

Ho-Chunk Nation



Location: Wisconsin

Population: 6563

Date of Constitution: 1994, as amended 2000 and 2009

PREAMBLE

We the People, pursuant to our inherent sovereignty, in order to form a more perfect government, secure our rights, advance the general welfare, safeguard our interests, sustain our culture, promote our traditions and perpetuate our existence, and secure the natural and self-evident right to govern ourselves, do ordain and establish this Constitution for the Ho-Chunk Nation.

ARTICLE I - TERRITORY AND JURISDICTION

SECTION 1. Territory. The territory of the Ho-Chunk Nation shall include all lands held by the Nation or the People, or by the United States for the benefit of the Nation or the People, and any additional lands acquired by the Nation or by the United States for the benefit of the Nation or the People, including but not limited to air, water, surface, subsurface, natural resources and any interest therein, notwithstanding the issuance of any patent or right-of-way in fee or otherwise, by the governments of the United States or the Ho-Chunk Nation, existing or in the future.

SECTION 2. Jurisdiction. The jurisdiction of the Ho-Chunk Nation shall extend to all territory set forth in Section 1 of this Article and to any and all persons or activities therein, based upon the inherent sovereign authority of the Nation and the People or upon Federal law.

ARTICLE II - MEMBERSHIP

SECTION 1. Requirements. The following persons shall be eligible for membership in the Ho-Chunk Nation, provided, that such persons are not enrolled members of any other Indian nation:

- (a) All persons of Ho-Chunk blood whose names appear or are entitled to appear on the official census roll prepared pursuant to the Act of January 18, 1881 (21 Stat. 315), or the Wisconsin Winnebago Annuity Payroll for the year one thousand nine hundred and one (1901), or the Act of January 20, 1910 (36 Stat. 873), or the Act of July 1, 1912 (37 Stat. 187); or
- (b) All descendants of persons listed in Section 1(a), provided, that such persons are at least one-fourth (1/4) Ho-Chunk blood.

- (c) Beginning the date this amendment is approved, the Ho-Chunk Nation shall no longer consider or accept for enrollment any person who has previously been enrolled as a member of another Tribe (including the Winnebago Tribe of Nebraska). [New section adopted by Amendment I on January 26, 2000 and approved by the Secretary on March 3, 2000.]

SECTION 2. Relinquishment of Membership and Re-enrollment. Enrollment in any other Indian Nation shall constitute voluntary relinquishment of membership. Adult members may relinquish their membership or the membership of their minor children. Relinquishment of membership shall be done in writing. Any adult member who has voluntarily requested to be removed from the Membership Roll shall not be eligible for re-enrollment. Any minor whose membership has been relinquished by a parent shall be eligible for re-enrollment upon reaching the age of eighteen (18).

SECTION 3. Re-enrollment by General Council. Any person of at least one-fourth (1/4) Ho-Chunk blood who has relinquished membership under Section 2 of this Article may be re-enrolled into membership by a two-thirds (2/3) vote of the General Council, provided, that such individual is not an enrolled member of any other Indian Nation.

SECTION 4. Membership Roll. The Legislature shall maintain one official roll of all tribal members.

SECTION 5. Membership Code. The Legislature shall have the power to enact laws not inconsistent with this Article to govern membership. Removal of any person who is not eligible for membership from the Membership Roll shall be done in accordance with the Membership Code, provided, that such removal is approved by at least two thirds (2/3) vote of the General Council.

SECTION 6. Appeals. Any person who has been rejected for enrollment or who has been removed from the Membership Roll shall have the right to appeal to the Judiciary for a remedy in equity consistent with this Constitution.

ARTICLE III - ORGANIZATION OF THE GOVERNMENT

SECTION 1. Sovereignty. The Ho-Chunk Nation possesses inherent sovereign powers by virtue of self-government and democracy.

SECTION 2. Branches of Government. The government of the Ho-Chunk Nation shall be composed of four (4) branches: General Council, Legislature, Executive, and Judiciary.

SECTION 3. Separation of Functions. No branch of the government shall exercise the powers or functions delegated to another branch.

SECTION 4. Supremacy Clause. This Constitution shall be the supreme law over all territory and persons within the jurisdiction of the Ho-Chunk Nation.

ARTICLE IV - GENERAL COUNCIL

SECTION 1. Powers of the General Council. The People of the Ho-Chunk Nation hereby grant all inherent sovereign powers to the General Council. All eligible voters of the Ho-Chunk Nation are entitled to participate in General Council.

