



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

November 3, 2021

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public in accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. October 20, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Oneida General Welfare Law (pg. 3)
2. Budget Management and Control Law Emergency Amendments (pg. 24)
3. Oneida Nation Gaming Ordinance Emergency Amendments (pg. 70)

IV. New Submissions

1. Elder Assistance Program Law (pg. 106)

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
October 20, 2021
9:00 a.m.

Present: David P. Jordan, Marie Summers, Daniel Guzman King, Jennifer Webster, Kirby Metoxen (Microsoft Teams)

Others Present: Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Bonnie Pigman, Shannon Davis, Lawrence Barton, Rhiannon Metoxen (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Michelle Myers (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the October 20, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda as is; seconded by Marie Summers. Motion carried unanimously.

II. Minutes to be Approved

1. October 6, 2021 LOC Meeting Minutes

Motion by Marie Summers to approve the October 6, 2021 LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Pardon and Forgiveness Law Emergency Amendments Extension

Motion by Jennifer Webster to adopt the Resolution: Extension of the Emergency Amendments to the Pardon and Forgiveness law and forward on to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2. Oneida General Welfare Law

Motion by Jennifer Webster to accept the public comment period review memorandum; seconded by Daniel Guzman King. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Marie Summers to adjourn at 9:22 a.m.; seconded by Jennifer Wester. Motion carried unanimously.





Legislative Operating Committee
November 3, 2021

Oneida General Welfare Law

Submission Date: 12/18/18	Public Meeting: Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 10/13/21.
LOC Sponsor: Jennifer Webster	Emergency Enacted: 8/12/20, 2/10/21

Summary: *This item was carried over from last term. The Oneida Business Committee directed IGAC, Self-Governance and the Law Office to develop a plan of action to create rules for exempting income per the Tribal General Welfare Exclusion Act. At the December 18, 2018 Business Committee Work Meeting, the Oneida Business Committee requested that the General Welfare Exclusions Act – Income Exemptions item be sent over to the LOC for consideration to develop a law/code/ordinance that would define the income exemptions under the General Welfare Exclusion Act. As a result of the COVID-19 pandemic, emergency adoption of an Oneida General Welfare law was sought to create a law that provides a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The purpose of this Law is to provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. The Oneida Business Committee adopted the Oneida General Welfare law on an emergency basis through the adoption of resolution BC-08-12-20-D. The emergency adoption of the Law will expire on February 12, 2021. The Oneida Business Committee then adopted emergency amendments to the Oneida General Welfare law on February 10, 2021, through resolution BC-02-10-21-B for the purpose of addressing the means in which the Oneida Business Committee may adopt an approved program – the emergency amendment would allow the Oneida Business Committee to adopt an approved program through resolution in addition to through the adoption of a law. The emergency adoption of the Law was set to expire on August 10, 2021. The Oneida Business Committee extended the emergency amendments to the Oneida General Welfare law on July 28, 2021, through the adoption of resolution BC-07-28-21-M. The emergency amendments to the Oneida General Welfare law will expire on February 10, 2022.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Oneida General Welfare Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

1/14/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Lawrence Barton, Rae Skenandore, Carl Artman, Susan House, Kristal Hill, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the Oneida General Welfare law, the Oneida Higher Education Pandemic Relief Fund law, the Pandemic Relief Assistance law,

and the FY21 Budget Directive found in resolution BC-11-24-20-F and determine a plan for meeting these directives and addressing these items on a permanent basis.

1/28/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the proposed emergency amendments to the Law and emergency adoption packet materials.

2/3/21 LOC: Motion by Jennifer Webster to approve the Oneida General Welfare law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2/9/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, JoAnne House, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, Keith Doxtator, Susan House, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to touch base and discuss the progress that was being made in bringing forward emergency amendments to the Oneida General Welfare law and developing the approved programs – through adoption of a resolution – to meet the FY21 budget directive in resolution BC-11-24-20-F.

2/10/21 OBC: Motion by Lisa Liggins to adopt resolution 02-10-21-B Emergency Amendments to the Oneida General Welfare Law with two (2) changes [1) in line16, correct date to March 13, 2021; and 2) in line 18, insert the appropriate resolution number], seconded by Jennifer Webster. Motion carried.

Motion by Lisa Liggins to request the Legislative Operating Committee and Legislative Reference Office to bring forward a BC SOP to an upcoming BC Work Session regarding how laws and resolutions are submitted to the Business Committee in accordance with this resolution, seconded by Jennifer Webster. Motion carried.

4/14/21 OBC: Motion by Lisa Liggins to defer this item [*Oneida Nation Assistance Fund Resolution*] until after executive session noting the resolution will be brought back with three (3) additional considerations, [1) the correction to line 45 [change from, "...between 18 to 61 years of...", change to, "...age 18 or older..."]; 2) noting the LOCs considerations for possible garnishments moving forward; 3) CFO's comments regarding Treasury guidance for the 65 and over payment.], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt the Oneida Business Committee standard operating procedure entitled Oneida General Welfare Law - Adoption of an Approved Program and direct the Secretary to finalize the SOP and publish, seconded by David P. Jordan. Motion carried.

4/21/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to discuss a plan for how to address the Oneida Business Committee directive contained in resolution BC-04-14-21-D that the LOC consider how garnishments will be handled for general welfare exclusion payments moving forward.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to review and discuss the public comment period notice for the question of "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?"

A good mind. A good heart. A strong fire.



- 5/5/21 LOC:** Motion by Jennifer Webster to approve the Oneida General Welfare law amendments public comment period notice for the question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*” and forward this question to a public comment period to be held open until June 9, 2021; seconded by Marie Summers. Motion carried unanimously.
- 6/9/21:** *Public Comment Period Closed.* Six (6) individuals submitted written comments during this public comment period.
- 6/24/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the public comments that were received regarding the question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”
- 7/7/21 LOC:** Motion by Marie Summers to accept public comments that were received for the Oneida General Welfare law amendments question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”; seconded by Daniel Guzman King. Motion carried unanimously.
- 7/21/21 LOC:** Motion by Marie Summers to approve the Oneida General Welfare law emergency amendments extension packet and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.
- 7/28/21 OBC:** Motion by David P. Jordan to adopt resolution 07-28-21-M Extension of the Emergency Amendments to the Oneida General Welfare Law, seconded by Jennifer Webster. Motion carried.
- 8/26/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the draft of amendments to the Oneida General Welfare law to move forward for permanent adoption.
- 9/1/21 LOC:** Motion by Jennifer Webster to approve the draft of the Oneida General Welfare law and direct that a legislative analysis be completed; seconded by Marie Summers. Motion carried unanimously.
- 9/15/21 LOC:** Motion by Kirby Metoxen to approve the legislative analysis for the Oneida General Welfare law; seconded by Jennifer Webster. Motion carried unanimously.
- Motion by Marie Summers to approve the approve the Oneida General Welfare law public comment period notice and forward the Oneida General Welfare law to a public comment period to be held open until October 13, 2021; seconded by Jennifer Webster. Motion carried unanimously.
- 10/13/21:** *Public Comment Period Closes.* The public comment period for the permanent adoption of the Oneida General Welfare law closed on October 13, 2021. No written submissions of comments were received during this public comment period.

10/20/21 LOC: Motion by Jennifer Webster to accept the public comment period review memorandum; seconded by Daniel Guzman King. Motion carried unanimously.

Next Steps:

- Approve the updated draft, legislative analysis, and the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by November 18, 2021.

Title 10. General Welfare Exclusion - Chapter 1001
ONEIDA GENERAL WELFARE

1001.1. Purpose and Policy
1001.2. Adoption, Amendment, Repeal
1001.3. Definitions
1001.4. General Welfare Assistance
1001.5. Approved Program Guidelines

1001.6. Non-Recourse Designation
1001.7. Governing Law; Sovereignty
1001.8. Federal Trust Obligations

1001.1. Purpose and Policy

1001.1-1. *Purpose.* The purpose of this law is to govern how the Nation provides assistance to eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion.

(a) The federal government through the Tribal General Welfare Exclusion Act of 2014, codified at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application of the general welfare doctrine and subsequent guidance, has recognized the sovereign right of Indian tribal governments to provide financial assistance to its members under certain circumstances on a non-taxable basis.

1001.1-2. *Policy.* It is the policy of the Nation to provide assistance to members through approved programs that promote the general welfare of the Nation. This law provides a framework for approved programs to follow to ensure compliance with the General Welfare Exclusion, 26 U.S.C. §139E, and applicable Internal Revenue Service regulations or revenue procedures including I.R.S. Rev. Proc. 2014-35. Further, it is the intent of the Oneida Business Committee that all assistance provided under this law:

- (a) is available to any recipients who satisfy the program policies, subject to budgetary restraints;
- (b) is made under an approved program that does not discriminate in favor of members of the Nation's governing body;
- (c) is not provided as compensation for goods or services; and
- (d) is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee.

1001.2. Adoption, Amendment, Repeal

1001.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.

1001.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1001.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

1001.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

1001.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1001.3. Definitions

1001.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Approved program" means any program(s) to provide general welfare assistance that is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution

or law of the Nation.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law. Assistance provided under an approved program shall not be considered income of the recipient.

(c) "Lavish" or "Extravagant" shall have the meaning determined by the Oneida Business Committee in its discretion and based on the circumstances, taking into account needs unique to the Nation as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under 26 U.S.C. §139E following consultation between the Nation and the federal government.

(d) "Limited term" means a defined start and end date, or utilizes third-party funding and is not intended to be permanent.

(e) "Member" means an individual who is an enrolled member of the Nation.

(f) "Nation" means the Oneida Nation.

(g) "Recipient" means any member entitled to receive assistance in accordance with approved program requirements.

1001.4. General Welfare Assistance

1001.4-1. *General.* The Nation may provide general welfare assistance to eligible members on a non-taxable basis pursuant to the principles of General Welfare Exclusion. The federal government recognizes that benefits to recipients under an approved program for the promotion of the general welfare of the Nation is excludable from the gross income of those recipients. General Welfare Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as it:

(a) satisfies the requirements for exclusion under 26 U.S.C. §139E;

(b) is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations; or

(c) meets the criteria of the General Test under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

1001.4-2. *General Test.* The General Test provides criteria used to determine if any assistance provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:

(a) The assistance is paid on behalf of the Nation;

(b) The assistance was provided pursuant to an approved program;

(c) The assistance does not discriminate in favor of members of the governing body of the Nation;

(d) The assistance is available to any member who meets the guidelines of the approved program;

(e) The assistance is provided for the promotion of general welfare;

(f) The assistance is not lavish or extravagant;

(g) The assistance is not compensation for services; and

(h) The assistance is not a per capita payment.

1001.4-3. *Approved Programs.* Any assistance provided by the Nation under the General Welfare Exclusion shall occur through an approved program and qualify as non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.

(a) An approved program shall be established and operated to promote the general welfare

of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.

(b) Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion as to purpose, eligibility, and funding.

(d) An approved program shall meet all criteria of the General Test.

(d) Assistance provided through an approved program is not subject to information reporting by the Nation to the Internal Revenue Service.

1001.4-4. *Ratification of Prior Acts.* This law shall not be construed as creating new general welfare assistance rights which are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by the Nation to administer its general welfare assistance. Assistance provided prior to the enactment of this law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty.

1001.5. Approved Program Guidelines

1001.5-1. *Creation of an Approved Program.* An approved program shall be adopted by the Oneida Business Committee through a resolution or law of the Nation. Approved programs adopted by the Oneida Business Committee are considered in force and effect and in accordance with this law

(a) *Law.* An approved program shall be adopted by the Oneida Business Committee through a law if the approved program will function on a permanent basis.

(1) Adoption of an approved program by the Oneida Business Committee through a law of the Nation shall comply with the process and procedures of the Legislative Procedures Act.

(b) *Resolution.* An approved program shall be adopted by the Oneida Business Committee through a resolution if the approved program will function for a limited term.

(1) An approved program to be considered for adoption through resolution by the Oneida Business Committee shall be accompanied by a statement of effect and submitted in accordance with the Oneida Business Committee's submission procedure and deadlines.

(c) *Contents of Proposed Approved Programs.* The law or resolution establishing an approved program shall contain the following information:

(1) Name of the approved program;

(2) Purpose of the approved program;

(3) Eligibility rules and limitations for approved program;

(4) Funding source for approved program;

(5) How the approved program qualifies for General Welfare Exclusion; and

(6) Start and end date of approved program, if applicable.

1001.5-2. *Eligibility.* Assistance provided by an approved program shall be limited to members of the Nation. Each approved program shall set forth any specific eligibility rules and limitations applied to that program.

1001.5-3. *Funding of Approved Programs.* Assistance authorized by this law shall be limited to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed. The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this

law. Approved programs may also be funded through third-party funding if available.

1001.5-4. *Use of Assistance*. All assistance provided through an approved program shall be used for the purpose stated in the approved program description. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program the payment shall be deemed forfeited. The Nation may secure repayment from any recipient who forfeited their assistance.

1001.5-5. *Anti-Alienation*. Assistance provided to a member through an approved program shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the member.

1001.6. Non-Recourse Designation

1001.6-1. The Nation does not guarantee assistance under this law. Assistance shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid.

1001.6-2. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit.

1001.6-3. Approved programs shall be administered at all times to avoid triggering of the doctrines of “constructive receipt” or “economic benefit.”

1001.7. Governing Law; Sovereignty

1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance made hereunder, shall be construed and enforced according to the Nation’s laws and applicable federal law. Nothing in this law or the related laws, policies, or procedures adopted for its implementation, if any, shall be construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption because of its sovereign status.

1001.8. Federal Trust Obligations

1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation’s adoption of its approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Nation’s right to seek funding shortfalls or to enforce the trust rights of the Nation and its members. The Nation shall be entitled to government-to-government consultation and coordination with the federal government regarding these obligations.

End.

Emergency Adopted – BC-08-12-20-D

Emergency Amended – BC-02-10-21-B

Emergency Extended – BC-07-28-21-M

Adopted – BC-__-__-__-__

Title 10. General Welfare Exclusion - Chapter 1001

ONEIDA GENERAL WELFARE

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1001.1-2. *Policy.* It is the policy of the Nation to provide assistance to members through approved programs that promote the general welfare of the Nation. This law provides a framework for approved programs to follow to ensure compliance with the General Welfare Exclusion, 26 U.S.C. §139E, and applicable Internal Revenue Service regulations or revenue procedures including I.R.S. Rev. Proc. 2014-35. Further, it is the intent of the Oneida Business Committee that all assistance provided under this law:

(a) is available to any recipients who satisfy the program policies, subject to budgetary restraints;

(b) is made under an approved program that does not discriminate in favor of members of the Nation's governing body;

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1001.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

1001.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

1001.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

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or law of the Nation.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law. Assistance provided under an approved program shall not be considered income of the recipient.

