



Legislative Operating Committee FY2020 Third Quarter Report

Current Active Files List – As of 6/30/2020

*An item that the LOC intends to finish by August 2020 (end of the 2017-2020 term)

● This item was completed and the LOC is no longer working on it

■ Work completed

■ Work completed April 1, 2020 – June 30, 2020

Name of Legislation	Development	Public Input	GTC/OBC Consideration or Adoption
Sanctions & Penalties Law - <i>Deferred by GTC 3/17/19</i>	■	■	●
Oneida Food Service Amendments BC-05-13-20-D	■	■	●
*Industrial Hemp Law	■	●	
Taxation Law	●		
Wellness Court Law	■	●	
Indian Preference in Contracting Law Amendments BC-04-08-20-I	■	■	●
Vehicle Driver Certification & Fleet Management Law Amendments BC-04-08-20-H	■	■	●
Recycling & Solid Waste Law Amendments	■	●	
Children's Burial Fund Amendments BC-04-22-20-A	■	■	●
Curfew Law Amendments BC-05-13-20-A	■	■	●
Tobacco Law Amendments BC-06-10-20-D	■	■	●
Domestic Animals Law Amendments BC-05-13-20-B	■	■	●
Real Property Law Amends. (<i>Emerg. Expire 7/22/20</i>)	■	●	
ONEPC Bylaws Amendments	■	●	
*Boards, Committees, and Commissions Law Amendments (<i>Emerg. Expire 9/17/20</i>)	■	●	
Election Law Amendments (<i>Emerg. Expire 11/13/20</i>)	■	■	●
Election Law Amendments (<i>Emerg. Expire 12/24/20</i>)	■	■	●
GTC Meeting Stipend Payment Policy Amendments (<i>Emerg. Expire 10/8/20</i>)	■	■	●
Oneida Land Commission Bylaws Amends.	●		
Public Peace Law	●		
Drug & Alcohol Free Elected/Appointed Officials Law	●		
Tribal Traffic Code	●		
Business Corporations Law	●		
Code of Ethics Law Amendments	●		
Rules of Civil Procedure Law Amendments	●		
General Welfare Exclusion- Income Exemptions Law	●		
Work Visas Law	●		
Law Enforcement Ordinance Amendments	●		
Environmental Review Law	●		
Attorney Contract Policy Amendments	●		
Tribal Institutional Review Board Law	●		
Guardianship Law	●		
Uniform Commercial Code	●		
Personnel Policies & Procedures Amendments	●		
Investigative Leave Policy Amendments	●		
Workplace Violence Law Amendments	●		

FY20 Third Quarter Executive Summary- COVID-19 Pandemic Response

The COVID-19 global pandemic began in early 2020. On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Public Health State of Emergency has since been extended until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.

As the Nation continues to respond to this public health crisis, it became clear that laws would require emergency amendments in order to maintain the public’s health, safety, and general welfare. The Legislative Operating Committee brought forward the following laws for emergency action during the FY20 Third Quarter:

General Tribal Council Meeting Stipend Payment Policy Emergency Amendments

The General Tribal Council Meeting Stipend Payment Policy governs the payment of stipends for attendance at General Tribal Council meetings. Emergency amendments to the General Tribal Council Meeting Stipend Payment Policy were sought to:

- Provide the Oneida Business Committee with authority to decide, through adoption of a resolution, to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time the Oneida Business Committee deems necessary to protect and safeguard the resources and general welfare of the Nation.

The Oneida Business Committee adopted these emergency amendments on April 8, 2020, through resolution BC-04-08-20-A. The emergency amendments will expire on October 8, 2020, with an opportunity for a six (6) month extension.

Election Law Emergency Amendments

The Election law governs the procedures for orderly elections of the Nation. Emergency amendments to the Election law were sought to:

- Allow the Election Board to cancel the primary election when large gatherings of people present a substantial risk to the health and safety of the Nation’s citizens; and
- Clarify that if a primary election is canceled then all eligible candidates shall be placed on the ballot for the general election.

The Oneida Business Committee adopted these emergency amendments on May 13, 2020, through resolution BC-05-13-20-H. The emergency amendments will expire on November 13, 2020, with an opportunity for a six (6) month extension.

Election Law Emergency Amendments

The Election law governs the procedures for orderly elections of the Nation. Emergency amendments to the Election law were sought to:

- Provide that elections shall be held *at* an Oneida Nation facility, as opposed to *in* an Oneida Nation facility, to allow for outdoor, drive-through voting to be used during the 2020 General Election.

The Oneida Business Committee adopted these emergency amendments on June 24, 2020, through resolution BC-06-24-20-B. The emergency amendments will expire on December 24, 2020, with an opportunity for a six (6) month extension.