SECTION 2. Delegation of Authority. The General Council hereby authorizes the legislative branch to make laws and appropriate funds in accordance with Article V. The General Council hereby authorizes the executive branch to enforce the laws and administer funds in accordance with Article VI. The General Council hereby authorizes the judicial branch to interpret and apply the laws and Constitution of the Nation in accordance with Article VII.

SECTION 3. Powers Retained by the General Council.

- (a) The General Council retains the power to set policy for the Nation.
- (b) The General Council retains the power to review and reverse actions of the Legislature except those enumerated in Section 4 of this Article. The General Council shall return such reversals to the Legislature for reconsideration consistent with the action of the General Council. The General Council retains the power to review and reverse decisions of the Judiciary which interpret actions of the Legislature. The General Council does not retain the power to review and reverse decisions of the Judiciary which interpret this Constitution.
- (c) The General Council retains the power to propose amendments in accordance with Article XIII, including those which reverse decisions of the Judiciary interpreting this Constitution.
- (d) The General Council retains the power to establish its own procedures in accordance with this Constitution.
- (e) The General Council retains the power to call a Special Election. (f) Actions by the General Council shall be binding.

SECTION 4. Excepted Powers. The General Council does not retain the power to review actions relating to the hiring or firing of personnel.

SECTION 5. Annual Meetings. The People shall meet in General Council at least one time each year, which shall be called by the President, and at other times as provided in Section 6 of this Article. Notice shall be provided by the President for all Annual Meetings of the General Council.

SECTION 6. Special Meetings. Special Meetings of the General Council shall be called by the President upon petition by twenty (20) percent of the eligible voters, or upon written request of a majority of the Legislature, or when deemed necessary by the President. Notice shall be provided by the President for all Special Meetings of the General Council.

SECTION 7. Procedures. Twenty (20) percent of the eligible voters of the Nation present in General Council shall constitute a quorum. Each action of the General Council shall require the presence of a quorum. The President shall call all Annual and Special General Council Meetings, except those meetings called pursuant to Article IX, Section 2. When a quorum is attained, the General Council shall select either the President or another person to conduct

the meeting. A secretary shall be appointed to record the minutes of all General Council meetings, including any votes taken. The secretary shall transmit the minutes of General Council meetings to the Legislature.

ARTICLE V: LEGISLATURE

SECTION 1. Composition of the Legislature.

- (a) Legislative powers shall be vested in the Legislature.
- (b) The Legislature shall be composed of Representatives from the following Districts, subject to Section 4 of this Article: the Black River Falls District, consisting of Clark, Eau Claire, and Jackson counties, which shall elect three (3) members; the Wisconsin Dells District, consisting of Wood, Juneau, Adams, Columbia, and Sauk counties, which shall elect three (3) members; and the LaCrosse-Tomah District, consisting of LaCrosse, Monroe, Vernon, and Crawford counties, which shall elect one (1) member; and the Wittenberg District, consisting of Marathon and Shawano counties, which shall elect one (1) member; and three (3) members which shall be elected at large from outside the Districts listed above. [See appended Resolution 2-05-03 C for new Legislative Districts effective January 12, 2002].
- (c) The Legislature shall select from among its Members a Vice President to serve throughout such Member's term. The President shall preside over meetings of the Legislature. The Vice President shall preside over meetings of the Legislature in the absence of the President and at such times the Vice President shall retain the power to vote.

SECTION 2. Powers of the Legislature. The Legislature shall have the power:

- (a) To make laws, including codes, ordinances, resolutions, and statutes;
- (b) 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;
- (c) To constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature;
- (d) To authorize expenditures by law and appropriate funds to the various Departments in an annual budget;
- (e) To raise revenue, including the power to levy and collect taxes and license fees;
- (f) To set the salaries, terms and conditions of employment for all governmental personnel;
- (g) To set its own procedures, select its officers, and to enact laws governing attendance of its members, including penalties for absences;
- (h) To enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation;
- (i) To negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals;
- (j) To authorize and appropriate funds to employ legal counsel in accordance with applicable law;