(c) "Lavish" or "Extravagant" shall have the meaning determined by the Oneida Business Committee in its discretion and based on the circumstances, taking into account needs unique to the Nation as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under 26 U.S.C. §139E following consultation between the Nation and the federal government.

(d) "Limited term" means a defined start and end date, or utilizes third-party funding and is not intended to be permanent.

(e) "Member" means an individual who is an enrolled member of the Nation.

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1001.4. General Welfare Assistance

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(a) satisfies the requirements for exclusion under 26 U.S.C. §139E;

(b) is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations; or

(c) meets the criteria of the General Test under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

1001.4-2. *General Test.* The General Test provides criteria used to determine if any assistance provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:

(a) The assistance is paid on behalf of the Nation;

(b) The assistance was provided pursuant to an approved program;

(c) The assistance does not discriminate in favor of members of the governing body of the Nation;

(d) The assistance is available to any member who meets the guidelines of the approved program;

(e) The assistance is provided for the promotion of general welfare;

(f) The assistance is not lavish or extravagant;

(g) The assistance is not compensation for services; and

(h) The assistance is not a per capita payment.

1001.4-3. *Approved Programs.* Any assistance provided by the Nation under the General Welfare Exclusion shall occur through an approved program and qualify as non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.

(a) An approved program shall be established and operated to promote the general welfare

of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.

(b) Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion as to purpose, eligibility, and funding.

(d) An approved program shall meet all criteria of the General Test.

(d) Assistance provided through an approved program is not subject to information reporting by the Nation to the Internal Revenue Service.

1001.4-4. *Ratification of Prior Acts.* This law shall not be construed as creating new general welfare assistance rights which are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by the Nation to administer its general welfare assistance. Assistance provided prior to the enactment of this law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty.

1001.5. Approved Program Guidelines

1001.5-1. *Creation of an Approved Program.* An approved program shall be adopted by the Oneida Business Committee through a resolution or law of the Nation. Approved programs adopted by the Oneida Business Committee are considered in force and effect and in accordance with this law

(a) *Law.* An approved program shall be adopted by the Oneida Business Committee through a law if the approved program will function on a permanent basis.

(1) Adoption of an approved program by the Oneida Business Committee through a law of the Nation shall comply with the process and procedures of the Legislative Procedures Act.

(b) *Resolution.* An approved program shall be adopted by the Oneida Business Committee through a resolution if the approved program will function for a limited term.

(1) An approved program to be considered for adoption through resolution by the Oneida Business Committee shall be accompanied by a statement of effect and submitted in accordance with the Oneida Business Committee's submission procedure and deadlines.

(c) *Contents of Proposed Approved Programs.* The law or resolution establishing an approved program shall contain the following information:

(1) Name of the approved program;

(2) Purpose of the approved program;

(3) Eligibility rules and limitations for approved program;

(4) Funding source for approved program;

(5) How the approved program qualifies for General Welfare Exclusion; and

(6) Start and end date of approved program, if applicable.

1001.5-2. *Eligibility.* Assistance provided by an approved program shall be limited to members of the Nation. Each approved program shall set forth any specific eligibility rules and limitations applied to that program.

1001.5-3. *Funding of Approved Programs.* Assistance authorized by this law shall be limited to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed. The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this

law. Approved programs may also be funded through third-party funding if available.

1001.5-4. *Use of Assistance*. All assistance provided through an approved program shall be used for the purpose stated in the approved program description. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program the payment shall be deemed forfeited. The Nation may secure repayment from any recipient who forfeited their assistance.

1001.5-5. *Anti-Alienation*. Assistance provided to a member through an approved program shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the member.

1001.6. Non-Recourse Designation

1001.6-1. The Nation does not guarantee assistance under this law. Assistance shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid.

1001.6-2. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit.

1001.6-3. Approved programs shall be administered at all times to avoid triggering of the doctrines of “constructive receipt” or “economic benefit.”

1001.7. Governing Law; Sovereignty

1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance made hereunder, shall be construed and enforced according to the Nation’s laws and applicable federal law. Nothing in this law or the related laws, policies, or procedures adopted for its implementation, if any, shall be construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption because of its sovereign status.

1001.8. Federal Trust Obligations

1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation’s adoption of its approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Nation’s right to seek funding shortfalls or to enforce the trust rights of the Nation and its members. The Nation shall be entitled to government-to-government consultation and coordination with the federal government regarding these obligations.

End.

Emergency Adopted – BC-08-12-20-D

Emergency Amended – BC-02-10-21-B

Emergency Extended – BC-07-28-21-M

Adopted – BC-__-__-__-__



ONEIDA GENERAL WELFARE LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	Provides a framework for the Nation to develop approved programs to provide assistance to members on a non-taxable basis in an effort to promote the general welfare while ensuring compliance with the General Welfare Exclusion, 26 U.S.C. §139E, and applicable Internal Revenue Service regulations or revenue procedures including I.R.S. Rev. Proc. 2014-35, and that all assistance provided under this law: <ul style="list-style-type: none"> is available to any recipients who satisfy the program policies, subject to budgetary restraints; is made under an approved program that does not discriminate in favor of members of the Nation's governing body; is not provided as compensation for goods and/or services; and is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee.
Purpose	The purpose of this law is to govern how the Nation provides assistance to eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion. <i>[10 O.C. 1001.1-1]</i> .
Affected Entities	Oneida Business Committee, Entities developing approved programs
Public Meeting	A public comment period was held open until October 13, 2021. A public meeting was not held in accordance with the Nation's COVID-19 Core Decision Making Team's declaration titled, <i>Suspension of Public Meetings under the Legislative Procedures Act</i> .
Fiscal Impact	A fiscal impact statement will be requested from the Finance Department on November 3, 2021.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. On August 12, 2020, the Oneida General Welfare law ("the Law") was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance, on a non-taxable basis, to members of the Nation through approved programs that promote the general welfare of the Nation. *[10 O.C. 1001.1-1, 1001.1-3]*. Emergency adoption of the Law was pursued to provide a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The Law set forth a framework and provided guidelines for the Nation to establish and operate approved programs which provide assistance to eligible members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. *[10 O.C. 1001.9-2]*. The emergency adoption of the Law was set to expire on February 12, 2021. In February 2021, emergency amendments to the Law were then adopted by the Oneida Business Committee through resolution BC-02-10-21-B for the purpose of addressing how an approved program would be adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency in addressing the needs of the Nation. The emergency

amendment to the Law revises the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or law of the Nation. [10 O.C. 1001.3-1(a)]. Previously, an approved program could only be adopted by the Oneida Business Committee through a law of the Nation. These emergency amendments to the Law were set to expire on August 10, 2021. On July 28, 2021, the Oneida Business Committee extended the emergency amendments for an additional six (6) month period through the adoption of resolution BC-07-28-21-M. The emergency amendments to this Law will now expire on February 10, 2022.

B. The Legislative Operating Committee is now seeking the permanent adoption of this Law.

SECTION 3. CONSULTATION AND OUTREACH

A. Representatives from the following departments or entities participated in the development of this Law and legislative analysis:

- Oneida Law Office;
- Finance Administration; and
- Governmental Services Division.

B. The following laws were reviewed in the drafting of this analysis:

- Legislative Procedures Act;
- Garnishment Law; and
- Per Capita law.

SECTION 4. PROCESS

A. This Law has followed the process set forth in the Legislative Procedures Act (LPA).

- On August 12, 2020, the Law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D.
- On October 7, 2020, the Legislative Operating Committee added the Law to its Active Files List.
- On February 10, 2021, the Oneida Business Committee adopted emergency amendments to the Law through resolution BC-02-10-21-B.
- On April 14, 2021, the Oneida Business Committee adopted resolution BC-04-14-21-D titled, *Oneida Nation Assistance Fund*, which directed that the Legislative Operating Committee hold a community input session on the public policy of “funds paid to members pursuant general welfare programs are not subject to garnishment, attachment, seizure, or execution of levy of any kind, including the administrative enforcement actions listed in 7 O.C. Chapter 704 (Child Support), and any attempt to cause any payments to be so subjected shall not be recognized by the Nation” and whether such policy should be a general policy or be addressed specifically in regards to each general welfare program under Title 1000 and Chapter 1001.
- On May 5, 2021, the Legislative Operating Committee approved the Oneida General Welfare law amendments public comment period notice for the question, *Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?* and forward this question to a public comment period to be held open until June 9, 2021.
- On June 9, 2021, the public comment period for the question above closed. The Legislative Operating Committee received written submissions of comments from six (6) individuals.

- On July 7, 2021, the Legislative Operating Committee accepted the public comments that were received.
- On July 21, 2021, the Legislative Operating Committee approved the Oneida General Welfare law emergency amendments extension packet and forwarded the extension to the Oneida Business Committee for consideration.
- On July 28, 2021, the Oneida Business Committee extended the emergency amendments to the Law through the adoption of resolution BC-07-28-21-M.
- On September 1, 2021, the Legislative Operating Committee approved the draft of the Law and directed that a legislative analysis be completed.
- On September 15, 2021, the Legislative Operating Committee approved the legislative analysis and public comment period notice, and forwarded the Oneida General Welfare law to a public comment period to be held open until October 13, 2021.
- On October 13, 2021, the public comment period closed. No written submissions of comments were received during this public comment period.
- On October 20, 2021, the Legislative Operating Committee accepted the public comment period review memorandum recognizing no comments were received.
- On November 3, 2021, the Legislative Operating Committee will consider approving the final draft and legislative analysis of the Oneida General Welfare law, and directing the Finance Department to complete a fiscal analysis by November 18, 2021.

B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:

- January 14, 2021: LOC work meeting with the Oneida Law Office, Finance Administration, Strategic Planner, and Susan House.
- January 28, 2021: LOC work meeting.
- February 9, 2021: LOC work meeting with the Oneida Law Office, Finance Administration, Trust Enrollments Director, Susan House.
- April 21, 2021: LOC work meeting.
- April 29, 2021: LOC work meeting.
- June 24, 2021: LOC work meeting.
- August 26, 2021: LOC work meeting.

C. *COVID-19 Pandemic's Effect on the Legislative Process.* The world is currently facing a pandemic of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses. A public meeting for this proposed Law will not be held due to the COVID-19 pandemic, but a public comment period for the submission of written comments will be held open.

■ *Declaration of a Public Health State of Emergency.*

- On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic 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.

- 101 ▪ The Public Health State of Emergency has since been extended until November 25, 2021,
102 by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A,
103 BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-
104 10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-
105 10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A.
- 106 ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*
107 *Legislative Procedures Act.*
 - 108 ▪ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a
109 “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which
110 suspended the Legislative Procedures Act's requirement to hold a public meeting during
111 the public comment period, but allows members of the community to still participate in the
112 legislative process by submitting written comments, questions, data, or input on proposed
113 legislation to the Legislative Operating Committee via e-mail during the public comment
114 period.
- 115 ▪ *Oneida Business Committee Resolution BC-08-03-21-A, Setting Public Gathering Guidelines*
116 *during Public Health State of Emergency—COVID-19.*
 - 117 ▪ On August 3, 2021, the Oneida Business Committee adopted resolution BC-08-03-21-A
118 entitled, *Setting Public Gathering Guidelines during Public Health State of Emergency—*
119 *COVID-19*, which provides that indoor and outdoor events shall be canceled when the
120 infection rates within Brown or Outagamie Counties exceed “Low” as identified by the
121 Wisconsin Department of Health Services. Both Brown and Outagamie Counties are
122 experiencing “High” COVID-19 infection rates.
- 123 ▪ *Conclusion.*
 - 124 ▪ Although a public meeting was not held on the proposed Law, a public comment period
125 was still held open until October 13, 2021, in accordance with resolution BC-08-03-21-A
126 and the Legislative Procedures Act as modified by the COVID-19 Core Decision Making
127 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.
128 No public comments were received during this public comment period.

130 **SECTION 5. CONTENTS OF THE LEGISLATION**

131 **A. Purpose and Policy.** The purpose of this Law is to govern how the Nation provides assistance to
132 eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion.
133 *[10 O.C. 1001.1-1]*. The federal government through the Tribal General Welfare Exclusion Act of 2014,
134 codified at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application of the
135 general welfare doctrine and subsequent guidance, has recognized the sovereign right of Indian tribal
136 governments to provide financial assistance to its members under certain circumstances on a non-
137 taxable basis. *[10 O.C. 1001.1-1(a)]*. It is the policy of the Nation to provide assistance to members
138 through approved programs that promote the general welfare of the Nation which is available to any
139 recipient who satisfies the program policies, subject to budgetary restraints; is made under an approved
140 program that does not discriminate in favor of members of the Nation’s governing body; is not provided
141 as compensation for goods or services; and is not lavish or extravagant under the facts and
142 circumstances, as determined by the Oneida Business Committee. *[10 O.C. 1001.1-2]*.

- **Effect.** The overall purpose of this Law is to codify the Nation’s sovereign right to provide assistance to its members on a non-taxable basis, and to provide a framework for the Nation to create approved programs to do so.

B. General Welfare Assistance. The Nation has an inherent sovereign right to provide assistance to its eligible members on a non-taxable basis pursuant to the principles of General Welfare Exclusion. [10 O.C. 1001.4-1]. General Welfare Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as it: satisfies the requirements for exclusion under 26 U.S.C. §139E, is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations, or meets the criteria of the General Test under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1). *Id.* The General Test provides criteria used to determine if any assistance provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. [10 O.C. 1001.4-2]. The criteria of the General Test include the following: the assistance is paid on behalf of the Nation, the assistance was provided pursuant to an approved program, the assistance does not discriminate in favor of members of the governing body of the Nation, the assistance is available to any member who meets the guidelines of the approved program, the assistance is provided for the promotion of general welfare, the assistance is not lavish or extravagant, the assistance is not compensation for services, and the assistance is not a per capita payment. [10 O.C. 1001.4-2(a)-(h)]. Any assistance provided by the Nation under the General Welfare Exclusion shall occur through an approved program and qualify as non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law. [10 O.C. 1001.4-3]. Approved programs shall be established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.4-3(a)]. Furthermore, this Law shall not be construed as creating new general welfare assistance rights which are an inherent right of Nation. [10 O.C. 1001.4-4]. Rather, this Law is intended to codify existing procedures used by the Nation to administer its general welfare assistance and any assistance provided prior to the enactment of this Law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty. *Id.*

- **Effect.** The Law provides details on how assistance provided through approved programs will meet the principles of General Welfare Exclusion so that assistance may be non-taxable.