COVID-19 Pandemic Response Resolutions

During the FY20 Third Quarter the Legislative Reference Office provided statements of effect for the following resolutions related to the COVID-19 pandemic:

- Resolution BC-04-08-20-B Placing Listed Boards, Committees, and Commissions in Temporary Closure Status;
- Resolution BC-04-08-20-C Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020;
- Resolution BC-04-08-20-D General Membership and Elder (Age 62+) Per Capita Payment for Fiscal Year 2020 Halted in Light of Public Health Emergency and Impact on Finances;
- Resolution BC-04-08-20-E Deferring Payments to OLIPP and Elder Endowments;
- Resolution BC-04-08-20-F Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021;
- Resolution BC-04-08-20-G Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021;
- Resolution BC-04-08-20-L Suspension of Collection of Rent, Leases, Mortgages and Utilities;
- Resolution BC-05-06-20-A Extension of Declaration of Public Health State of Emergency until June 11, 2020;
- Resolution BC-06-10-20-A Extension of Declaration of Public Health State of Emergency until July 12, 2020;
- Resolution BC-06-10-20-B Process for Authorization for Use of CARES Act COVID Relief Funds;
- Resolution BC-06-10-20-C COVID-19 Response – Oneida Nation Small Business Assistance Program; and
- Resolution BC-06-24-20-C Adoption of the Oneida Small Business Assistance Program II – Off Reservation and Within State of Wisconsin.

FY20 Third Quarter Executive Summary- Non-COVID-19 Pandemic Related Matters

The Legislative Operating Committee brought forward the following laws for action during the FY20 Third Quarter:

Vehicle Driver Certification and Fleet Management Law Amendments

The Vehicle Driver Certification and Fleet Management law establishes standards that certify employees, officials and volunteers to drive a fleet vehicle of the Nation or drive a personal vehicle on official business, and regulates the use of all vehicles owned and leased by the Nation. The Vehicle Driver Certification and Fleet Management law was amended to:

- Revise the qualifications to become a certified driver, including:
 - Reduce the restriction on drug and alcohol convictions from three (3) years without an OWI, DUI, or PAC to twelve (12) months without an OWI, DUI, or PAC;
 - Allow no more than three (3) moving violations or at-fault crashes within a two (2) year period;
 - Allow individuals with probationary licenses to become certified drivers if at least

eighteen (18) years of age or older;

- Provide an exemption to the law for those individuals whose duties with respect to the implementation of a contract, agreement, or compact of the Nation include driving and may be subject to compliance with a motor vehicle operation policy as provided in the contract, agreement, or compact of the Nation when this law is less stringent than the said motor vehicle operation policy;
- Clarify the restriction on driving while using prescription or over the counter medications;
- Ban weapons in fleet vehicles and personal vehicles while in use for official business, with certain exceptions;
- Require all certified drivers to complete driver safety training every three (3) years, regardless of whether they drive fleet or personal vehicles, with certain exceptions;
- Ban the use of e-cigarettes in tribal fleet vehicles;
- Require mileage reimbursement requests to be submitted within thirty (30) days of driving the miles or by the end of the fiscal year, whichever is sooner;
- Revise and simplify the process for suspending driver certification:
 - An individual's driver certification is only suspended if his or her driver's license has been suspended or revoked by the state of Wisconsin;
 - All other violations of this law that do not result in the suspension or revocation of driver's license will be handled by disciplinary action;
- Allow a supervisor to require an employee take additional driver safety training if the individual is involved in certain circumstances, such as an at-fault motor vehicle crash or issuance of a moving violation, while driving a fleet vehicle or personal vehicle on official business; and
- Make additional changes to revise and reorganize the law to increase clarity.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Vehicle Driver Certification and Fleet Management law on April 8, 2020, through resolution BC-04-08-20-H. The amendments to the Vehicle Driver Certification and Fleet Management law will become effective on October 5, 2020.

Indian Preference in Contracting Law Amendments

The Indian Preference in Contracting law establishes an Indian Preference Office and increases economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation. The Indian Preference in Contracting law was amended to:

- Update the definition of tribal corporation to include any corporation chartered and/or wholly owned by the Nation;
- Exempt tribal corporations from the requirement to submit a certification renewal application on an annual basis;
- Permit joint ventures to qualify for Indian Preference on a project-specific basis;
- Raise the contract threshold for when Indian Preference is applied from one thousand five hundred dollars (\$1,500) to three thousand dollars (\$3,000);
- Set a new timeframe for the Indian Preference Office's review of contracts prior to the posting or announcement of a contract;
- Clarify the Indian Preference Office's authority to develop a fine and penalty schedule for violations of this law, to be approved by the Oneida Business Committee by resolution;

- Make additional updates and clarify language throughout the law.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Indian Preference in Contracting law on April 8, 2020, through resolution BC-04-08-20-I. The amendments to the Indian Preference in Contracting law became effective on May 8, 2020.