- (k) To acquire or purchase lands for the benefit of the Nation and its members;
- (l) To enact laws to manage, lease, permit, or otherwise deal with the Nation's lands, interests in lands or other assets;
- (m) To enact laws to prevent the sale, disposition, or encumbrance of Ho-Chunk lands, or other Ho-Chunk assets;
- (n) To purchase under condemnation proceedings any lands within the jurisdiction of the Ho-Chunk Nation;
- (o) To enact laws to regulate and zone any lands within the jurisdiction of the Ho-Chunk Nation;
- (p) To enact laws to create and regulate a system of property including but not limited to use, title, deed, estate, inheritance, transfer, conveyance, and devise;
- (q) To issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities;
- (r) To protect and foster Ho-Chunk religious freedom, culture, language, and traditions;
- (s) To promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation;
- (t) To enact laws governing law enforcement on lands within the jurisdiction of the Nation;
- (u) To enact laws to regulate domestic relations of persons within the jurisdiction of the Nation;
- (v) To establish and maintain headquarters for the Ho-Chunk Nation;
- (w) To enact laws to regulate hunting, fishing, trapping, recreation and all other related activities on lands within the Nation's jurisdiction;
- (x) 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 forgoing list of powers.

SECTION 3. Codes. The Legislature shall adopt Codes governing Membership, Open Meetings, Elections, Ethics including conflicts of interest, nepotism, and the conduct of all elected and appointed officials and employees, and other Codes as deemed necessary.

SECTION 4. Redistricting or Reapportionment. The Legislature shall have the power to redistrict or reapportion including changing, establishing, or discontinuing Districts. The Legislature shall maintain an accurate census for the purposes of redistricting or reapportionment. The Legislature shall redistrict and reapportion at least once every five (5) years beginning in 1995, in pursuit of one person/one-vote representation. The Legislature shall exercise this power only by submitting a final proposal to the vote of the People by Special Election which shall be binding and which shall not be reversible by the General Council. Any redistricting or reapportionment shall be completed at least six (6) months prior to the next election, and notice shall be provided to the voters.

SECTION 5. Compensation. Members of the Legislature shall receive reasonable compensation. No increase or decrease in compensation for Legislators shall take effect until after the next General Election. No member of the Legislature shall receive compensation as an employee or in any other capacity within the Executive branch during their term of office.

SECTION 6. Terms of Office. Members of the Legislature shall serve four (4) year terms which shall be staggered. Legislators shall represent their respective Districts until their successors have been sworn into office except if the Legislator has been successfully removed or recalled in accordance with this Constitution. Members of the Legislature shall be elected by a majority vote of the eligible voters from their respective Districts.

SECTION 7. Qualifications. Members of the Legislature shall be at least twenty five (25) years old and eligible to vote. No person shall become a member of the Ho-Chunk Nation Legislature if otherwise employed by the Ho-Chunk Nation. No person convicted of a felony shall serve as a Legislator unless pardoned.

SECTION 8. Meetings. The Legislature shall hold regular monthly meetings. The Legislature may hold special meetings as necessary. Members of the Legislature shall hold and attend regularly scheduled meetings in their respective Districts. Failure to attend such monthly or District meetings on a regular basis may constitute grounds for removal or recall. The Legislature shall not schedule a special meeting at the same time as a regularly scheduled District meeting.

SECTION 9. Open Meetings. All meetings of the Legislature shall be open to all members of the Nation, except when in Executive Session.

SECTION 10. Executive Session. The Legislature may, upon duly recorded vote, go into executive session. At such sessions, all persons, except members of the Legislature and its officers, shall be excluded from the meeting chamber, except any person whose presence shall be required by the Legislature.

SECTION 11. Quorum. A majority of the Legislature shall constitute a quorum. A quorum shall be necessary to transact official business of the Legislature. Each session of the Legislature shall require a quorum.

SECTION 12. Voting. A majority vote of the quorum shall be necessary to exercise the powers of the Legislature, except as otherwise provided by this Constitution. The votes of each member of the Legislature shall be recorded in the minutes of the meeting.

SECTION 13. Budget. The Legislature shall enact an annual budget. The budget shall include an appropriation of operating funds for each branch of the government. The Legislature shall not appropriate funds which have not been authorized by law. No item shall be included in the budget if it is not authorized by law.

ARTICLE VI: EXECUTIVE

SECTION 1. Composition of the Executive Branch.

- (a) The Executive power of the Ho-Chunk Nation shall be vested in the President of the Ho-Chunk Nation.
- (b) The Executive Branch shall be composed of any administrative Departments created by the Legislature, including a Department of the Treasury, Justice,

Administration, Housing, Business, Health and Social Services, Education, Labor, and Personnel, and other Departments deemed necessary by the Legislature. Each Department shall include an Executive Director, a Board of Directors, and necessary employees. The Executive Director of the Department of Justice shall be called the Attorney General of the Ho-Chunk Nation. The Executive Director of the Department of the Treasury shall be called the Treasurer of the Ho-Chunk Nation.