C. Approved Program Guidelines. This section of the Law sets forth the guidelines that approved programs of the Nation will be created under. The Law requires that an approved program be adopted by the Oneida Business Committee through either a resolution or law of the Nation. [10 O.C. 1001.5-1]. An approved program may be adopted through a resolution if the approved program will function for a limited term – a limited term means there is a defined start and end date, or the program utilizes third-party funding and is not intended to be permanent. [10 O.C. 1001.3-1(d), 1001.5-1(b)]. If the purpose of the approved program will function on a permanent basis, then the approved program is required to be adopted through a law of the Nation. [10 O.C. 1001.5-1(a)]. The Law provides what information an approved program is required to include in its adopting document, which includes: name of the approved program, purpose of the approved program, eligibility rules and limitations for the program, funding source, how the program qualifies for General Welfare Exclusion, and the start and end date of the approved program, if applicable. [10 O.C. 1001.5-1(c)]. Any assistance intended to qualify under the General Welfare Exclusion is limited to members of the Nation only. [10 O.C. 1001.5-

2]. Regarding the funding of approved programs, any assistance provided is limited to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds. [10 O.C. 1001.5-3]. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed. *Id.* The Oneida Business Committee is responsible for designating approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this Law. *Id.* Approved programs may also be funded through third-party funding if available. *Id.* All assistance that is provided to a recipient is required to be used for the purpose stated in the approved program description. [10 O.C. 1001.5-4]. If a recipient uses assistance in a manner that is inconsistent with the purpose of the approved program, then the payment is considered forfeited, and the Nation may secure repayment from the recipient. *Id.* The Law then clarifies that any benefit a member of the Nation receives is not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the member. [10 O.C. 1001.5-5].

- **Effect.** This section of the Law provides details on the framework for how approved programs under the Law are developed and handled.

D. Non-Recourse Designation. The Nation does not guarantee any benefits to a recipient under this Law. [10 O.C. 1001.6-1]. The Law clarifies that benefits shall not be treated as a resource or asset of a recipient for any purpose; and that no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. *Id.* The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. [10 O.C. 1001.6-2]. The approved programs shall be administered at all times to avoid triggering of the doctrines of “constructive receipt” and/or “economic benefit.” [10 O.C. 1001.6-3].

- **Effect.** This section clarifies that recipient is not guaranteed benefits under the Law, and that a recipient should not treat the potential benefit as a resource or an asset until that asset is actually paid out to the recipient.

E. Governing Law; Sovereignty. The Law confirms the Nation’s sovereign status by providing that the rights and liabilities associated with the enactment of this Law, or any assistance made as a result, shall be construed and enforced according to the Nation’s laws and applicable federal law. [10 O.C. 1001.7-1]. The Law, or any related laws, policies, or procedures adopted for its implementation shall not be construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption because of its sovereign status. *Id.*

- **Effect.** The Nation is considered sovereign, meaning it has the authority to govern itself. This section of the Law confirms that the Nation maintains that sovereign status through the adoption of this Law, and the Nation is not subject to any laws or regulations which are otherwise inapplicable to the Nation.

F. Federal Trust Obligations. The Law provides that the Nation has the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. [10 O.C. 1001.8-1]. This does not mean that the Nation’s adoption of its approved programs is intended to relieve or diminish the federal government of its funding and trust responsibilities. *Id.*

- **Effect.** This section provides that although the Nation may provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants, this does not negate the federal government’s trust responsibilities to fund this program. This also

does not affect the Nation's right to seek funding, or the right to engage in government-to-government consultations and coordination regarding these rights.

SECTION 6. EXISTING LEGISLATION

A. **Related Legislation.** The following laws of the Nation are related to this Law:

- *Garnishment Law.* The Garnishment law allows the Nation to exercise its authority to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt. [2 O.C. 204.1-1]. Garnishment of an individual's income to collect debt owed to an entity of the Nation is allowed under the Garnishment law. [2 O.C. 204.6].
 - Assistance provided to a member through an approved program is not subject to garnishment under the Garnishment law. [10 O.C. 1001.5-5].
- *Per Capita Law.* The Per Capita law specifies the procedure to be followed in the event that per capita payments are distributed by the Nation and states the responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The Per Capita law allows per capita payments to be subject to attachment prior to distribution for debt owed to an Oneida entity. [1 O.C. 123.4-9, 123.4-9(a)(2)].
 - Assistance provided through an approved program is not a per capita payment. Assistance provided to a member through an approved program is not subject to attachment under the Per Capita law. [10 O.C. 1001.5-5].

SECTION 7. OTHER CONSIDERATIONS

A. **Deadline for Permanent Adoption of Legislation.** The emergency amendments to this Law will expire on February 10, 2022. The emergency amendments to this Law were already extended for an additional six (6) month period through the adoption of resolution of BC-07-28-21-M so there is no more opportunity to extend these emergency amendments.

- *Conclusion:* The Legislative Operating Committee will need to consider the development and adoption of this Law on a permanent basis prior to February 10, 2022.

B. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, "*Further Interpretation of 'Fiscal Impact Statement' in the Legislative Procedures Act*," provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- *Conclusion.* On November 4, 2021, the Legislative Operating Committee will consider directing that a fiscal impact statement be completed for the proposed Law.



TO: Cristina Danforth, Treasurer
Lawrence E. Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistance Chief Financial Officer
FROM: David P. Jordan, Legislative Operating Committee Chairman
DATE: November 3, 2021
RE: Oneida General Welfare Law Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing the Oneida General Welfare law for permanent adoption. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1].

Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*” provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On November 3, 2021, the Legislative Operating Committee approved the final draft of the Oneida General Welfare law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the Oneida General Welfare law by November 18, 2021.

A copy of the proposed Oneida General Welfare law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

Requested Action

Provide the LOC a fiscal impact statement of the Oneida General Welfare law by November 18, 2021.



Legislative Operating Committee
November 3, 2021

Budget Management and Control Law Emergency Amendments

Submission Date: 10/7/20	Public Meeting: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: 11/24/20, 5/12/21

Summary: *On August 12, 2020, during an executive session discussion on the supervision of the Chief Financial Officer, the Oneida Business Committee adopted a motion to send the entire subject of supervision of the Chief Financial Officer to the LOC for further analysis to create permanent amendments in the Budget Management and Control law for Tiers III, IV, and V for future events. The Legislative Operating Committee added the Budget Management and Control law amendments to its Active Files List on October 7, 2020. On November 24, 2020, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-11-24-20-E to address how the Nation would adopt the budget during the COVID-19 pandemic. The emergency amendments to the Law are set to expire on May 24, 2021. On May 12, 2021, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-05-12-21-C to address the Nation's non-compliance with the budget development process and timelines. The emergency amendments to the Law are set to expire on November 12, 2021.*

10/7/20 LOC: Motion by Jennifer Webster to add the Budget Management and Control Law Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/21/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Clorissa N. Santiago, Kristen Hooker, Rae Skenandore, James Petitjean, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work session was to review the Budget Management and Control law line by line and begin discussing potential amendments. Attorney will update the draft based on suggestions during this work meeting, and will note all parking lot issues, and will schedule another work meeting with this team.

11/24/20: *E-Poll Conducted.* This e-poll was titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet." The requested action of this e-poll was to approve the Budget Management and Control law emergency amendments adoption packet and forward to the Oneida Business Committee. This e-poll was approved by Jennifer Webster, David P. Jordan, Marie Summers, and Kirby Metoxen. Daniel Guzman King did not provide a response during the e-poll time frame.

11/24/20 OBC: Motion by Lisa Liggins to amend the agenda to add two (2) items [1) item V.D. Adopt resolution entitled Emergency Amendments to the Budget Management and Control Law; and 2) item V.E. Adopt resolution entitled Approval of Final Draft Fiscal Year 2021 Budget and Budget Directives], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt resolution 11-24-20-E Emergency Amendments to the Budget Management and Control Law, seconded by David P. Jordan. Motion carried.

12/2/20 LOC: Motion by Kirby Metoxen to enter into the record the results of the November 24, 2020, e-poll titled, “Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet”; seconded by Jennifer Webster. Motion carried unanimously.

12/2/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide a brief update to the LOC on the status of holding a work meeting with the Treasurer, Budget Analyst, and Strategic Planner to collect information on how to efficiently and effectively incorporate community input into the budget process.

1/22/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss with Finance potential issues that need to be addressed in the proposed amendments to this law.

1/28/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide the LOC an update on the January 22 work meeting with Finance, and discuss a plan for moving this item forward.

2/9/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss potential amendments to the Budget Management and Control law and discuss a plan for moving this legislative item forward.

2/25/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a potential outline for a law that would include not only information on the budget, but broader financial policies of the Nation.

4/28/21 OBC: [*Considerations regarding the Budget Management and Control Law*] Motion by Kirby Metoxen to acknowledge we are out of compliance and going forward we get into compliance. Motion failed due to lack of support.

Motion by David P. Jordan to direct the LOC [Legislative Operating Committee] to have emergency amendments to the Budget Management and Control law to remove much of the budget process/deadlines and leave it simply at a budget should be adopted by September 30, 2021 and direct the LOC to continue working with Finance to get the Budget Management and Control law amended, seconded by Jennifer Webster. Motion carried.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss how to address the 4/28 directive from the Oneida Business Committee to bring forward emergency amendments to the law.

5/5/21 LOC: Motion by Jennifer Webster to approve the Budget Management and Control law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Marie Summers abstained. Motion carried.

5/12/21 OBC: Motion by Lisa Liggins to adopt resolution 05-12-21-C Emergency Amendments to the Budget Management and Control Law, with two (2) changes [1) at line 73, insert "BE IT FURTHER RESOLVED, the deadlines provided in the Fiscal Year 2022 Budget Calendar, which is published on the Oneida Portal and was shared at the April 6, 2021, Budget Kick-off meeting, are suspended until further notice."; and 2) change last resolve to "BE IT FINALLY RESOLVED, the Treasurer shall present a resolution to a special Business Committee work session, scheduled no later than June 11, 2021, which provides the general framework for the Fiscal Year 2022 budget development process, which shall include, but is not limited to, information such as the budget calendar, opportunities for community input and discussion, line item guidance, and new position definition, guidance, and review process."], seconded by Jennifer Webster. Motion carried.

5/25/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to go through the draft and begin flushing out potential policies and topics to be included in the law.

6/16/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue going through the draft and begin flushing out potential policies and topics to be included in the law.

7/7/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue going through the draft and begin flushing out potential policies and topics to be included in the law.

10/12/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated proposed draft one final time before it is presented to the Legislative Operating Committee for their consideration.

10/14/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Law developed by the Treasurer and Finance.


10/15/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue reviewing and discussing the proposed draft of amendments to the Law developed by the Treasurer and Finance.

10/20/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the updated draft and redline of the proposed amendments to the Law to prepare the draft to be formally approved on the next LOC meeting agenda.

Next Steps:

- Approve the Budget Management and Control law emergency amendments extensions packet and forward to the Oneida Business Committee for consideration.
- Approve the draft of proposed amendments to the Budget Management and Control law and direct that a legislative analysis be developed.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: November 10, 2021
RE: Extension of the Budget Management and Control Law Emergency Amendments

Please find the following attached backup documentation for your consideration of extending the Budget Management and Control Law Emergency Amendments:

1. Resolution: Extension of the Emergency Amendments to the Budget Management and Control Law
2. Statement of Effect: Extension of the Emergency Amendments to the Budget Management and Control Law
3. Budget Management and Control Law

Overview

The Budget Management and Control law (“the Law”) sets forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget. [1 O.C. 121.1-1]. On November 24, 2020, the Oneida Business Committee adopted emergency amendments to the Law in response to the COVID-19 pandemic to provide that in the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation’s budget. [1 O.C. 121.5-3(b)(1)]. These emergency amendments were set to expire on May 24, 2021.

The Oneida Business Committee then adopted additional emergency amendments to the Law on May 12, 2021, to address the Nation’s non-compliance with the budget development process and deadlines contained in the Law. The emergency amendments to the Law removed much of the details of the budget process, requirements, and deadlines from the Law, and instead provide that the Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation’s budget development process, to be reviewed and approved by the Oneida Business Committee. [1 O.C. 121.5-3(a)]. These emergency amendments are set to expire on November 12, 2021.

The Legislative Operating Committee is now seeking an extension of the emergency amendments to the Law.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” due to the COVID-19 pandemic which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida

Business Committee has extended this Public Health State of Emergency until November 25, 2021, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A. [3 O.C. 302.8-2].

The Oneida Business Committee can temporarily enact legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

The emergency amendments to this Law were necessary for the preservation of the general welfare of the Reservation population. The COVID-19 pandemic interrupted many processes and procedures of the Nation, including the development of the Nation's Fiscal Year 2021 and Fiscal Year 2022 budgets. The Law aims to provide a transparent process and requirements for the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval. The Nation was not in compliance with the various requirements and deadlines contained in the Law. The emergency amendments removed the details of the budget process from the Law and instead required that the Treasurer develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, which ensured that enough flexibility is provided to allow the Nation to determine the most effective process for the adoption of the budget as we transition through the effects of the COVID-19 pandemic. Additionally, the proposed emergency amendments to the Law ensured that a transparent budget process is available to the Oneida Business Committee and Oneida fund units as we move forward with the development and adoption of the Fiscal Year 2022 budget.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments was contrary to public interest. The Fiscal Year 2022 budget is required to be adopted by September 30, 2021, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that a transparent budget process is made available to members of the Nation prior to the adoption of the Fiscal Year 2022 budget.

The emergency amendments to the Law will expire on November 12, 2021. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law is being requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Law.

The extension of the emergency amendments to the Law will become effective on November 12, 2021, when the emergency amendments as adopted through BC-05-12-21-C expire and will remain in effect for an additional six (6) month term which will end on May 12, 2022.