The Oneida Business Committee also adopted resolution BC-04-08-20-J titled, “*Indian Preference in Contracting Law Fine and Penalty Schedule*” which set forth specific fine amounts and penalties to be issued against those individuals who violate the Indian Preference in Contracting law.

Children’s Burial Fund Policy Amendments

The Children’s Burial Fund Policy provides financial assistance towards the funeral costs of children of a certain age who are not enrolled, but are eligible for enrollment, in the Nation. The Children’s Burial Fund Policy is being amended to remove outdated restrictions and to create more flexibility in using the funds. The Children’s Burial Fund Policy was amended to:

- Revise the eligibility qualifications for assistance from the Fund;
- Add the requirement that a person provide the Oneida Trust Enrollment Department with any other relevant documentation as requested by the Department to support the eligibility of enrollment of the deceased child;
- Allow the Fund to be used for any funeral related expenses as identified on an invoice, thus eliminating any specific requirements as to what types of expenses the Fund could be used for or caps on the use of the Fund for certain types of expenses;
- Prohibit the use of the Fund for travel and/or lodging to attend a funeral;
- Allow appeals of the Oneida Trust Enrollment Department’s decision as to the eligibility of a deceased child for financial assistance from the Fund to be made to the Oneida Trust Enrollment Committee; and
- Make additional changes to revise and reorganize the law to increase clarity.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Children’s Burial Fund Policy on April 22, 2020, through resolution BC-04-22-20-A. The amendments to the Children’s Burial Fund Policy became effective on May 6, 2020.

Curfew Law Amendments

The Curfew law protects the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor. The Curfew law was amended to:

- Remove an incorrect reference to the Nation’s territorial jurisdiction as the Nation’s territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation’s Judiciary law; and
- Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation’s Judiciary law.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Curfew law on May 13, 2020, through resolution BC-05-13-20-A. The Curfew law amendments became effective on May 29, 2020.

Domestic Animals Law Amendments

The Domestic Animals law protects the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; sets minimum standards for treatment of animals; prohibits certain species of animals from being brought onto the Reservation; regulates the keeping of livestock on lots zoned residential within the Reservation; and establishes consequences for damages caused by domestic animals. The Domestic Animals law was amended to:

- Remove an incorrect reference to the Nation’s territorial jurisdiction as the Nation’s territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation’s Judiciary law;
- Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation’s Judiciary law;
- Remove a duplicative provision regarding the citation process as the citation process is provided by the Nation’s Citations law; and
- Include a new provision that prohibits the abandonment of an animal.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Domestic Animals law on May 13, 2020, through resolution BC-05-13-20-B. The amendments to the Domestic Animals law became effective on May 29, 2020.

The Oneida Business Committee also adopted resolution BC-05-13-20-C titled, “*Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule*” which set forth specific fine amounts and penalties to be issued against those individuals who violate the Domestic Animals law, as well as the specific licensing costs. This resolution also became effective on May 29, 2020.

Oneida Food Service Code Amendments

The Oneida Food Service Code ensures the safety of food that is provided to consumers at retail or through an Oneida Food Service Program by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensures employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable levels of sanitation on the premises of food service businesses; and promotes fair dealings with members of the community through adoption of licensing requirements, exemptions, regulations, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation. The Oneida Food Service Code was amended to:

- Change the name of the law from the Oneida Food Service Code to the Oneida Food Service law to be consistent with the Oneida Code of Laws;
- Remove the Licensing Department, Risk Management and Oneida Police Department from the law, leaving administrative and enforcement duties exclusively to the Environmental, Health and Safety Area within the Nation’s Environmental, Health, Safety and Land Division (“Department”);
- Allow applicants to satisfy the food safety training that is required to obtain a license to operate certain food service businesses either of the following ways: (1) by taking the

course offered through the Department (as is currently the only option); or (2) by presenting evidence of having received training or certification from an alternative source that the Department deems satisfactory;