SECTION 2. Powers of the President. The President shall have the power:

- (a) To execute and administer the laws of the Ho-Chunk Nation;
- (b) To make recommendations to the Legislature on matters of interest or benefit to the Nation;
- (c) To propose legislation and an annual budget to the Legislature;
- (d) To administer all Departments, boards, and committees created by the Legislature;
- (e) To nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed;
- (f) To remove an Executive Director of a Department or to reassign an Executive Director to another position;
- (g) To select and hire personnel in accordance with applicable law;
- (h) To preside over meetings of the Legislature;
- (i) To cast the deciding vote in the Legislature in case of a tie;
- (j) To call Annual and Special Meetings of the General Council;
- (k) To represent the Ho-Chunk Nation on all matters that concern its interests and welfare;
- (l) To execute, administer, and enforce the laws of the Ho-Chunk Nation necessary to exercise all powers delegated by the General Council and the Legislature, including but not limited to the foregoing list of powers.

SECTION 3. Qualifications. The President shall be at least thirty-five (35) years old and eligible to vote. No person convicted of a felony shall serve as President unless pardoned.

SECTION 4. Compensation. The President shall receive reasonable compensation. No increase or decrease in compensation for the office of President shall take effect until after the next General Election.

SECTION 5. Term of Office. The President shall serve four (4) year terms. The President shall serve until a successor has been sworn into office. The President shall be elected by a majority vote of the eligible voters of the Ho-Chunk Nation.

ARTICLE VII: JUDICIARY

SECTION 1. Composition of the Judiciary. There shall be a Supreme Court of the Ho-Chunk Nation, a Trial Court of the Ho-Chunk Nation, such other lower courts of special jurisdiction as deemed necessary by the Legislature, and other forums of special jurisdiction for traditional dispute resolution as deemed necessary by the Legislature.

SECTION 2. Composition of the Supreme Court. There shall be one Chief Justice and two Associate Justices of the Supreme Court.

SECTION 3. Composition of the Trial Court. There shall be one Chief Judge of the Trial Court and other Associate Judges as deemed necessary by the Legislature.

SECTION 4. Powers of the Judiciary. The judicial power of the Ho-Chunk Nation shall be vested in the Judiciary. The Judiciary shall have the power to interpret and apply the Constitution and laws of the Ho-Chunk Nation.

SECTION 5. Jurisdiction of the Judiciary.

- (a) The Trial Court shall have original jurisdiction over all cases and controversies, both criminal and civil, in law or in equity, arising under the Constitution, laws, customs, and traditions of the Ho-Chunk Nation, including cases in which the Ho-Chunk Nation, or its officials and employees, shall be a party. Any such case or controversy arising within the jurisdiction of the Ho-Chunk Nation shall be filed in Trial Court before it is filed in any other court. This grant of jurisdiction by the General Council shall not be construed to be a waiver of the Nation's sovereign immunity.
- (b) The Supreme Court shall have appellate jurisdiction over any case on appeal from the Trial Court.

SECTION 6. Powers of the Trial Court.

- (a) The Trial Court shall have the power to make findings of fact and conclusions of law. The Trial Court shall have the power to issue all remedies in law and in equity including injunctive and declaratory relief and all writs including attachment and mandamus.
- (b) The Trial Court shall have the power to declare the laws of the Ho-Chunk Nation void if such laws are not in agreement with this Constitution.

SECTION 7. Powers of the Supreme Court.

- (a) The Supreme Court shall have the power to interpret the Constitution and laws of the Ho-Chunk Nation and to make conclusions of law. The Supreme Court shall not have the power to make findings of fact except as provided by enactment of the Legislature.
- (b) The Supreme Court shall have the power to establish written rules for the Judiciary, including qualifications to practice before the Ho-Chunk courts, provided such rules are consistent with the laws of the Ho-Chunk Nation.
- (c) Any decision of the Supreme Court shall be final.

SECTION 8. Qualifications.

- (a) The Chief Justice of the Supreme Court shall be at least forty (40) years old, an attorney admitted to practice in any State and before the Ho-Chunk courts and shall possess all qualifications required by enactment of the Legislature. No person convicted of a felony shall serve as Chief Justice of the Supreme Court unless pardoned.

- (b) Associate Justices of the Supreme Court shall have been admitted to practice before the Ho-Chunk Courts and shall possess all qualifications required by enactment of the Legislature. No person convicted of a felony shall serve as Associate Justice of the Supreme Court unless pardoned.
- (c) The Chief Judge and Associate Judges of the Trial Court shall possess all qualifications required by enactment of the Legislature. No person convicted of a felony shall serve as Chief Judge or Associate Judge of the Trial Court unless pardoned.