Requested Action

Adopt the Resolution: Extension of the Emergency Amendments to the Budget Management and Control Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Extension of the Emergency Amendments to the Budget Management and Control Law

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Budget Management and Control law ("the Law") was adopted by the Oneida Business Committee through resolution BC-02-08-17-C, and most recently amended on an emergency basis through resolutions BC-11-24-20-E and BC-05-12-21-C; and
- WHEREAS,** the purpose of the Law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation's budget; and
- WHEREAS,** the COVID-19 pandemic interrupted many processes and procedures of the Nation, including the development of the Nation's Fiscal Year 2022 budget; and
- WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act; and
- WHEREAS,** the Oneida Business Committee adopted emergency amendments to the Law through resolution BC-05-12-21-C for the purpose of addressing the Nation's non-compliance with the budget development process and deadlines contained in the Law; and
- WHEREAS,** the emergency amendments to the Law removed much of the details of the budget process, requirements, and deadlines from the Law, and instead provide that the Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, to be reviewed and approved by the Oneida Business Committee; and
- WHEREAS,** the Oneida Business Committee determined that the emergency adoption of these amendments to the Law were necessary for the preservation of the general welfare of the Reservation population in order to provide enough flexibility to allow the Nation to determine the most effective process for the adoption of the budget as we transition through the effects of the COVID-19 pandemic, while ensuring that a transparent budget process is available to the Oneida Business Committee and Oneida fund units as we move forward with the development and adoption of the Fiscal Year 2022 budget; and

WHEREAS, observance of the requirements under the Legislative Procedures Act for adoption of these emergency amendments was contrary to public interest since the process and requirements of the Legislative Procedures Act could not be completed in time to ensure that a transparent budget process was available to members of the Nation prior to the adoption of the Fiscal Year 2022 Budget; and

WHEREAS, emergency legislation is effective for a period of six (6) months, renewable for an additional six (6) months by the Oneida Business Committee; and

WHEREAS, the emergency amendments to the Law will expire on November 12, 2021; and

WHEREAS, a six (6) month extension of the emergency amendments is being requested to allow for the emergency amendments to remain in effect while the Legislative Operating Committee develops permanent amendments to the Law; and

NOW THEREFORE BE IT RESOLVED, that the emergency amendments to the Budget Management and Control law are hereby extended for an additional six (6) month period effective November 12, 2021, and shall expire on May 12, 2022.



Statement of Effect

Extension of the Emergency Amendments to the Budget Management and Control Law

Summary

This resolution extends the emergency amendments to the Budget Management and Control law adopted through resolution BC-05-12-21-C for an additional six (6) months in accordance with the Legislative Procedures Act.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: October 27, 2021

Analysis by the Legislative Reference Office

This resolution extends the emergency amendments to the Budget Management and Control law (“the Law”) for an additional six (6) month period. The purpose of the Law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget. [1 O.C. 121.1-1].

Emergency amendments to the Law were adopted by the Oneida Business Committee on May 12, 2021, through resolution BC-05-12-21-C to address the Nation’s non-compliance with the budget development process and deadlines contained in the Law. The emergency amendments to the Law removed much of the details of the budget process, requirements, and deadlines from the Law, and instead provide that the Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation’s budget development process, to be reviewed and approved by the Oneida Business Committee. [1 O.C. 121.5-3(a)]. These emergency amendments are set to expire on November 12, 2021.

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5].

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” due to the COVID-19 pandemic which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida Business Committee has extended this Public Health State of Emergency until November 25, 2021, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-

01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A. [3 O.C. 302.8-2].

The Oneida Business Committee determined the emergency amendment to this Law was necessary for the preservation of the general welfare of the Reservation population. The emergency amendment to this Law ensured that enough flexibility was provided to allow the Nation to determine the most effective process for the adoption of the budget as we transition through the effects of the COVID-19 pandemic, and ensured that a transparent budget process was available to the Oneida Business Committee and Oneida fund units as we moved forward with the development and adoption of the Fiscal Year 2022 budget.

Additionally, the Oneida Business Committee determined observance of the requirements under the Legislative Procedures Act for the adoption of these emergency amendments was contrary to public interest since the Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that a transparent budget process is made available to members of the Nation prior to the adoption of the Fiscal Year 2022 budget.

The emergency amendments to the Law will expire on November 12, 2021. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law is being requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Law.

The extension of the emergency amendments to the Law will become effective on November 12, 2021, when the emergency amendments as adopted through BC-05-12-21-C expire, and will remain in effect for an additional six (6) month term which will end on May 12, 2022.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.

Title 1. Government and Finances – Chapter 121

Twahwistatye?nítha?

We have a certain amount of money

BUDGET MANAGEMENT AND CONTROL

121.1.	Purpose and Policy	121.7.	Appropriation of the Nation's Funds
121.2.	Adoption, Amendment, Repeal	121.8.	Budget Authority
121.3.	Definitions	121.9.	Budget Transfers; Amendments
121.4.	Strategic Planning	121.10.	Reporting
121.5.	Budget Process	121.11.	Authorizations and Signatures
121.6.	Capital Improvements	121.12.	Enforcement and Penalties

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation's budget.

121.1-2. *Policy.* It is the policy of the Nation to rely on value-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and emergency amended by resolutions BC-11-24-20-E, and BC-05-12-21-C.

121.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Appropriation" means the legislative act of designating funds for a specific purpose in accordance with the provisions contained in this law.

(b) "Capital expenditure" means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000.00), but the total purchase price for all of the items is ten thousand dollars (\$10,000.00) or more.

(c) "Capital improvement" means non-recurring expenditure for physical improvements,

including costs for: acquisition of existing buildings, land, or interests in land; construction of new buildings or other structures, including additions and major alterations; acquisition of fixed equipment; landscaping; physical infrastructure; and similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or more.¹

(d) “CFO” means the Nation’s Chief Financial Officer.

(e) “Debt” means the secured or unsecured obligations owed by the Nation.

(f) “Economic life” means the length of time an asset is expected to be useful.

(g) “Executive manager” means any one of the following positions within the Nation: Chief Executive Officer/General Manager, Gaming General Manager, Chief Legal Counsel and/or Chief Financial Officer.

(h) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities and a statement of financial position.

(i) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

(j) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(k) “General reserve fund” means the Nation’s main operating fund which is used to account for all financial resources not accounted for in other funds.

(l) “GTC allocations” means expenditures directed by the General Tribal Council as required payments and/or benefits to the Nation’s membership and are supported by either a General Tribal Council or Oneida Business Committee resolution.

(m) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(n) “Manager” means the person in charge of directing, controlling and administering the activities of a fund unit.

(o) “Nation” means the Oneida Nation.

(p) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and enforce this law.

(q) “Treasurer” means the elected Oneida Nation Treasurer or his or her designee.

121.4. Strategic Planning

121.4-1. *Triennial Strategic Plan.* Prior to December 1st of each year, the Oneida Business Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan which includes, but is not limited to:

¹ Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in the definition of “Capital Improvement.”

- (a) Major policy and budgetary goals for the Nation, both long and short term;
- (b) Specific strategies and planned actions for achieving each goal; and
- (c) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:

- (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
- (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-2. *Fund Units' Contributions to the Triennial Strategic Plan.* Managers shall annually develop, submit and maintain a triennial strategic plan for the fund unit's operations which aligns with the triennial strategic plan established by the Oneida Business Committee pursuant to 121.4-1. Managers shall submit the fund unit's triennial strategic plan to the CFO when the fund unit's budget is due and, at a minimum, shall include the following in the plan:

- (a) A statement of the fund unit's mission;
- (b) Specific goals including a description of the fund unit's strategies as part of its service group provided in 121.5-3(c) which aligns with the goals established in the Nation's triennial strategic plan;
- (c) Specific strategies for achieving each of the fund unit's goals; and
- (d) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:
 - (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
 - (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-3. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, executive managers and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. The Oneida Business Committee shall approve, by resolution, the budget contingency plan and any amendments thereto. The Oneida Business Committee is responsible for the implementation of the budget contingency plan, provided that such implementation is predicated on the Oneida Business Committee's determination that the Nation is under extreme financial distress. For the purposes of this section, extreme financial distress includes, but is not limited to, natural or human-made disasters, United States Government shutdown, Tribal shutdown (which occurs when the General Tribal Council has not approved a budget for the Nation prior to the beginning of a new fiscal year) and economic downturns.

(a) *Cost Savings Tools.* As part of the budget contingency plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost saving tools provided that such tools are in compliance with the Nation's laws, specifically the Nation's employment laws, rules and policies.

(b) *Business Continuity Fund.* The Oneida Business Committee shall maintain a Permanent Executive Contingency account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of business continuity funds required in the Permanent Executive Contingency account. The Treasurer shall set aside business continuity funds in the Permanent Executive Contingency account until the established

level has been achieved. Funds in the Permanent Executive Contingency may only be used for the following purposes and only to the extent that alternative funding sources are unavailable:

- (1) Payments to notes payable to debt service, both principal and interest, and applicable service fees;
- (2) Employee payroll, including all applicable taxes;
- (3) Payments to vendors for gaming and retail;
- (4) Payments to vendors for governmental operations;
- (5) Payments to any other debt; and
- (6) To sustain any of the Nation's other operations during implementation of the budget contingency plan.

(c) *Grant Funds.* Grant funds are exempt from requirements of the budget contingency plan and any cost containment initiatives as such funding is not reliant on Tribal contributions. Grant funds shall be spent according to any non-negotiable grant requirements and guidelines of the granting agency to include purchases, travel, training, hiring grant required positions and any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

121.5. Budget Process

121.5-1. *General.* The Nation shall develop, adopt, and manage an annual budget. All revenues and expenditures of the Nation shall be in accordance with the annual budget adopted by the Nation.

121.5-2. *Content of Budget.* The Nation's budget shall include, but is not limited to, the following information:

- (a) Estimated revenues to be received from all sources for the year which the budget covers;
- (b) The individual budgets of each fund unit;
- (c) A description of each line item within each fund unit's budget;
- (d) The estimated expenditures by each fund unit; and
- (e) Each fund unit's strategic plan showing alignment with the Nation's goals.

121.5-3. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according to the following procedures:

(a) *Budget Schedule and Guidelines.* The Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process. The Treasurer shall submit the guidelines for the development of the budget to the Oneida Business Committee for review and approval.

(b) *Budget Adoption.* The final draft budget shall be approved by the Oneida Business Committee through resolution prior to presentation to the General Tribal Council. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted.

- (1) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management and Homeland Security law, which prevents presentation and adoption of the budget by the

General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.6. Capital Improvements

121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

121.6-2. *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed in accordance with the capital improvement rules which the Community Development Planning Committee and the Development Division shall jointly create, provided that the rules shall include a provision that the Oneida Business Committee shall approve all capital improvement plans.

121.6-3. *Capital Improvement Plan Implementation.* Capital Improvement plans shall be implemented, contingent on available funding capacity, using the capital improvement rules.

121.7. Appropriation of the Nation's Funds

121.7-1. *Unexpended Capital Improvement Funds.* Unless the fund unit qualifies for an exception as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the general fund to be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

121.7-2. *Unexpended Capital Expenditure Funds.* The CFO shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

121.8. Budget Authority

121.8-1. *Authority to Expend Funds.* The Treasurer's authority to expend appropriated funds is delegated to the CFO, who shall make such expenditures in accordance with the adopted budget. This authority is necessarily delegated to other managers, including executive managers, of the Nation who manage the budgets, pursuant to their job descriptions based on the procurement manual rules developed by the Purchasing Department.

121.8-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.8-3. In addition to the authority and responsibilities provided elsewhere in this law, the following positions and fund units shall have the authority and responsibilities as outlined below:

(a) *Oneida Business Committee*. Once the Nation's annual budget is adopted by the General Tribal Council, the authority of the Oneida Business Committee is limited to budget oversight except as otherwise provided in this law. However, these limitations do not prevent the Oneida Business Committee, with input from the CFO, from taking necessary action, on an emergency basis and within the scope of its authority, to protect and safeguard the resources and general welfare of the Nation and ensure compliance with applicable laws, regulations and requirements. The OBC shall ensure that the CFO performs the duties and responsibilities as assigned under this law.

(b) *Treasurer*. In addition to the Treasurer's Constitutional responsibilities, the Nation's Treasurer shall:

(1) Submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee and/or the General Tribal Council at:

(A) The annual General Tribal Council meeting;

(B) The semi-annual General Tribal Council meeting; and

(C) Other such times as may be directed by the Oneida Business Committee and/or the General Tribal Council.

(2) Present the proposed draft budget to the General Tribal Council at the annual budget meeting as required by section 121.5-9.

(c) *Chief Financial Officer*. Once the Nation's budget is properly adopted, the CFO shall ensure that it is properly implemented. The CFO shall:

(1) Provide managers with monthly revenue and expense reports in order for the managers to track their expenditures;

(2) Submit, to the Oneida Business Committee, a written report of any monthly variances that are either a difference of three percent (3%) or more from the adopted annual budget or \$50,000 or more in total; and

(3) Conduct financial condition meetings with the Nation's management on a quarterly basis.

(d) *Managers*. Managers of each business unit shall:

(1) Ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant this law;

(2) Report to the CFO explanations and corrective actions for any monthly variance that are either a difference of three percent (3%) or more from the adopted annual budget or \$50,000 or more in total; and

(3) Submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month.

121.9. Budget Transfers; Amendments

121.9-1. *Budget Transfers*. After the budget is adopted, transfer of funds within the budget is not permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved budget as required to accurately reflect the amount of grant funding actually received.

121.9-2. *Budget Amendments*. After the budget is adopted, amendments of the budget are not permitted except as provided in section 121.8-3(a).

121.10. Reporting

121.10-1. *Monthly Reporting*. The CFO shall provide copies of the monthly Treasurer's reports and quarterly operational reports from direct reports to the Oneida Business Committee in

accordance with Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee Meeting held for the acceptance of such reports.

121.10-2. *Audits*. The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.11. Authorizations and Signatures

121.11-1. *General*. The procurement manual rules developed by the Purchasing Department shall provide the sign-off process and authorities required to expend funds on behalf of the Nation.

121.11-2. *Fees and Charges*. Managers of programs and services requiring Tribal contribution that desire to charge fees for their services shall determine the full cost of providing the program and/or service and, only then, may charge fees to cover operational costs. The full cost of providing a program and/or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service and/or goods whenever such fee or charge would not present an undue financial burden to recipient. Programs and services charging fees may offer fee waivers, provided that the program/service has developed rules outlining the fee waiver eligibility and requirements.

121.12. Enforcement

121.12-1. *Compliance and Enforcement*. All employees and officials of the Nation shall comply with and enforce this law to the greatest extent possible.

121.12-2. *Violations*. Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws, policies and rules, including but not limited to, those related to employment with the Nation, conflicts of interest, ethics and removal from an elected position.

121.12-3. *Civil and/or Criminal Charges*. This law shall not be construed to preclude the Nation from pursuing civil and/or criminal charges under applicable law. Violations of applicable federal or state civil and/or criminal laws may be pursued in a court having jurisdiction over any such matter.

End.

