

## ORDINANCE NO. 16

### BEN QUIGNO MEMORIAL INVESTMENT FUND

**BE IT ENACTED**, by the Saginaw Chippewa Tribal Council as follows:

**SECTION 1.** Statement of Purpose. To establish a trust fund for the benefit of the Saginaw Chippewa Indian Tribe of Michigan from funds appropriated in satisfaction of judgments awarded the Tribe in Dockets 59, 13E & 13F.

**SECTION 2.** Ordinance Title. This ordinance may be cited as the Ben Quigno Memorial Investment Fund of the Saginaw Chippewa Indian Tribe of Michigan.

**SECTION 3.** Authority. The authority for this Ordinance shall be found in:

**SECTION 4.** Establishment of the Ben Quigno Memorial Investment Fund of the Saginaw Chippewa Indian Tribe of Michigan. There is hereby established a Trustee Investment Fund for the benefit of the Saginaw Chippewa Indian Tribe of Michigan.

- a. The principal of the Ben Quigno Memorial Investment Fund shall consist of all funds appropriated in Dockets 59, 13E & 13F with the exception of the \$1,000,000 set aside for separate investment for the Elderly Assistance Investment Fund pursuant to Ordinance No.15, and any other amounts of income which the Tribal Council may elect to retain and add to the principal.
- b. The Tribal Council shall be the Trustee of the Ben Quigno Memorial Investment Fund and shall provide for the efficient administration of the fund in accordance with the provision of Public Law 99-346 and this Ordinance.

**SECTION 5.** Use of the Principal. The principal of the Ben Quigno Memorial Investment Fund shall be used exclusively for investments or expenditures which the Tribal Council determines:

- a. Are reasonably related to:
  1. Economic development beneficial to the Tribe; or
  2. The development of Tribal resources; or
  3. Are otherwise financially beneficial to the Tribe.
- b. Under no circumstances shall any part of the principal of the Ben Quigno Memorial Investment Fund be distributed in the form of per capita payments to the members of the Tribe or used or expended for purposes other than investment or economic development projects and programs.

**SECTION 6. Ten Percent Reinvestment.** At least ten (10) percent of the income earned each year shall be retained in the principal of the Ben Quigno Memorial Investment Fund for each of the first ten (10) fiscal years; and that reinvested percentage shall become part of the principal of the Ben Quigno Memorial Investment Fund.

**SECTION 7. Ben Quigno Memorial Investment Fund Accounting.** Accountability for the Ben Quigno Memorial Investment Fund shall be maintained as follows:

- a. The fiscal year of the Investment Fund shall begin October 1 and end in September 30 of the following year.
- b. The Tribal Fiscal officer or other individuals delegated to do so shall maintain a separate book account for the Ben Quigno Memorial Investment Fund.
- c. The books and records of the Ben Quigno Memorial Investment Fund and the Elderly Investment Fund established in Ordinance No.15 shall be audited on an annual basis, within three months after the end of the fiscal year by a certified public accounting firm which shall prepare a report on the results of the audit. This report shall be treated as a public document of the Tribe and a copy of the report shall be available for inspection by an enrolled member of the Tribe.

**SECTION 8. Responsibility of the Secretary of Interior.** The Secretary of the Interior shall have the following responsibilities pursuant to Section 5 of Public Law 99-346:

- a. To transfer funds described herein to the Tribal Council no later than the date that is 60 days after February 9, 1987 on which the Secretary receives written notice of the adoption by the Tribal Council of Tribal Resolutions JA-01-87 (Docket 59); JA-02-87 (Docket 13E); and JA-03-87 (Docket 13F) which request the Transfer of such funds.
- b. The Secretary of Interior shall not have the power to approve any payment or distribution under this Ordinance, nor shall the Secretary have trust responsibility of the investment, supervision, administration or expenditure of the principal of income of the Ben Quigno Memorial Investment Fund.
- c. In the event that it has been determined that the Tribal Council has materially failed to administer the Ben Quigno Memorial Investment Fund in accordance with Public Law 99-346 , the Secretary of Interior shall have the following authority to:
  1. Upon notice and hearing assume administration of the Ben Quigno Memorial Investment Fund if it has been determined that the Tribal Council has failed to follow the requirements of Public Law 99-346; and/or

2. Provide whatever assistance that may be necessary to the Tribal Council to correct any deficiencies prior to assumption of administration of the Ben Quigno Memorial Investment and immediately thereafter.
3. The Secretary of Interiors assumption shall not exceed 6 months

**SECTION 9.** Treatment of Funds Paid or Distributed from the Ben Quigno Memorial Investment Fund. No amount of any payment or distribution from the Ben Quigno Memorial Investment Fund or from the Elderly Assistance Fund shall be:

- a. Included in the gross income of the payee or distribute for purposes of Federal, State or Tribal tax.
- b. Any such payments or distributions shall not be considered as income or resources or otherwise used as a basis for denying or reducing:
  1. Any financial assistance or other benefit under the Social Security Act; or
  2. Any other Federal financial assistance, or benefit.

**SECTION 10.** Waiver of Sovereign Immunity. The Tribe may execute in writing a limited waiver of its SOVEREIGN immunity of the Tribe and consent to the civil jurisdiction of the Courts of the State of Michigan with regard to the use as security of indebtedness for:

- a. Any amount of income of the Ben Quigno Memorial Investment Fund which is not retained and added to the principal of the Ben Quigno Memorial Investment Fund or of the 10% reinvestment set out in Section 6 of this Ordinance;
- b. Any portion of Docket 57 moneys which may be added to the principal of the Ben Quigno Memorial Investment Fund pursuant to Section 8(a) of Public Law 99-346;
- c. Any portion of the Docket 57 funds transferred to this Tribal Council pursuant to Section 8(a) of Public Law 99-346 which have not been added to the principal of the Ben Quigno Memorial Investment Fund and any interest or investment income accrued on such funds or;
- d. Any asset acquired by use of income from the Ben Quigno Memorial Investment Fund.

In any event, such waivers of sovereign immunity shall not exceed individually or collectively the total amount or value of such security and such waivers identify and limit the parties who shall have been granted the authority to bring an action against the Tribe pursuant to such a waiver.

- SECTION 11.**        Discrimination. In regard to distribution of the income from the Ben Quigno Memorial Investment Fund there shall be no discrimination against:
- a.        Individuals who have been members of the Tribe after November 4, 1986; or
  - b.        Members who do not reside on the reservations of the Tribe.

- SECTION 12.**        Non Discrimination. The following shall not be construed as discrimination:
- a.        Any expenditure for any improvement on the reservations of the Tribe that can be enjoyed by all members of the Tribe; or
  - b.        Program or activity conducted only on the Reservations of the Tribe in which any member of the Tribe can participate when the benefits of such improvement, program, or activity are more readily available to members of the Tribe who reside upon the Reservations.

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Legislative History

Ordinance No. 16 was enacted on March 16, 1987.

March 16, 1987.