- Require the Department to decide whether to issue or renew a license within thirty (30) days of receiving an application, and, if the application is denied, further require the Department to notify the applicant in writing, supplying him or her with the basis for said denial, as well as information on how to appeal its decision;
- Add exemptions for cottage food sales and prepackaged restaurants that eliminate the need for these operations to undergo the licensing process required of food service businesses so long as applicants fulfill the requirements to qualify for the exemption specific to their operation;
- Require the Department to waive the licensing fee when proof is submitted by a food service business or prepackaged restaurant of payment to an overlapping jurisdiction that covers the same term;
- Send appeals of Department decisions not issued pursuant to a citation to the Department's Area Manager, whose decision will be final unless challenged to the Trial Court of the Judiciary on grounds that it constitutes an abuse of power, is contrary to law and/or lacks any reasonable factual basis; while appeals of Department decisions issued pursuant to a citation will be processed according to the Nation's Citations law; and
- Make additional changes to revise and reorganize the law to increase clarity, as well as comply with the Nation's Legislative Procedures Act.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Oneida Food Service Code on May 13, 2020, through resolution BC-05-13-20-D. The amendments to the Food Service Code will become effective on November 13, 2020.

The Oneida Business Committee also adopted resolution BC-05-13-20-E titled, "*Oneida Food Service Law Fine, Penalty, and Licensing Fee Schedule*" which set forth specific fine amounts and penalties to be issued against those individuals who violate the Oneida Food Service law, as well as the specific licensing costs.

Tobacco Law Amendments

The Tobacco law regulates the sale, possession, and distribution of cigarettes within the Reservation. The Tobacco law was amended to:

- Provide a definition for "tobacco products";
- Permanently change the minimum age of sale from eighteen (18) to twenty-one (21) years old;
- Clarify that all tobacco products, and not just cigarettes and electronic cigarettes, shall not be sold to any person under the age of twenty-one (21) years;
- Clarify that no person other than an authorized employee shall sell tobacco products, and not just cigarettes and electronic cigarettes, at an Oneida retail location;
- Clarify that the process and procedure contained in the Nation's Citations law will govern citations issued under this law; and
- Provide authority to the Oneida Business Committee to adopt through resolution a fine and penalty schedule for citations issued as a result of a violation of this law.

During the FY20 Third Quarter the Oneida Business Committee adopted the proposed amendments to the Tobacco law on June 10, 2020, through resolution BC-06-10-20-D. The amendments to the Tobacco law became effective on June 24, 2020.

The Oneida Business Committee also adopted resolution BC-06-10-20-E titled, “*Tobacco Law Penalty and Fine Schedule*” which set forth specific fine amounts and penalties to be issued against those individuals who violate the Tobacco law.

FY20 Third Quarter LOC Meetings

Typically, all LOC meetings are open to the public and held on the first and third Wednesday of each month, at 9:00 a.m. in the Norbert Hill Center’s Business Committee Conference Room.

Due to the COVID-19 pandemic and the Nation’s Public Health State of Emergency no in-person LOC meetings were held during the FY20 Third Quarter. The LOC conducted its business through the use of telecommunications and approval of e-polls. The LOC intends to resume in-person meetings as soon as it is safe to do so.

LOC Plans for Fourth Quarter

During the FY20 Fourth Quarter the LOC will focus its legislative efforts on the following matters:

1. Continued response to the COVID-19 Pandemic;
2. Adoption of the Boards, Committees, and Commissions Law Amendments;
3. Development of the Real Property Law Amendments;
4. Adoption of the Industrial Hemp law; and
5. Close out of the 2017-2020 Term and Transition to the 2020-2023 Term.

Legislative Reference Office Update

In addition to assisting the Legislative Operating Committee with its legislative actions throughout the FY20 Third Quarter, the Legislative Reference Office has completed various assessments of the Legislative Reference Office as directed by the Oneida Business Committee. The assessments of the Legislative Reference Office looked at:

- Purpose and composition of the Legislative Reference Office;
- Various outcomes produced by the Legislative Reference Office;
- How the Legislative Reference Office’s outcomes related to the priorities of the Nation;
- Who the Legislative Reference Office serves;
- Summary of Legislative Reference Office staff productivity and workload distribution;
- Staffing needs of the Legislative Reference Office as we continue through and move forward beyond the COVID-19 pandemic and Tier V Budget Contingency Plan.

During the FY20 Third Quarter the Legislative Reference Office has operated with a Senior Legislative Staff Attorney and a Legislative Staff Attorney. Two (2) legislative analyst positions remain vacant. The Director of the Legislative Reference Office has been in furlough status since April 12, 2020.

During the FY20 Fourth Quarter the Legislative Reference Office will focus on the LOC’s legislative priorities. In addition, the Legislative Reference Office will focus on:

- Moving the Nation’s legislative history to a digital and searchable format;

- Preparing for the 2020 General Election and subsequent transition; and
- Continued preparation of a recovery plan and staffing model for the Legislative Reference Office.

Legislative Operating Committee Contact Information

Feel free to contact the LOC with any questions or comments;

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