Adopted-BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extended – BC- - - -

Title 1. Government and Finances – Chapter 121

BUDGET MANAGEMENT AND CONTROL

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1.	Purpose and Policy	121.7.	Appropriation of the Nation's Funds
121.2.	Adoption, Amendment, Repeal	121.8.	Budget Authority
121.3.	Definitions	121.9.	Budget Transfers; Amendments
121.4.	Strategic Planning	121.10.	Reporting
121.5.	Budget Process	121.11.	Authorizations and Signatures
121.6.	Capital Improvements	121.12.	Enforcement and Penalties

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which: a triennial strategy planning process for the Nation's budget.

(a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;

(b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;

(c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;

(d) establish a framework for effective financial risk management; and

(e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on value-based balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC- - - - .

121.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a) “Appropriation” means the legislative act of designating funds for a specific purpose in accordance with the provisions contained in this law.~~

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

~~(b)~~ (c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000.~~00~~) or more and an estimated useful life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000.~~00~~), but the total purchase price for all of the items is ten thousand dollars (\$10,000.~~00~~) or more.

~~(c)~~ (d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.~~00~~) or more and ~~an estimated~~ a useful life of one (1) year or more.⁺

~~(d)~~ (e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

~~(e)~~ (f) “Debt” means the secured or unsecured obligations owed by the Nation.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. The Debt Service Coverage Ratio is calculated by dividing the net operating income

¹ ~~Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in the definition of “Capital Improvement.”~~

by the total debt service costs.

(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.

~~(f) “Economic life” means the length of time an asset is expected to be useful.~~

~~(gh)~~ “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, any one of the following positions within the Nation: Chief Executive Officer/General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and/or Chief Financial Officer.

~~(hi)~~ “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of financial position.

~~(j)~~ “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

~~(ik)~~ “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

~~(l)~~ “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

~~(jm)~~ “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

~~(k)~~ “General reserve fund” means the Nation’s main operating fund which is used to account for all financial resources not accounted for in other funds.

~~(l)~~ “GTC allocations” means expenditures directed by the General Tribal Council as required payments and/or benefits to the Nation’s membership and are supported by either a General Tribal Council or Oneida Business Committee resolution.

~~(mn)~~ “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

~~(no)~~ “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

~~(op)~~ “Nation” means the Oneida Nation.

~~(p)~~ “Rule” means a set of requirements, including citation fees and penalty schedules, enacted in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and enforce this law.

~~(q)~~ “Secretary” means the Oneida Nation Secretary.

~~(qr)~~ “Treasurer” means the elected Oneida Nation Treasurer, or his or her their designee at their discretion.

121.4. Strategic Planning Authority and Responsibilities

121.4-1. Oneida Business Committee. The Oneida Business Committee shall:

- (a) oversee the development of the Nation's budget;
(b) oversee the implementation of the Nation's budget;
(c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
(d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council. *Triennial Strategic Plan.* Prior to December 1st of each year, the Oneida Business Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan which includes, but is not limited to:
(a) Major policy and budgetary goals for the Nation, both long and short term;
(b) Specific strategies and planned actions for achieving each goal; and
(c) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:
(1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
(2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-2. Treasurer. In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation's Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
(b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
(c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
(1) the annual General Tribal Council meeting;
(2) the semi-annual General Tribal Council meeting; and
(3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and
(d) present the proposed draft budget to the General Tribal Council at the annual budget meeting. *Fund Units' Contributions to the Triennial Strategic Plan.* Managers shall annually develop, submit and maintain a triennial strategic plan for the fund unit's operations which aligns with the triennial strategic plan established by the Oneida Business Committee pursuant to 121.4 1. Managers shall submit the fund unit's triennial strategic plan to the CFO when the fund unit's budget is due and, at a minimum, shall include the following in the plan:
(a) A statement of the fund unit's mission;
(b) Specific goals including a description of the fund unit's strategies as part of its service group provided in 121.5 3(c) which aligns with the goals established in the Nation's triennial strategic plan;
(c) Specific strategies for achieving each of the fund unit's goals; and
(d) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:
(1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and

(2) ~~Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.~~

121.4-3. Chief Financial Officer. The CFO shall:

- (a) ensure the Nation's budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;
- (c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (d) provide the Oneida Business Committee with information and reports as requested;
- (e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and
- (f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

Budget Contingency Plan. The Oneida Business Committee shall work with the CFO, executive managers and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. The Oneida Business Committee shall approve, by resolution, the budget contingency plan and any amendments thereto. The Oneida Business Committee is responsible for the implementation of the budget contingency plan, provided that such implementation is predicated on the Oneida Business Committee's determination that the Nation is under extreme financial distress. For the purposes of this section, extreme financial distress includes, but is not limited to, natural or human-made disasters, United States Government shutdown, Tribal shutdown (which occurs when the General Tribal Council has not approved a budget for the Nation prior to the beginning of a new fiscal year) and economic downturns.

(a) Cost Savings Tools. As part of the budget contingency plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost saving tools provided that such tools are in compliance with the Nation's laws, specifically the Nation's employment laws, rules and policies.

(b) Business Continuity Fund. The Oneida Business Committee shall maintain a Permanent Executive Contingency account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of business continuity funds required in the Permanent Executive Contingency account. The Treasurer shall set aside business continuity funds in the Permanent Executive Contingency account until the established level has been achieved. Funds in the Permanent Executive Contingency may only be used for the following purposes and only to the extent that alternative funding sources are unavailable:

- (1) Payments to notes payable to debt service, both principal and interest, and applicable service fees;
- (2) Employee payroll, including all applicable taxes;
- (3) Payments to vendors for gaming and retail;
- (4) Payments to vendors for governmental operations;
- (5) Payments to any other debt; and

~~(6) To sustain any of the Nation's other operations during implementation of the budget contingency plan.~~

~~(e) Grant Funds. Grant funds are exempt from requirements of the budget contingency plan and any cost containment initiatives as such funding is not reliant on Tribal contributions. Grant funds shall be spent according to any non-negotiable grant requirements and guidelines of the granting agency to include purchases, travel, training, hiring grant required positions and any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.~~

121.4-4. Managers. Managers shall:

~~(a) Ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant to this law;~~

~~(b) Report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:~~

~~(1) a difference of three percent (3%) or more from the adopted annual budget; or~~

~~(2) fifty thousand dollars (\$50,000) or more in total;~~

~~(c) Submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month; and~~

~~(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.~~

121.5. Budget Process

~~121.5-1. General. The Nation shall develop, adopt, and manage an annual budget. All revenues and expenditures of the Nation shall be in accordance with the annual budget adopted by the General Tribal Council. In creating the budget to present to the General Tribal Council for consideration, the Oneida Business Committee, executive managers and managers shall follow the processes provided in this law. The Oneida Business Committee may alter the deadlines provided in this law only upon a showing of good cause, provided that, the Oneida Business Committee shall approve any such alterations by resolution.~~

~~(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.~~

~~(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.~~

~~(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.~~

~~(c) The Nation's corporate entities shall not be included in the Nation's budget.~~

121.5-2. Content of the Budget. The Nation's budget shall include the following information:

~~(a) Estimated revenues to be received from all sources;~~

~~(b) The individual budgets of each fund unit;~~

~~(c) A description of each line item within each fund unit's budget;~~

~~(d) The estimated expenditures by each fund unit; and~~

~~(e) Summary of employment position counts including prior year, current year, and budgeted year.~~

~~Community Input Budget Meeting(s). The Treasurer's office shall schedule, at a minimum, one (1) community input budget meeting(s) prior to December 1st of each year. At the community input budget meeting(s), the Treasurer shall afford community members an opportunity to provide input as to what should be included in the upcoming fiscal year budget. Any fund units that plan~~

to request forecast variations for the upcoming budget shall present the need and anticipated dollar amount of the requested forecast variation. For the purposes of this section, a forecast variation is a fund unit's requested deviation from the performance targets the fund unit submitted pursuant to 121.4-2(d)(2).

(a) The Treasurer shall ensure the community budget input meeting(s) are voice recorded and transcribed.

(b) The CFO shall provide recommendations as to any forecast variations requested by fund units.

(c) The CFO and any relevant managers shall provide responses and/or recommendations to all comments and considerations presented by community members.

(d) The Treasurer shall work with the CFO to place a community budget input meeting packet on the Oneida Business Committee agenda no later than the last Oneida Business Committee Meeting in January. At a minimum, the packet is required to include:

(1) The community input budget meeting(s) transcript(s);

(2) Any applicable fund unit's requested forecast variations; and

(3) Responses and/or recommendations by the CFO and any relevant managers regarding requests for forecast variations and community members' comments and considerations related to forecast variations.

121.5-3. Fund Categories. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) General Fund. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) Permanent Executive Contingency Fund. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) Grant Reserve Fund. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

Priority List Established by the Oneida Business Committee. The Oneida Business Committee shall review the community input budget meeting packet and shall hold work meetings to create a priority list.

(a) The Oneida Business Committee shall establish the priority list by placing the following services provided by the Nation in chronological order with the lowest number having the highest priority. The order of the following service groups provided below has no relation to the service groups' anticipated and/or required placement within the Oneida Business Committee's priority list; the Oneida Business Committee's priority list may vary from year to year based on the needs of the Nation:

(1) Protection and Preservation of Natural Resources

(2) Protection and Preservation of Oneida Culture and Language

(3) Education and Literacy

(4) Health Care

(5) Economic Enterprises

(6) Building and Property Maintenance

(7) Human Services

(8) Public Safety

(9) Housing

(10) Utilities, Wells, Wastewater and Septic

~~(11) Planning, Zoning and Development~~

~~(12) Membership Administration~~

~~(13) Government Administration~~

~~(b) The Oneida Business Committee shall approve the priority list by resolution no later than the last meeting in February.~~

~~(c) The CFO shall maintain a list which places each fund unit into a corresponding service group.~~

121.5-4. Budget Adoption Procedure. The Nation shall develop and adopt its budget according to the following procedures:

(a) Budget Schedule and Guidelines. The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution by (insert month) of each year.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission by the CFO.

(b) Annual Proposed Budgets. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan and budget strategy.

(1) The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by (insert percentage) or more from the prior budget.

(c) Final Draft Budget. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) Community Meetings. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) Budget Adoption. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) Continuing Budget Resolution. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted by the General Tribal Council.

(2) Emergency Budget Adoption. In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, which prevents

presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

~~Annual Proposed Budgets. The CFO shall develop the necessary guidelines, including specific deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. Upon review of the Nation's economic state, the CFO shall include in the guidelines the exact amount that each service group's cumulative budget is required to be increased/decreased in accordance with its placement on the priority list. The CFO shall submit the guidelines, as approved by the Treasurer, to the Oneida Business Committee for review in accordance with the deadline as set by the Oneida Business Committee. The Oneida Business Committee may revise the guidelines as it deems necessary and shall approve a set of budgetary guidelines within thirty (30) calendar days of the date the budgetary guidelines proposed by the CFO were received.~~

~~(a) In accordance with the approved budgetary guidelines, fund units offering like services shall meet together to review each fund unit's budget and discuss strategies for attaining compliance with the approved budgetary guidelines. Each service group shall submit one (1) draft budget which contains each fund unit's individual proposed budget and demonstrates cumulative compliance with the approved budgetary guidelines.~~

~~(b) The CFO shall receive, review and compile the proposed budgets into the Nation's draft budget which the CFO shall present to the Oneida Business Committee no later than the last Oneida Business Committee meeting in May. The CFO may not alter any proposed budgets until such budgets have been reviewed by the Oneida Business Committee.~~

~~(1) The CFO shall return any service group's draft budget that is in non-compliance with the approved budgetary guidelines within ten (10) business days of the date the budget was submitted to the CFO.~~

~~(2) Upon return, the CFO shall notice the service group of the amount of its non-compliance and provide the service group with a deadline for a compliant resubmission.~~

~~(3) Any service group's budget that remains in non-compliance upon the expiration of the deadline provided by the CFO shall be included in the draft budget submitted to the Oneida Business Committee noting the dollar amount of the service group's non-compliance. A service group's continued non-compliance may result in employee discipline according to the Nation's laws, rules and policies governing employment.~~

121.5-5. Amendments to the Nation's Budget. After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

~~Content of Budget. The CFO shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's spending priorities and budget strategy. The Nation's draft budget shall include, but is not limited to:~~

~~(a) Estimated revenues to be received from all sources for the year which the budget covers;~~

~~(b) The individual budgets of each fund unit;~~

~~(c) A description of each line item within each fund unit's budget;~~

(d) ~~The estimated expenditures by each fund unit; and~~

(e) ~~Each fund unit's strategic plan showing alignment with the Nation's goals.~~

~~121.5-6. Review of Draft Budget. In the month of May, the CFO shall meet with the Oneida Business Committee to review the draft budget and provide any recommendations for modifications.~~

~~(a) Following the Oneida Business Committee's review of the draft budget with the CFO, the Oneida Business Committee shall schedule meetings with managers of each fund unit for which the Oneida Business Committee is considering altering the fund unit's proposed budget.~~

~~(b) The Oneida Business Committee shall complete all meetings with fund unit managers required by this section by the end of June each year.~~

~~121.5-7. Final Draft Budget. The Oneida Business Committee shall work with fund unit managers and the CFO to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council by the end of July each year.~~

~~121.5-8. Community Meetings. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.~~

~~121.5-9. Budget Adoption. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted.~~

121.6. Capital Improvements Expenditures and Assets

~~121.6-1. Authority to Expend Funds. The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual. Capital Improvement Plan for Government Services. The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.~~

~~121.6-2. Procurement Manual. The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution. Capital Improvement Plan for Enterprises. Capital improvement plans for enterprises may be brought forward as needed in accordance with the capital improvement rules which the Community Development Planning Committee and the Development Division shall jointly create, provided that the rules shall include a provision that the Oneida Business Committee shall approve all capital improvement plans.~~

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements. ~~Capital Improvement Plan Implementation. — Capital Improvement plans shall be implemented, contingent on available funding capacity, using the capital improvement rules.~~

121.6-4. *Unbudgeted Expenditures.*

(a) The Oneida Business Committee shall present notification of any unbudgeted expenditure of the Nation for one million dollars (\$1,000,000) or more to the General Tribal Council at the next available General Tribal Council meeting.

(b) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) Capital Improvement Plan for Enterprises. Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) Capital Improvement Plan Implementation. Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Appropriation of the Nation's Funds Grants

121.7-1. Expending Grant Funds. Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

Unexpended Capital Improvement Funds. ~~Unless the fund unit qualifies for an exception as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the general fund to be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.~~

121.7-2. Exhaustion of Non-Tribal Funds. When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise. Unexpended Capital Expenditure Funds. ~~The CFO shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.~~

531 121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit
532 which receives grant funding shall submit a status report of the grant funding received to the
533 Oneida Business Committee. The status report shall include, but not be limited to:

- 534 (a) information on the progress of the utilization of the grant funds;
535 (b) the number of employees the grant funding supports fully or partially; and
536 (c) compliance with obligations of the grant funding.