SECTION 9. Terms of Office. The Chief Justice of the Supreme Court shall be elected to serve for six (6) years and until such time as an election is held and a successor has been sworn into office. At the first election for positions on the Supreme Court, the candidate receiving the highest number of votes for the position of Associate Justice shall serve a four year term; the candidate receiving the second highest number of votes shall serve a two year term. Thereafter, Associate Justices shall serve for four (4) year staggered terms. A Supreme Court Justice shall serve until a successor has been sworn into office. The Chief Judge and any Associate Judges of the Trial Court shall be appointed by the Legislature to serve for three (3) year staggered terms and until their successors have been sworn into office.

SECTION 10. Elections of Supreme Court Justices. Supreme Court Justices shall be elected by a majority of the eligible voters of the Ho-Chunk Nation, in accordance with the General Election provisions in Article VIII, Section 1, unless otherwise provided.

SECTION 11. Appointment of Trial Court Judges. The Legislature shall appoint a Chief Judge and any Associate Judges to the Trial Court.

SECTION 12. Compensation. Supreme Court Justices and Trial Court Judges shall receive reasonable compensation. No increase or decrease in compensation for Justices or Judges shall take effect until after the next General Election or appointment to that office.

SECTION 13. Conflict of Interest. Any Justice or Judge with a direct personal or financial interest in any matter before the Judiciary shall recuse; failure to recuse constitutes cause for removal in accordance with Article IX, Section 4. The Legislature shall appoint a Justice or Judge pro tempore to fill any vacancy due to recusal.

SECTION 14. Right to Appeal. Any party to a civil action, or a defendant in a criminal action, who is dissatisfied with the judgment or verdict may appeal to the Supreme Court. All appeals before the Supreme Court shall be heard by the full Court.

ARTICLE VIII: ELECTIONS

SECTION 1. General Elections. General Elections shall be held on the first Tuesday in June of odd numbered years. Offices of the Legislature, Executive, and Judiciary shall be filled at General Elections.

SECTION 2. Special Elections. Special Elections shall be held when called for by the General Council, the Legislature, or by this Constitution or appropriate ordinances. In all Special Elections, notice shall be provided to the voters.

SECTION 3. Election Code. The Legislature shall enact an Election Code governing all necessary election procedures at least one hundred and twenty (120) days before the election.

SECTION 4. Election Board. The Legislature shall enact a law creating an Election Board. The Election Board shall conduct all General and Special Elections. At least sixty (60) days before the election, the Election Board may adopt rules and regulations governing elections. Election Board members shall serve for two (2) years. Election Board members may serve more than one term. The Legislature may remove Election Board members for good cause.

SECTION 5. Eligible Voters. Any member of the Ho-Chunk Nation who is at least eighteen (18) years old and who meets all other requirements established by the Ho-Chunk Nation shall be eligible to vote.

SECTION 6. Certification of Election Results. The Election Board shall certify election results within three (3) days after the date of the election.

SECTION 7. Challenges of Election Results. Any member of the Ho-Chunk Nation may challenge the results of any election by filing suit in the Trial Court within ten (10) days after the Election Board certifies the election results. The Trial Court shall hear and decide a challenge to any election within twenty (20) days after the challenge is filed in the Trial Court.

SECTION 8. Oath of Office. The Election Board shall administer the oath for the offices of President, Legislature, and Judiciary on the 4th Wednesday following the election after the Election Board certifies the Election results.

ARTICLE IX: REMOVAL, RECALL AND VACANCIES

SECTION 1. General Council Removal of Legislators. The General Council may remove any member of the Legislature for malfeasance. No vote by the General Council to remove a member of the Legislature shall take place before such Legislator has been given reasonable notice of the impending action and has had a reasonable opportunity to be heard.

SECTION 2. General Council Removal of the President. The General Council may remove the President for malfeasance. No vote by the General Council to remove the President shall take place before such President has been given reasonable notice of the impending action and has had a reasonable opportunity to be heard.

SECTION 3. Legislative Removal of Legislators. The Legislature may remove a member of the Legislature for good cause. Any member of the Legislature subject to removal shall be informed of the charges, be given adequate notice of the impending removal action, and

given an opportunity to prepare and present a defense including presenting witnesses and other evidence. An affirmative vote of three-fourths (3/4) of the entire Legislature shall be required for all Legislative removal actions under this Section. The Legislator subject to removal shall not vote.

