-10 of the Cherokee Code having a floor of \$100M and a growth goal of two-  
13 times the annual operating budget of the tribe; and  
14 WHEREAS, the tribe's Debt Service Sinking Fund is a reserve account designed to retire long-term  
15 debt of the tribal government having a floor of \$100M; and  
16 WHEREAS, the annual operating budget of the tribe is approximately \$170M and the tribe has no  
17 long-term debt obligations; and  
18 WHEREAS, changes are needed to the language of the Cherokee Code Section 16C-10, Section 16C-  
19 11 and Section 16C-14 to allow for greater flexibility and efficient use of the investment  
20 funds to advance the interests of the EBCI.  
21 NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians in  
22 Council assembled, at which a quorum is present, changes to the Cherokee Code are  
23 hereby approved as attached.  
24 BE IT FURTHER ORDAINED the Principal Chief shall carryout the intent of this ordinance which shall  
25 remain in effect until implemented or rescinded.  
26 BE IT FINALLY ORDAINED that any resolution or ordinance that is inconsistent with this ordinance is  
27 hereby rescinded.  
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29 Submitted By: EBCI Treasury Division Office of Budget & Finance  
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35 **Sec. 16C-10. - Cherokee Endowment and Investment Funds.**

36 (a) The Tribal Council shall create and fund separate Endowment and Investment Funds with  
37 distributable net revenue as set forth in [Section 16C-9](#). The purpose of these Funds shall be to provide a  
38 long-term investment and capital appreciation vehicle for the Tribe. Tribal management shall make  
39 monthly deposits from distributable net revenue into these Funds.

40 (b) The first Endowment and Investment Fund ("Endowment Fund No. 1") shall be maintained for the  
41 long-term success of the Tribe with a soft-floor of ~~100~~ 170 million dollars. If at any time there is a breach  
42 of the soft floor, the Investment Committee will monitor investment performance for a period not to  
43 exceed two quarters. If the floor should be breached for a period of two consecutive quarters the  
44 investment committee shall consider an adjustment to the asset allocation in order to restore an  
45 acceptable funding level within a time period deemed appropriate. Earnings of the Endowment Fund  
46 No. 1 shall be added to the principal of the Endowment Fund No. 1. The goal for the first Endowment  
47 and Investment Fund shall be to accumulate and grow capital for the long-term economic growth and  
48 security of the Tribe and its members grown to a funding level of two times the operational budget of  
49 the Tribe.

50 **Sec. 16C-11. - Investment of Endowment and Investment Funds.**

51 (a) Except as restricted in [Sec. 16C-10](#), money deposited in the Endowment and Investment Funds shall  
52 be invested in a balanced investment portfolio seeking long-term gain and capital appreciation, with  
53 investments not subject to investment limitations of GASB.

54 (1) The first Endowment and Investment Fund shall be maintained with a soft floor of ~~100~~ 170  
55 million dollars, which shall be maintained for the long-term success of the Tribe and grown to a  
56 level of two times the operational budget of the Tribe.

57 **Sec. 16C-14. - Debt Service Sinking Fund.**

58 The Tribal Council shall create and fund a separate Debt Service Sinking Fund with distributable net  
59 revenue as set forth in [section 16C-9](#). The original purpose of this Fund was to provide a long-term  
60 investment vehicle for the Tribe to retire the long-term debt. Funds in the Debt Service Sinking Fund  
61 may be used to secure, minimize, reduce, and/or retire other Tribal debts, projects as prioritized by  
62 resolution of the Tribal Council. The investment goal for the Fund shall be to accumulate and grow  
63 capital for the retirement of the Tribe's debts.

64 (1) *Investment of Debt Service Sinking Fund.* Money deposited in this Fund shall be invested in a  
65 balanced investment portfolio seeking long-term gain and capital appreciation, with investments not  
66 subject to investment limitations of GASB.

67 (2) *Limitations on investment of Debt Service Sinking Fund.* No more than 15 percent of the Fund may be  
68 invested in any single stock, bond, instrument, entity, company, or fund unless otherwise endorsed by  
69 the Investment Committee and approved by the Tribal Council.

70 (3) The Investment Committee shall manage the investment of the principal and earnings of the Debt  
71 Service Sinking Fund and shall work with not less than three institutional managers to establish a  
72 balanced portfolio for the Fund.

73 (4) The Debt Service Sinking Fund shall be maintained with a floor of ~~100~~ 75 million dollars. If at any time  
74 this floor is breached no additional commitments or disbursements from the fund shall be made. Upon  
75 breach of the floor the Investment Committee shall consider adjusting the asset allocation, approved by  
76 Tribal Council, in order to restore an appropriate funding level within a time period deemed reasonable.  
77 If at any time this floor is exceeded, any amount in excess of the floor shall be used for debt reduction.

78 (5) Values in excess of the ~~100~~ 75 million dollar floor shall be evaluated on an annual basis by the Tribal  
79 Department of Finance and the Investment Committee and paid against Tribal debts, if such debt exists.  
80 If no Tribal debt exists, funding in excess of the ~~100~~ 75 million dollar floor may be used to offset or fund  
81 significant Tribal projects or purchases that would otherwise require external financing.