537 121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant
538 Reserve Fund account within the ownership investment report to be used to pre-fund the
539 expenditures of grants upon receipt. The Grant Reserve Fund account shall be a restricted fund,
540 that is fully funded with separately identified cash resources.

- 541 (a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business
542 Committee shall approve, the level of funds required in the Grant Reserve Fund account
543 relative to the scale of grant dollars we receive on an annual basis.
544 (b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account
545 until the established level has been achieved.

546 121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is
547 eliminated, then the position shall be eliminated until such a time that a new position can be
548 included and approved in the Nation's annual budget and labor allocations.

549
550 **121.8. Budget Authority Debts**

551 121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with
552 sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws,
553 rules, and policies applicable to the credit agreement.

- 554 (a) Any debt instrument utilized by the Nation shall not exceed the life of what is being
555 encumbered. ~~Authority to Expend Funds.~~ The Treasurer's authority to expend appropriated
556 funds is delegated to the CFO, who shall make such expenditures in accordance with the
557 adopted budget. This authority is necessarily delegated to other managers, including
558 executive managers, of the Nation who manage the budgets, pursuant to their job
559 descriptions based on the procurement manual rules developed by the Purchasing
560 Department.

561 121.8-2. *Approval of the Acquisition of Debt.* Any debt underwritten by the Nation for one million
562 dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available
563 meeting after the execution of the credit agreement encumbering all pledges of repayment.

564 ~~Exhaustion of Non-Tribal Funds.~~ When grant funds provide for forward funding as applicable to
565 a function for which the Nation's funds have also been appropriated, those grant funds shall be
566 used before appropriating the Nation's funds unless the Nation's funds are needed to make up an
567 otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that
568 provide otherwise.

569 121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing
570 of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit
571 default. In addition to the authority and responsibilities provided elsewhere in this law, the
572 following positions and fund units shall have the authority and responsibilities as outlined below:

- 573 (a) ~~Oneida Business Committee.~~ Once the Nation's annual budget is adopted by the
574 General Tribal Council, the authority of the Oneida Business Committee is limited to
575 budget oversight except as otherwise provided in this law. However, these limitations do
576 not prevent the Oneida Business Committee, with input from the CFO, from taking

necessary action, on an emergency basis and within the scope of its authority, to protect and safeguard the resources and general welfare of the Nation and ensure compliance with applicable laws, regulations and requirements. The OBC shall ensure that the CFO performs the duties and responsibilities as assigned under this law.

(b) *Treasurer*. In addition to the Treasurer's Constitutional responsibilities, the Nation's Treasurer shall:

(1) Submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee and/or the General Tribal Council at:

(A) The annual General Tribal Council meeting;

(B) The semi-annual General Tribal Council meeting; and

(C) Other such times as may be directed by the Oneida Business Committee and/or the General Tribal Council.

(2) Present the proposed draft budget to the General Tribal Council at the annual budget meeting as required by section 121.5-9.

(c) *Chief Financial Officer*. Once the Nation's budget is properly adopted, the CFO shall ensure that it is properly implemented. The CFO shall:

(1) Provide managers with monthly revenue and expense reports in order for the managers to track their expenditures;

(2) Submit, to the Oneida Business Committee, a written report of any monthly variances that are either a difference of three percent (3%) or more from the adopted annual budget or \$50,000 or more in total; and

(3) Conduct financial condition meetings with the Nation's management on a quarterly basis.

(d) *Managers*. Managers of each business unit shall:

(1) Ensure that their business units operate, on a day to day basis, in compliance with the budget adopted pursuant this law;

(2) Report to the CFO explanations and corrective actions for any monthly variance that are either a difference of three percent (3%) or more from the adopted annual budget or \$50,000 or more in total; and

(3) Submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month.

121.8-4. *Credit Ratios*. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio*. The Debt Service Coverage Ratio shall not exceed a range of zero (0) to two (2) as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio*. The Fixed Charge Coverage Ratio shall be maintained at a range of one and twenty-five hundredths (1.25) or higher as defined by Generally Accepted Accounting Principles.

121.8-5. *Corporate Debt*. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Budget Transfers; Amendments Employment and Labor Allocations

121.9-1. *Employment Cap*. The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the

adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap. ~~Budget Transfers. After the budget is adopted, transfer of funds within the budget is not permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved budget as required to accurately reflect the amount of grant funding actually received.~~

121.9-2. Labor Allocations List. The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

~~Budget Amendments. After the budget is adopted, amendments of the budget are not permitted except as provided in section 121.8-3(a).~~

121.9-3. Unbudgeted Positions. Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) Exception. The Oneida Business Committee may authorize an unbudgeted position for a fund unit if the fund unit is a revenue generating fund unit undergoing an economic development initiative, which may include, but is not limited to, any new business development, expansion, merger, acquisition, or renovation which results in a new profit revenue source for the Nation.

121.10. Reporting Budget Contingency Planning

121.10-1. Budget Contingency Plan. The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution. ~~Monthly Reporting. The CFO~~

~~shall provide copies of the monthly Treasurer's reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee Meeting held for the acceptance of such reports.~~

121.10-2. *Cost Saving Tools.* ~~As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such tools complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:~~

~~(a) stabilization funds;~~

~~(b) reductions of expenditures;~~

~~(c) furloughs; and~~

~~(d) layoffs. Audits. The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.~~

121.10-3. ~~When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.~~

121.10-4. *Permanent Executive Contingency Fund Account.* ~~The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.~~

~~(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.~~

~~(b) The Treasurer shall set aside (insert percentage) of the annual budget in the Permanent Executive Contingency Fund account until the established level has been achieved.~~

~~(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:~~

~~(1) Payments to notes payable to debt service, both principal and interest, and applicable service fees;~~

~~(2) Employee payroll, including all applicable taxes;~~

~~(3) Payments to vendors for gaming and retail;~~

~~(4) Payments to vendors for governmental operations;~~

~~(5) Payments to any other debt; and~~

~~(6) To sustain any of the Nation's other operations during implementation of the budget contingency plan.~~

121.11. ~~Authorizations and Signatures~~ Reporting

121.11-1. Monthly Reporting. ~~The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.~~

(a) The Treasurer's monthly reports shall include revenue and expense summaries.
~~General. The procurement manual rules developed by the Purchasing Department shall provide the sign-off process and authorities required to expend funds on behalf of the Nation.~~

121.11-2. Annual and Semi-Annual Reporting to the General Tribal Council. ~~The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.~~

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

~~Fees and Charges. Managers of programs and services requiring Tribal contribution that desire to charge fees for their services shall determine the full cost of providing the program and/or service and, only then, may charge fees to cover operational costs. The full cost of providing a program and/or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service and/or goods whenever such fee or charge would not present an undue financial burden to recipient. Programs and services charging fees may offer fee waivers, provided that the program/service has developed rules outlining the fee waiver eligibility and requirements.~~

121.11-3. Audits. ~~The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.~~

121.12. Enforcement

121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply with and enforce this law to the greatest extent possible.

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position.

121.12-3. *Civil and/or Criminal Charges.* This law shall not be construed to preclude the Nation from pursuing civil and/or criminal charges under applicable law. Violations of applicable federal or state civil and/or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction over any such matter.

759 *End.*
760 Adopted-BC-02-08-17-C
761 Emergency Amended – BC-11-24-20-E
762 Emergency Amended – BC-05-12-21-C
763 Amended – BC- - - -
764

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
121.6. Expenditures and Assets

121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC-__-__-__.

121.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

(c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.

(d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.

(e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

(f) “Debt” means the secured or unsecured obligations owed by the Nation.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.

(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.

(i) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of

financial position.

(j) "Finance Administration" means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(k) "Fiscal year" means the one (1) year period each year from October 1st to September 30th.

(l) "Fixed Charge Coverage Ratio" means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

(m) "Fund unit" means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(n) "Line item" means the specific account within a fund unit's budget or category that expenditures are charged to.

(o) "Manager" means the person in charge of directing, controlling, and administering the activities of a fund unit.

(p) "Nation" means the Oneida Nation.

(q) "Secretary" means the Oneida Nation Secretary.

(r) "Treasurer" means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) oversee the development of the Nation's budget;
- (b) oversee the implementation of the Nation's budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer.* In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation's Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and

(d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer.* The CFO shall:

(a) ensure the Nation's budget is properly implemented;
(b) provide managers with monthly revenue and expense reports;
(c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(d) provide the Oneida Business Committee with information and reports as requested;

(e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and

(f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

(a) ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant to this law;

(b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(c) submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month; and

(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

121.5-1. The Nation shall develop, adopt, and manage an annual budget. All revenues and expenditures of the Nation shall be in accordance with the annual budget.

(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.

(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.

(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.

(c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

(a) Estimated revenues to be received from all sources;

(b) The individual budgets of each fund unit;

(c) A description of each line item within each fund unit's budget;

(d) The estimated expenditures by each fund unit; and

(e) Summary of employment position counts including prior year, current year, and budgeted year.

121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) *General Fund*. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

121.5-4. *Budget Adoption Procedure*. The Nation shall develop and adopt its budget according to the following procedures:

(a) *Budget Schedule and Guidelines*. The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution by (insert month) of each year.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the CFO.

(b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan and budget strategy.

(1) The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by (insert percentage) or more from the prior budget.

(c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) *Community Meetings*. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption*. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution*. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may

adopt a continuing budget resolution(s) until such time as a budget is adopted by the General Tribal Council.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual.

121.6-2. *Procurement Manual.* The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) The Oneida Business Committee shall present notification of any unbudgeted expenditure of the Nation for one million dollars (\$1,000,000) or more to the General Tribal Council at the next available General Tribal Council meeting.

(b) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures*. No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds*.

(a) *Unexpended Capital Improvement Funds*. Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund.

(b) *Unexpended Capital Expenditure Funds*. The Treasurer shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. *Capital Contributions*. Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements*.

(a) *Capital Improvement Plan for Government Services*. The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) *Capital Improvement Plan for Enterprises*. Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation*. Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds*. Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

(a) information on the progress of the utilization of the grant funds;

(b) the number of employees the grant funding supports fully or partially; and

(c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be a restricted fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated until such a time that a new position can be included and approved in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. *Approval of the Acquisition of Debt.* Any debt underwritten by the Nation for one million dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment.

121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios*. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio*. The Debt Service Coverage Ratio shall not exceed a range of zero (0) to two (2) as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio*. The Fixed Charge Coverage Ratio shall be maintained at a range of one and twenty-five hundredths (1.25) or higher as defined by Generally Accepted Accounting Principles.

121.8-5. *Corporate Debt*. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap*. The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List*. The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions*. Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception*. The Oneida Business Committee may authorize an unbudgeted position for a fund unit if the fund unit is a revenue generating fund unit undergoing an economic development initiative, which may include, but is not limited to, any new business development, expansion, merger, acquisition, or renovation which results in a new profit revenue source for the Nation.

121.10. Budget Contingency Planning

121.10-1. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer shall set aside (insert percentage) of the annual budget in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:

- (1) payments to notes payable to debt service, both principal and interest, and applicable service fees;
- (2) employee payroll, including all applicable taxes;
- (3) payments to vendors for gaming and retail;
- (4) payments to vendors for governmental operations;
- (5) payments to any other debt; and
- (6) to sustain any of the Nation's other operations during implementation of the budget contingency plan.

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.12. Enforcement

121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply with and enforce this law to the greatest extent possible.

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position.

121.12-3. *Civil or Criminal Charges.* This law shall not be construed to preclude the Nation from pursuing civil or criminal charges under applicable law. Violations of applicable federal or state civil or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction over any such matter.

End.

Adopted – BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Amended – BC-__-__-__-__



Legislative Operating Committee

November 3, 2021

Oneida Nation Gaming Ordinance Emergency Amendments Extension

Submission Date: 12/2/2020	Public Meetings: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: 5/12/21 Expires: 11/12/21

Summary: *This item was added to the Active Files List on December 2, 2020 per the November 10, 2020 directive of the Oneida Business Committee that the Legislative Operating Committee place the Law Enforcement Ordinance and/or the Oneida Nation Gaming Ordinance on the Active Files List to address the placement of Gaming's Internal Security Department. Following a work meeting with the Oneida Law Office, this item was designated as emergency legislation under the Legislative Procedures Act by the Legislative Operating Committee to expedite the disposal of the legal issue that exists under the current law. The Oneida Business Committee adopted the emergency amendments to the Oneida Nation Gaming Ordinance on May 12, 2021, through resolution BC-05-12-21-D. The emergency adoption of the amendments to the Oneida Nation Gaming Ordinance are set to expire on November 12, 2021.*

12/2/20 LOC: Motion by Jennifer Webster to add the Oneida Nation Gaming Ordinance Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

1/7/2021: *Work Meeting.* Present: James Bittorf, Kelly McAndrews, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss the issue that is driving the need for amendments to be made to the Oneida Nation Gaming Ordinance. The next step is for the drafting attorney to schedule a meeting with the Legislative Operating Committee to convey the information that was shared during that meeting and discuss the most effective manner in which to move forward.

1/14/21: *Work Meeting.* Present: Marie Summers, David Jordan, Kirby Metoxen, Daniel Guzman-King, Kristal Hill, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this meeting was to provide the Legislative Operating Committee with additional information regarding the issue that prompted this item to be added to the Active Files List by motion of the Oneida Business Committee and to have the LOC decide whether to process the amendments relating to this issue on an emergency basis moving forward. Per consensus of the LOC, the amendments will be processed as an emergency based on the risk of continued litigation that exists under the status quo.

2/19/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Chad Fuss, Kelly McAndrews, Jonas Hill, William Cornelius, Richard VanBoxtel, Clorissa Santiago, Michelle Braaten, Katsitsiyo Danforth, Joel Maxam, Eric Boulanger, Kristal Hill, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to provide the LOC

with an opportunity to hear from various stakeholders regarding the issue of placing Internal Security for Gaming under an area other than the Oneida Police Department. The next step will be for the drafting attorney to schedule a follow-up work meeting with the LOC to have it decide where to move Internal Security so the drafting attorney can move forward with the development of emergency amendments reflective of the LOC's decision.

2/25/21: *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to have a discussion with the LOC in follow-up to the meeting of February 19, 2021 between the LOC and the work group on the reorganization of the Internal Security Department to an area within the Nation other than under the Oneida Police Department.