SECTION 4. Legislative Removal of Judges. The Legislature may remove a Judge for good cause. A Judge subject to removal shall be informed of the charges, be given adequate notice of the impending removal action, and given an opportunity to prepare and present a defense including presenting witnesses and other evidence. An affirmative vote of three fourths (3/4) of the entire Legislature shall be required for all legislative removal actions under this Section.

SECTION 5. Recall by General Council. The President, Legislators, and Members of the Judiciary shall be removable by recall vote at a Special Election requested by the General Council. At the request of the General Council, the Election Board shall hold a Special Election not less than thirty (30) days and not more than ninety (90) days from the date of the General Council request. If the Election Board fails to hold such Special Election within ninety (90) days, any eligible voter of the Nation may request the Trial Court to order such Special Election. In any Special Election, no more than three (3) persons shall be subject to recall vote.

SECTION 6. District Recall of Legislators. A member of the Legislature shall be removable by a recall vote called by a petition of thirty (30) percent of all eligible voters of the District which elected such member of the Legislature. A petition shall be submitted to the Election Board, which shall hold a Special Election not less than thirty (30) days and not more than ninety (90) days from the date a petition is duly submitted. If the Election Board fails to hold such Special Election within ninety (90) days, any eligible voter of the Nation may request the Trial Court to order such Special Election.

SECTION 7. Removal for Felony Conviction while in Office. Any person serving as President, Legislator, or a member of the Judiciary, who is convicted of a felony while in office, shall be removed from office and such office shall be deemed vacant.

SECTION 8. Vacancies in the Judiciary. If a vacancy occurs in an office of the Supreme Court because of death, mental or physical incapacity, removal or recall vote, resignation, felony conviction, or any other reason, such vacancy shall be filled in the following manner:

- (a) If twelve (12) months or more remain before the next General Election, the Election Board shall call a Special Election in accordance with Article VIII.
- (b) If less than twelve (12) months remains before the next General Election, the Legislature shall fill the office by appointment.

SECTION 9. Vacancy of the Office of the President. If the office of the President becomes vacant by reason of death, mental or physical incapacity, removal or recall vote, resignation, felony conviction, or for any other reason, such vacancy shall be filled in the following manner:

- (a) If twelve (12) months or more remain before the next General Election, the Vice President shall serve as President pro tempore and the Election Board shall call a

Special Election in accordance with Article VIII. Upon election of a President at a Special Election, the Vice President shall reassume his seat on the Legislature for the remainder of his term, if any.

- (b) If less than twelve (12) months remain before the next General Election, the Vice President shall serve as President pro tempore. If less than twelve (12) months but more than three (3) months remain before the next General Election, the Election Board shall call a Special Election in the appropriate District within thirty (30) days to fill the seat vacated by the Vice President. Upon election of a President at the next General Election, the Vice President shall reassume his seat on the Legislature for the remainder of his term, if any.
- (c) If less than three (3) months remain before the next General Election, the office shall remain vacant.
- (d) A Vice President serving in the capacity of President pro tempore shall not vote in the Legislature except to cast the deciding vote in case of a tie.

SECTION 10. Vacancies in the Legislature. If a vacancy occurs in the Legislature because of death, mental or physical incapacity, removal or recall vote, resignation, felony conviction, or for any other reason, such vacancy shall be filled in the following manner:

- (a) If three (3) months or more remain before the next General Election, the Election Board shall call a Special Election in the appropriate District to be held within thirty (30) days.
- (b) If less than three (3) months remains before the next General Election, the seat shall remain vacant, except when the Vice President assumes the office of the President pursuant to Section 9(b) of this Article, an election to fill that vacancy shall be held within thirty (30) days.

SECTION 11. Terms for Vacancies. Persons elected or appointed to fill a vacancy in the Judiciary, the Office of the President, or the Legislature shall serve out the term of the person whom they are replacing.

ARTICLE X - BILL OF RIGHTS

SECTION 1. Bill of Rights.

- (a) The Ho-Chunk Nation, in exercising its powers of self-government, shall not:
 - (1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
 - (2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
 - (3) subject any person for the same offense to be twice put in jeopardy;
 - (4) compel any person in any criminal case to be a witness against himself;
 - (5) take any private property for a public use without just compensation;
 - (6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to

be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense and to have these rights explained at the time of arrest;

- (7) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;
- (8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without the due process of law;
- (9) pass any bill of attainder or ex post facto law; or
- (10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

ARTICLE XI - STATUTES AND RESOLUTIONS

SECTION 1. Statutes. All final decisions of the Legislature on matters of permanent interest shall be embodied in statutes. Such enactments shall be available for inspection by members of the Nation during normal business hours.