3/11/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Daniel Guzman-King, Jennifer Webster, Marie Summers, Kristal Hill, Jo Anne House, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to finish the discussion regarding where to house the Internal Security Department on a temporary basis pending its permanent placement under a department other than the Oneida Police Department. The next step is for the LRO attorney to draft a memo to the stakeholders regarding the plan moving forward and to schedule a follow-up meeting with those stakeholders to have a final discussion on the issue.

4/7/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristen Hooker. The purpose of this work meeting was to review and discuss the submissions received in response to the memo that was sent out on March 16, 2021 per the directive of the Legislative Operating Committee during the previous work meeting of March 11, 2021. Next steps are for the Legislative Reference Office Attorney to: (1) draft a memo to the stakeholders who were sent the March 16th memo, informing them of the LOC's decision to temporarily place the Internal Security Department under the Oneida Business Committee while a more permanent placement is developed; and (2) begin processing emergency amendments to ONGO that reassign the oversight of the Internal Security Department to the Oneida Business Committee.

4/29/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to go through the draft of emergency amendments to ONGO with the Legislative Operating Committee. The next step is for the Legislative Reference Office Attorney to prepare the emergency amendments adoption packet for an upcoming Legislative Operating Committee meeting.

5/5/21 LOC: Motion by Marie Summers to approve the Oneida Nation Gaming Ordinance Emergency Amendments and Legislative Analysis and forward to the Oneida Business Committee for consideration; Seconded by Jennifer Webster. Motion carried.

5/12/21 OBC: Motion by Lisa Liggins to adopt resolution 05-12-21-D Emergency Amendments to the Oneida Nation Gaming Ordinance; Seconded by Jennifer Webster. Motion carried.

5/19/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Kristen Hooker. The purpose of this work meeting was to develop a plan for moving forward with the permanent amendments to ONGO, which will include a permanent placement for the Gaming Security Department to be transferred to when the emergency amendment period expires. The next step is for the drafting attorney to set up

a workgroup to develop amendments for the permanent re-assignment of the Gaming Security Department to a newly established Public Safety Commission that will absorb the Oneida Police Commission.

6/30/21: *Work Meeting.* Present: Mark Powless (OGC), Eric Boulanger, Kelly McAndrews, Jonas Hill, Jessica Vandekamp, Michelle Braaten, Reynold Danforth, Katsitsiyo Danforth, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of the work meeting was to discuss with the workgroup the permanent placement of the Gaming Security Department under ONGO. Following a discussion, the consensus of the workgroup mirrored that of the LOC, which was to place the Security Department under a newly established Public Safety Commission that will absorb the currently established Oneida Police Commission.

9/1/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This work meeting was held through Microsoft Teams. The purpose of the work meeting was to have the LOC begin making policy decisions relating to the establishment of the Public Safety Commission, which will absorb the currently established Oneida Police Commission and be the permanent place for the Gaming Security Department to be assigned under section 501.9 of ONGO.

10/6/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This work meeting was held through Microsoft Teams. During this work meeting, the LOC went through ONGO line by line to highlight which provisions the LOC would like to see added, removed and/or revised during the amendment process. The next step is for the drafting attorney to set up a meeting with the workgroup to go through a similar process with respect to the law.

10/22/21: *Work Meeting.* Present: Mark Powless SR, William Cornelius, Richard VanBoxtel, Eric Boulanger, James Martin JR, Michelle Braaten, Carmen Vanlanen, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of the meeting was to go through ONGO line-by-line with the workgroup to collect any information or suggestions regarding possible amendments to ONGO that the workgroup would like to have the LOC consider as it moves forward with the amendment process.

Next Steps:

- Approve the Oneida Nation Gaming Ordinance Emergency Amendments Extension packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson
DATE: November 10, 2021
RE: Extension of the Oneida Nation Gaming Ordinance Emergency Amendments

Please find the following attached backup documentation for your consideration of the extension of the Oneida Nation Gaming Ordinance Emergency Amendments:

1. Resolution: Extension of the Emergency Amendments to the Oneida Nation Gaming Ordinance
2. Statement of Effect: Extension of the Emergency Amendments to the Oneida Nation Gaming Ordinance
3. Oneida Nation Gaming Ordinance

Overview

Emergency amendments to the Oneida Nation Gaming Ordinance (“ONGO”) were adopted by the Oneida Business Committee (“OBC”) through resolution BC-05-12-21-D to protect the Nation against potential exposure to litigation/legal claims relating to ONGO’s placement of the Gaming Security Department (“Security”) within the Nation’s organizational structure. More specifically, the emergency amendments removed an avenue for potential liability that had arisen with respect to Security being placed under the Oneida Police Department in section 501.9-1 of ONGO by temporarily reassigning Security to the OBC while a more appropriate permanent placement could be established and vetted, absent the risks that existed under the status quo. [5 O.C. 501.9-1].

The OBC can temporarily enact legislation when it is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act (“LPA”). [1 O.C. 109.9-5].

The emergency amendments to ONGO were necessary for the preservation of the general welfare of the Reservation population. The emergency amendments were needed to shield the Reservation population against the legal risks that existed with respect to the previous placement of Security within the Nation’s organizational structure. By re-assigning Security to the OBC on a temporary basis, it expeditiously disposed of the legal risk, as well as the cost of having to defend claims relating thereto, while affording the organization time to establish a more appropriate permanent placement for Security under section 501.9-1 of ONGO.

Additionally, observance of the requirements under the LPA for the adoption of the emergency amendments was contrary to the public interest. So long as Security remained under the Oneida Police Department, the potential existed for claims relating thereto to be raised against the Nation,

which, even if successfully defended against in the end, would have still cost the Nation money that could be put towards a use more beneficial to the Reservation population. Given the ease within which claims can be filed, regardless of merit, the process and requirements of the LPA could not be completed in time to ensure against the financial burden that the Nation could have incurred in defense costs if this issue was not expeditiously resolved before a more permanent solution was established and properly vetted by the appropriate individuals within the organization.

The emergency amendments to ONGO will expire on November 12, 2021. The LPA allows the OBC to extend emergency amendments for an additional six (6) month time period. [*1 O.C. 109.9-5(b)*]. A six (6) month extension of the emergency amendments to ONGO is being requested because the Legislative Operating Committee, along with the workgroup of individuals within the organization that were chosen to assist in the process, is still developing the area under which Security will be permanently placed within section 501.9-1 of ONGO and needs the additional window of time to complete the task without the legal risks that would exist if the law reverted back to its pre-emergency amendment version.

The extension of the emergency amendments to ONGO will become effective on November 12, 2021, when the emergency amendments as adopted by resolution BC-05-12-21-D expire and will remain in effect for an additional six (6) month term which will end on May 12, 2022. Per the LPA, a fiscal impact statement and public meeting are not required for emergency legislation. [*1 O.C. 109.9-5(a)*].

Requested Action

Adopt the Resolution: Extension of the Emergency Amendments to the Oneida Nation Gaming Ordinance.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Extension of the Emergency Amendments to the Oneida Nation Gaming Ordinance

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation Gaming Ordinance (“ONGO”) was adopted by the Oneida General Tribal Council through resolution GTC-07-05-04-A; subsequently amended by the Oneida Business Committee through the adoption of resolutions BC-10-06-04-D, BC-03-23-05-C, BC-09-23-09-D, BC-06-24-14-B and BC-09-09-15-A; and most recently amended by the Oneida Business Committee on an emergency basis through the adoption of resolution BC-05-12-21-D; and
- WHEREAS,** the purpose of ONGO is to govern all Gaming Activities that occur on lands under the jurisdiction of the Nation and all individuals or entities that engage in said Gaming Activities, including those who provide goods or services to persons or entities engaged in Gaming Activities; and
- WHEREAS,** section 501.9 of ONGO assigns certain responsibilities to the Gaming Security Department (“Security”) that are meant to protect Gaming assets, patrons and Gaming Employees from an activity, repeat activity or ongoing activities which could injure or jeopardize Gaming assets, patrons and Gaming Employees; and
- WHEREAS,** in late 2020, the Oneida Law Office raised concerns over a possible legal issue regarding the placement of Security under the Oneida Police Department in section 501.9-1 of ONGO that could expose the Nation to unnecessary litigation costs, regardless of merit; and
- WHEREAS,** on May 12, 2021, the Oneida Business Committee adopted emergency amendments to ONGO that expeditiously disposed of the issue by temporarily reassigning Security to the Oneida Business Committee so that the Nation could explore a more appropriate option to permanently place it, without worrying about the legal risks that existed under the status quo; and
- WHEREAS,** the Legislative Procedures Act (“LPA”) authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and
- WHEREAS,** emergency adoption of temporary legislation is allowed when necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the LPA; and

WHEREAS, emergency amendments to ONGO were necessary for the preservation of the general welfare of the Reservation population to shield it against the legal risk that existed with respect to the placement of Security within the organizational structure of the Nation; and

WHEREAS, by temporarily reassigning Security to the Oneida Business Committee, the legal risk was disposed of, as was the cost of having to defend claims that could have been raised absent the emergency amendments, even if said claims/legal theories were without merit; and

WHEREAS, observance of the requirements under the LPA for adoption of the emergency amendments was contrary to the public interest because: (1) so long as Security remained under the Oneida Police Department, potential existed for claims relating thereto to be raised against the Nation, which, even if successfully defended against, would have still cost the Nation money that could be put towards a use more beneficial to the Reservation population; and (2) given the ease within which claims can be filed, regardless of merit, the process and requirements of the LPA could not be completed in time to ensure against the financial burden the Nation could have suffered in defense costs if the issue was not expeditiously resolved before a more permanent solution was established and vetted by the appropriate individuals within the organization; and

WHEREAS, the emergency amendments to ONGO will expire on November 12, 2021 if not extended for an additional six (6) month period in accordance with the LPA; and

WHEREAS, a six (6) month extension of the emergency amendments to ONGO is being requested because the Legislative Operating Committee, along with the workgroup of individuals within the organization it chose to assist in the process, is still developing the area under which Security will be permanently placed within section 501.9-1 of ONGO and needs the added window of time to complete the task without the legal risks that would exist if ONGO was to revert back to its previous state; and

WHEREAS, the extension of the emergency amendments to ONGO will become effective on November 12, 2021, when the emergency amendments as adopted by resolution BC-05-12-21-D expire, and will remain in effect for an additional six (6) month term which will end on May 12, 2022; and

WHEREAS, the LPA does not require a public meeting or fiscal impact statement when considering emergency legislation; and

NOW THEREFORE BE IT RESOLVED, the emergency amendments to the Oneida Nation Gaming Ordinance are hereby extended for an additional six (6) months, effective November 12, 2021, and shall expire May 12, 2022.



Statement of Effect

Extension of the Emergency Amendments to the Oneida Nation Gaming Ordinance

Summary

This resolution extends the emergency amendments to the Oneida Nation Gaming Ordinance, as adopted through resolution BC-05-12-21-D, for an additional six (6) months in accordance with the Legislative Procedures Act.

Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office

Date: October 29, 2021

Analysis by the Legislative Reference Office

This resolution extends the emergency amendments to the Oneida Nation Gaming Ordinance for an additional six (6) month term. The Oneida Nation Gaming Ordinance (“ONGO”) was adopted to govern all Gaming Activities that occur on lands under the jurisdiction of the Nation and all individuals or entities that engage in said Gaming Activities, including those who provide goods or services to persons or entities engaged in Gaming Activities. [5 O.C. 501.1-1]. Section 501.9 of ONGO assigns certain responsibilities to the Gaming Security Department (“Security”) that are meant to protect Gaming assets, patrons and Gaming Employees from an activity, repeat activity or ongoing activities which could injure or jeopardize Gaming assets, patrons and Gaming Employees. [5 O.C. 501.9-1].

In late 2020, the Oneida Law Office raised concerns over a possible legal issue regarding the placement of Security under the Oneida Police Department in section 501.9 of ONGO that could expose the Nation to unnecessary litigation costs, regardless of merit. In response, on May 12, 2021, the Oneida Business Committee (“OBC”) adopted emergency amendments to ONGO that expeditiously disposed of the issue by temporarily reassigning Security to the OBC so that the Nation could explore a more appropriate option to permanently place it, without worrying about the legal risks that existed under the status quo.

The Legislative Procedures Act (“LPA”) allows the OBC to enact emergency legislation when it is necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5].

According to the resolution, emergency amendments to ONGO were necessary for the preservation of the general welfare of the Reservation population to shield it against the legal risk that existed with respect to the placement of Security within the Nation’s organizational structure. Specifically, by temporarily reassigning Security to the OBC, the legal risk was disposed of, as was the cost of having to defend claims that could have been raised absent the emergency amendments, even if said claims/legal theories were without merit.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of the emergency amendments was contrary to the public interest because: (1) so long as Security remained under the Oneida Police Department, potential existed for claims relating thereto to be raised against the Nation, which, even if successfully defended against, would have still cost the Nation money that could be put towards a use more beneficial to the Reservation population; and (2) given the ease within which claims can be filed, regardless of merit, the process and requirements of the LPA could not be completed in time to ensure against the financial burden the Nation could have suffered in defense costs if the issue was not expeditiously resolved before a more permanent solution was established and vetted by the appropriate individuals within the organization.

The emergency amendments to ONGO are set to expire on November 12, 2021. The LPA allows the OBC to extend emergency amendments for an additional six (6) month time period. [*1 O.C. 109.9-5(b)*]. Through this resolution, a six (6) month extension of the emergency amendments to ONGO is being requested because the Legislative Operating Committee, along with the workgroup of individuals within the organization that it chose to assist in the process, is still developing the area under which Security will be permanently placed within section 501.9 of ONGO and needs the additional window of time to complete the task without the legal risks that would exist if ONGO reverted back to its previous state.

The LPA does not require a fiscal impact statement or public meeting for emergency legislation. [*1 O.C. 109.9-5(a)*].

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws. If adopted, the extension of the emergency amendments to ONGO will become effective on November 12, 2021, when the emergency amendments as adopted by resolution BC-05-12-21-D expire and will remain in effect for an additional six (6) month term which will end on May 12, 2022.