SECTION 2. Resolutions. All final decisions on matters of temporary interest where a formal expression is needed shall be embodied in a resolution, noted in the minutes, and shall be available for inspection by members of the Nation during normal business hours.

SECTION 3. Form. All statutes and resolutions shall be dated and numbered and shall include a certificate of verification.

SECTION 4. Review. The Legislature shall submit statutes and resolutions to the Secretary of the Interior for approval when required by Federal law.

ARTICLE XII: SOVEREIGN IMMUNITY

SECTION 1. Immunity of Nation from Suit. The Ho-Chunk Nation shall be immune from suit except to the extent that the Legislature expressly waives its sovereign immunity, and officials and employees of the Ho-Chunk Nation acting within the scope of their duties or authority shall be immune from suit.

SECTION 2. Suit Against Officials and Employees. Officials and employees of the Ho-Chunk Nation who act beyond the scope of their duties and authority shall be subject to suit in equity only for declaratory and non-monetary injunctive relief in Tribal Court by persons subject to its jurisdiction for purposes of enforcing rights and duties established by this constitution or other applicable laws.

ARTICLE XIII - AMENDMENTS

SECTION 1. Requirements. This Constitution may be amended by a majority vote of the qualified voters of the Ho-Chunk Nation voting at an election called for that purpose by the Secretary of the Interior, provided, that at least thirty (30) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until approved by the

Secretary of the Interior or until deemed approved by the Secretary by operation of law. If the voters adopt the amendment(s), the Secretary of the Interior shall approve such amendment(s) within forty-five (45) days after the election unless the amendment(s) are contrary to applicable law.

SECTION 2. Requests for a Secretarial Election. It shall be the duty of the Secretary of the Interior to call and hold an election on any proposed amendment to this Constitution at the request of two thirds (2/3) of the entire Legislature, at the request of the General Council, or upon presentation of a petition signed by thirty (30) percent of the eligible voters of the Ho-Chunk Nation.

ARTICLE XIV - SAVINGS CLAUSE

All actions of the Nation, formerly known as the Wisconsin Winnebago Tribe, taken before the effective date of this Constitution, including elections and terms of office, shall remain in full force and effect to the extent that they are consistent with this Constitution.

ARTICLE XV - ADOPTION OF CONSTITUTION

This Constitution, when adopted by a majority vote of the registered voters voting at a Special Election authorized by the Secretary of the Interior in which at least thirty (30) percent of those registered in accordance with Secretarial regulations to vote shall vote, shall be submitted to the Secretary of the Interior for approval and, if approved by the Secretary of the Interior or by operation of law, shall be effective from the date of such approval.

ARTICLE XVI - CERTIFICATE OF ADOPTION

Pursuant to a Secretarial election authorized by the Deputy Commissioner of Indian Affairs on May 27, 1994, the Constitution of the Ho-Chunk Nation of Wisconsin was submitted to the qualified voters of the Wisconsin Winnebago Tribe and on September 17, 1994, was duly adopted/rejected by a vote of 356 for, and 122 against, and 2 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 880 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended. /s/ Chairman, Election Board/s/ Election Board Member/s/Election Board Member /s/ Election Board Member/s/ Election Board Member/s/ Election Board Member Election Board Member

APPROVAL

I, Ada E. Deer, Assistant Secretary - Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4, do hereby approve the Constitution of the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe. This Constitution is effective as of this date; PROVIDED, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law. /s/ Assistant Secretary - Indian Affairs Washington, D.C. Date: Nov. 01, 1994

AMENDMENT NUMBER I ARTICLE II – MEMBERSHIP

[Digitizer's note: see Article II - Membership, Section 1(c)] Section 1. Requirements (c) Beginning the date this amendment is approved, the Ho-Chunk Nation shall no longer consider or accept for enrollment any person who has previously been enrolled as a member of another Tribe (including the Winnebago Tribe of Nebraska). Ada E. Deer

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued by Larry Morrin, Minneapolis Area Director, on September 24, 1999, this Proposed Amendment "A" was submitted to the qualified voters of the Ho-Chunk Nation on January 25, 2000, and was duly adopted by a vote of 229 for, and 77 against, and 0 cast ballots found separated or mutilated, in an election in which at least thirty percent (30%) of the 718 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended. /s/ Chairman, Election Board /s/ Member, Election Board /s/ Member, Election Board Date: Jan. 26, 2000

CERTIFICATE OF APPROVAL

I, LARRY MORRIN, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Amendment A, now designated as Amendment Number I, to the Constitution of the Ho-Chunk Nation. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

HO-CHUNK NATION LEGISLATURE REDISTRICTING AND REAPPORTIONMENT

ARTICLE V, SECTION 1(B) OF THE CONSTITUTION OF THE HO-CHUNK NATION RESOLUTION 2-05-03 C

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

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

WHEREAS, Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes; and

WHEREAS, Article V, Section 1(b) of the Constitution provides for the composition of the Legislature by establishing Legislative Districts; and

WHEREAS, Article V, Section 4 of the Constitution requires the Legislature to redistrict and reapportion at least once every five (5) years; and

WHEREAS, the People of the Ho-Chunk Nation, by a vote of 265 for and 172 against, approved new Legislative Districts at a Special Election for Redistricting and Reapportionment on January 12, 2002; and

WHEREAS, a Legislative History of the Nation's Redistricting or Reapportionment is required; and

WHEREAS, Article V, Section 1(b) of the Constitution should be annotated to reference the new Legislative Districts.

NOW THEREFORE, BE IT RESOLVED that the Ho-Chunk Nation Legislature, pursuant to its constitutional authority, hereby approves and ratifies the attached Legislative History of the Nation's Legislative Districts showing the new Districts approved by the Ho-Chunk People at the Special Election for Redistricting and Reapportionment held on January 12, 2002.

BE IT FURTHER RESOLVED that this Resolution with the attached Legislative History be appended to the Constitution of the Ho-Chunk Nation.

CERTIFICATION

I, the undersigned, as Secretary for the Ho Chunk Nation Legislature, hereby certify that the Legislature of the Ho Chunk Nation, composed of 11 members, of whom 11 constituting a quorum were present at a meeting duly called and convened and held on 5th day of February, 2003, that the foregoing resolution was adopted at said meeting by an affirmative vote of 11 members, 0 opposed, and 0 abstaining, pursuant to the authority of 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 said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution. /s/
Legislative Secretary February 5, 2003

LEGISLATIVE HISTORY OF REDISTRICTING AND REAPPORTIONMENT SECTION 1(B), ARTICLE V - LEGISLATURE

CONSTITUTION OF THE HO-CHUNK NATION

ARTICLE V - LEGISLATURE

SECTION 1. Composition of the Legislature.

January 12, 2002 (New Districts)

SECTION 1(b). The Legislature shall be composed of the eleven (11) Representatives elected from the following five (5) Districts established pursuant to the January 12, 2002 Special Election for Redistricting and Reapportionment and subject to Section 4 of this Article.

- (1) District 1, consisting of the Wisconsin counties of Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Pepin, Pierce, Polk, Rusk, St. Croix, and Trempealeau, which shall elect three (3) members;

- (2) District 2, consisting of the Wisconsin counties of Crawford, Grant, Iowa, La Crosse, Lafayette, Monroe, Richland, and Vernon, which shall elect one (1) member;
- (3) District 3, consisting of the Wisconsin counties of Ashland, Bayfield, Brown, Burnett, Calumet, Door, Douglas, Florence, Fond du Lac, Forest, Iron, Kewaunee, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Menominee, Oconto, Oneida, Outagamie, Portage, Price, Sawyer, Shawano, Sheboygan, Taylor, Vilas, Washburn, Waupaca, Waushara, and Winnebago, which shall elect one (1) member;
- (4) District 4, consisting of the Wisconsin counties of Adams, Columbia, Dane, Dodge, Green, Green Lake, Jefferson, Juneau, Kenosha, Marquette, Milwaukee, Ozaukee, Racine, Rock, Sauk, Walworth, Washington, Waukesha, and Wood, which shall elect three (3) members; and
- (5) District 5, consisting of all the area outside the State of Wisconsin, which shall elect three (3) members.

November 1, 1994 (Old Districts)

SECTION 1(b). The Legislature shall be composed of Representatives from the following Districts, subject to Section 4 of this Article: the Black River Falls District, consisting of Clark, Eau Claire and Jackson counties, which shall elect three (3) members; the Wisconsin Dells District, consisting of Wood, Juneau, Adams, Columbia, and Sauk counties, which shall elect three (3) members; and the La Crosse-Tomah District, consisting of La Crosse, Monroe, Vernon, and Crawford counties, which shall elect one (1) member; and the Wittenberg District, consisting of Marathon and Shawano counties, which shall elect one (1) member; and three (3) members which shall be elected at-large from outside the Districts listed above.