Title 5. Business - Chapter 501
Thatiwi·ʼStunya·tha Olihwa·ke
Matters of interest to where they make the money
ONEIDA NATION GAMING ORDINANCE

501.1. Purpose and Policy	501.11. Licenses, Generally
501.2. Adoption, Amendment, Repeal	501.12. Gaming Employee License
501.3. Definitions	501.13. Gaming Services Licensing and Non-Gaming Services Permitting
501.4. Jurisdiction	501.14. Gaming Facility License
501.5. Oneida Business Committee: Powers and Duties	501.15. Gaming Operator License
501.6. Oneida Gaming Commission	501.16. Games
501.7. Gaming Surveillance: Powers, Duties and Limitations	501.17. Allocation of Gaming Funds
501.8. [Reserved for future use.]	501.18. Audits
501.9. Gaming Security Department	501.19. Enforcement and Penalties
501.10. Background Investigations	

501.1. Purpose and Policy

501.1-1. *Purpose.* The purpose of this Ordinance is to set forth the laws of the Oneida Nation regarding all Gaming Activities conducted within the jurisdiction set forth in this Ordinance. It is intended to govern the Gaming Activities of all persons, Gaming Employees, consultants, business entities, vendors, boards, committees, commissions and hearing bodies. This Ordinance does not authorize the operation of Gaming by a private person or private entity for gain. This Ordinance shall govern all Gaming Activities occurring on lands under the jurisdiction set forth in this Ordinance and all individuals or entities engaged in Gaming Activities, including those providing goods or services to any person or entity engaged in Gaming Activities.

501.1-2. *Policy.* It is the policy of this Ordinance to ensure that the Oneida Nation is the primary beneficiary of its Gaming Operations and has the sole proprietary interest; that Gaming Activities within the jurisdiction set forth in this Ordinance are conducted fairly and honestly; and that all internal departments, enterprises, officials and employees of the Nation work cooperatively to advance the best interests of the Nation, to protect its gaming resources, to protect the integrity of all Gaming Activities operated under the jurisdiction set forth in this Ordinance, and to ensure fairness of all games offered to the Nation's gaming patrons.

501.2. Adoption, Amendment, Repeal

501.2-1. This Ordinance was adopted by the Oneida General Tribal Council by resolution GTC-07-05-04-A; amended by resolutions BC-10-06-04-D, BC-3-23-05-C, BC-9-23-09-D, BC-06-25-14-B and BC-09-09-15-A; and emergency amended by resolution BC-05-12-21-D.

501.2-2. This Ordinance may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

501.2-3. Should a provision of this Ordinance or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Ordinance which are considered to have legal force without the invalid portions.

501.2-4. In the event of a conflict between a provision of this Ordinance and a provision of another law, the provisions of this Ordinance shall control; provided, that this Ordinance repeals the following:

- (a) BC-04-21-89-D (Adoption of the Oneida Gaming Control Ordinance);
- (b) GTC-03-04-91-A (Establishing 7 elected Gaming Commissioners and Bingo standards);

- (c) GTC-07-06-92-A (Amendments to Gaming SOP Manual);
- (d) GTC-07-06-92-B (Adoption of the Comprehensive Gaming Ordinance);
- (e) BC-03-16-94-A (Comprehensive Gaming Ordinance Interpretation); and
- (f) BC-04-5-95-D (Amendments to the Comprehensive Gaming Ordinance).

501.2-5. This Ordinance is adopted under authority of the Constitution of the Oneida Nation.

501.2-6. *Preemptive Authority.* The Oneida Gaming Commission shall be the original hearing body authorized to hear licensing decisions as set forth in this Ordinance.

501.3. Definitions

501.3-1. This section shall govern the definitions of words and phrases used within this Ordinance. Words and phrases capitalized throughout this document refer to the defined words and phrases in this section. All words or phrases not defined herein shall be used in their ordinary and everyday sense.

(a) “Applicant” means any person or entity who has applied for a License from the Oneida Gaming Commission or the Oneida Business Committee.

(b) “Background Investigation” means a standard and thorough investigation conducted by the Nation in compliance with this Ordinance, Commission regulations, Oneida Gaming Minimum Internal Controls, the IGRA and the Compact. Such investigations may be in cooperation with federal, state, or Tribal law enforcement agencies.

(c) “Class I Gaming” means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal ceremonies or celebrations.

(d) “Class II Gaming” means:

(1) The game of chance commonly known as bingo (whether or not electronic, computer or other technological aids are used in connection therewith) in which:

(A) The game is played for prizes, including monetary prizes, with cards bearing numbers or other designations.

(B) The holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined.

(C) The game is won by the first person covering a previously designated arrangement of numbers or designation on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo.

(2) Card games that:

(A) Are explicitly authorized by the laws of the State; or

(B) Are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games. Class II Gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (twenty-one), or electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind.

(e) “Class III Gaming” means all forms of Gaming that are not Class I or Class II Gaming.

- (f) “Commission” means the Oneida Gaming Commission as established by this Ordinance.
- (g) “Commissioner” means a duly elected member of the Oneida Gaming Commission.
- (h) “Compact” means the 1991 Tribe-State Gaming Compact between the Nation and the State of Wisconsin, as amended and including any future amendments or successor compact entered into by the Nation and the State of Wisconsin and approved by the Secretary of the United States Department of Interior.
- (i) “Compliance Certificate” means a certificate issued by an agency with the authority and responsibility to enforce applicable environmental, health or safety standards, which states that a Gaming Facility complies with these standards.
- (j) “Environmental Assessment” means a document prepared and issued in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 *et seq.*, and all related federal regulations.
- (k) “Fraud” means any act of trickery or deceit used to or intended to gain control or possession of the property of another.
- (l) “Games, Gaming or Gaming Activity” means all forms of any activity, operation, or game of chance that is considered Class II or Class III Gaming, provided that this definition does not include Class I Gaming.
- (m) “Gaming Employee” means any person employed by a Gaming Operation.
- (n) “Gaming Facility or Gaming Facilities” means any location or structure, stationary or movable, wherein Gaming is permitted, performed, conducted or operated. Gaming Facility or Gaming Facilities does not include the site of a fair, carnival, exposition or similar occasion.
- (o) “Gaming Operation” means the conduct of Gaming Activities and related business activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.
- (p) “Gaming Operator” means the Nation, an enterprise owned by the Nation, or such other entity of the Nation as the Nation may from time-to-time designate as the wholly-owned entity having full authority and responsibility for the operation and management of Gaming Operations.
- (q) “Gaming Services” means the provision of any goods and services, except legal services and accounting services, to a Gaming Operation, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services.
- (r) “Indian Gaming Regulatory Act or IGRA” means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. sec. 2701, *et seq.*, as amended.
- (s) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
- (t) “License” means a certificate or other document that represents the grant of a revocable authorization to conduct the licensed activity. A License must be supported by a physical document, badge, certification or other physical manifestation of the issuance of the revocable authorization to conduct the licensed activity.
- (u) “Licensee” means a person or entity issued a valid License.
- (v) “Nation” means the Oneida Nation.
- (w) “NIGC” means the National Indian Gaming Commission.

(x) “Oneida Business Committee” means the elected governing body of the Nation that exercises the authority delegated it by the Oneida General Tribal Council under Article IV of the Constitution and By-laws of the Oneida Nation, as may be amended from time-to-time hereafter.

(y) “Oneida General Tribal Council” means the Nation’s governing body, as established by the Constitution and By-laws of the Oneida Nation and as may be amended from time-to-time hereafter.

(z) “Ordinance or ONGO” means the Oneida Nation Gaming Ordinance, as may be amended from time-to-time hereafter.

(aa) “Regulatory Incident” means the occurrence of any event giving rise to a potential or alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person or Licensee on the premises of a Gaming Facility.

(bb) “Remediation” means efforts taken to reduce the source and migration of environmental contaminants at a site.

(cc) “Reservation” means all lands within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(dd) “Senior Gaming Management” means the gaming general manager, assistant gaming general managers, gaming directors and assistant gaming directors.

(ee) “State” means the State of Wisconsin, along with its authorized officials, agents and representatives.

(ff) “Tribal Fee Land” means all land to which the Nation holds title in fee simple.

(gg) “Tribal Trust Land” means all land to which the United States holds title for the benefit of the Nation pursuant to federal law.

501.4. Jurisdiction

501.4-1. *Territorial Jurisdiction.* This Ordinance extends to all land within the exterior boundaries of the Reservation.

501.4-2. *Subject Matter Jurisdiction.* This Ordinance applies to all Gaming conducted within the territorial jurisdiction of the Nation as set forth in section 501.4-1.

501.4-3. *Personal Jurisdiction.* This Ordinance governs:

(a) The Nation;

(b) Members of the Nation; and

(c) Individuals and businesses leasing, occupying, or otherwise using Tribal Fee Land on the Reservation and all Tribal Trust Land.

501.5. Oneida Business Committee: Powers and Duties

501.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or compacts with the State under the Indian Gaming Regulatory Act.

501.5-2. The Oneida Business Committee retains the power and duty to enter into agreements with local governments and other Tribal governments for services or cooperative ventures for the Gaming Operations.

501.5-3. The Oneida Business Committee has the exclusive power and duty to enter into contracts and agreements affecting the assets of the Nation, except for those assets that were placed under the responsibility of the Oneida Land Commission under Chapter 67 of the Real Property law.

501.5-4. The Oneida Business Committee delegates to the Commission, in section 501.6-14 of this Ordinance, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and the enforcement of laws and regulations.

501.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all funds generated by the Gaming Operations and all other authorities and responsibilities not delegated by a specific provision of this Ordinance.

501.5-6. The Chairperson of the Nation must be the designated and registered agent to receive notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming Regulatory Act and the Compact.

501.6. Oneida Gaming Commission

501.6-1. *Establishment and Purpose.* The Oneida Business Committee has established the Oneida Gaming Commission for the purpose of regulating all Gaming Activities. The Commission is an elected body comprised of four (4) members, provided that, the Oneida Business Committee may, upon request of the Commission, increase the number of Commissioners by resolution without requiring amendment of this Ordinance.

501.6-2. *Location and Place of Business.* The Commission shall maintain its offices and principal place of business within the Reservation.

501.6-3. *Duration and Attributes.* The Commission will have perpetual existence and succession in its own name, unless dissolved by a law of the Nation. Operations of the Commission must be conducted on behalf of the Nation for the sole benefit of the Nation and its members. The Nation reserves unto itself the right to bring suit against any person or entity in its own right, on behalf of the Nation, or on behalf of the Commission, whenever the Nation considers it necessary to protect the sovereignty, rights, and interests of the Nation or the Commission.

501.6-4. *Sovereign Immunity of the Nation.* All inherent sovereign rights of the Nation with respect to the existence and activities of the Commission are hereby expressly reserved.

(a) The Nation confers upon the Commission sovereign immunity from suit as set forth in the Nation's Sovereign Immunity law.

(b) Nothing in this Ordinance nor any action of the Commission may be construed to be:

(1) A waiver of the sovereign immunity of the Commission or the Nation;

(2) Consent by the Commission or the Nation to the jurisdiction of the Judiciary, the United States, a state or any other tribe; or

(3) Consent by the Nation to any suit, cause of action, case or controversy; or the levy of any judgment, lien, or attachment upon any property of the Commission or the Nation.

501.6-5. *Requirements of Commission Membership.*

(a) *Qualifications.* Candidates for election or appointment to the Commission must be at least twenty-one (21) years of age on the day of the election or on the day of appointment.

(1) Candidates for election to the Commission shall further meet the following qualifications within five (5) business days after a caucus for elected positions on the Commission. Candidates for appointment to the Commission shall meet the following qualifications on the day of appointment to a vacancy on the Commission under section 501.6-13 of this Ordinance:

(A) Be an enrolled member of the Nation;

(B) Have a minimum of three (3) years of education experience,

employment experience and/or regulatory experience in Gaming Operations related to Gaming Activity, Gaming law, Gaming control or regulation, or Gaming accounting or of any combination of the foregoing; and

(C) Meet all other qualifications set forth in this Ordinance.

(b) *Conflict of Interest.* No person may be considered for election or appointment as a Commissioner until the candidate has disclosed all conflicts of interest as defined in the Nation's Conflict of Interest law.

(c) *Background Investigation.* No person may be considered for election or appointment as a Commissioner until a preliminary Background Investigation has been completed and the person has been found to meet all qualifications.

(1) Swearing into office is subject to a Background Investigation regarding the qualifications set forth in sections 501.6-5 and 501.6-6 upon being elected or appointed to office.

501.6-6. Unless pardoned for activities under subsections (a) and/or (d) by the Nation, or pardoned for an activity under subsections (a) and/or (d) by another Federally-recognized Indian Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for an activity under subsections (a) and/or (d) by the State or Federal government, no individual may be eligible for election or appointment to, or to continue to serve on, the Commission, who:

(a) Has been convicted of, or entered a plea of guilty or no contest to, any of the following:¹

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

(3) Any offense involving a violation of any provision of Chapters 562 or 565 of the Wisconsin Statutes, any rule promulgated by the State of Wisconsin Department of Administration, Division of Gaming or any rule promulgated by the Wisconsin Racing Board;

(4) A felony not addressed in paragraphs 1, 2 or 3 during the immediately preceding ten (10) years; or

(5) Any offense involving the violation of any provision of the Nation's law regulating the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.

(b) Has been determined by the Nation to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of Gaming or the carrying on of the business and financial arrangements incidental thereto;

(c) Possesses a financial interest in or management responsibility for any Gaming Activity or Gaming Services vendor;

(d) Has been convicted of a crime involving theft, Fraud, or conversion against the Nation;

(e) Has been removed from any office pursuant to the Nation's Removal Law within the

¹ This section taken substantially from Section IX of the Tribe-State Gaming Compact.

past five (5) years; or

(f) Is a sitting Commissioner whose term is not concluded at the time of that election or appointment action.

501.6-7. *Term of Office.* Commissioners shall serve five (5) year terms and shall serve until a successor takes the oath of office.

(a) Terms of office must be staggered.

501.6-8. *Official Oath.* Each Commissioner shall take the official oath at a regular or special Oneida Business Committee meeting prior to assuming office.

(a) Upon being administered the oath of office, a Commissioner shall assume the duties of office and must be issued a security card setting forth his or her title and term of office.

501.6-9. *Full-Time Status.* Each Commissioner shall perform his or her duties and responsibilities on a full-time basis and shall devote his or her entire work and professional time, attention and energies to Commission business.

(a) No Commissioner shall, during his or her tenure in office, be engaged in any other profession or business activity that may impede his or her ability to perform duties on behalf of the Commission or that competes with the Nation's interests.

(b) The Commission shall identify the appropriate work schedule for its members.

501.6-10. *Bylaws.* The Commission shall adopt bylaws subject to review and approval by the Oneida Business Committee.

501.6-11. *Budget and Compensation.* The Commission shall function pursuant to an annual budget.

(a) The Oneida Business Committee shall submit the operating budget of the Commission for approval in the same fashion as all other budgets of the Nation.

(b) Compensation of Commissioners is not subject to the Nation's Boards, Committees and Commissions law, but must be established by the Commission in a manner consistent with the Commission's internal rules and bylaws.

(1) The Commission shall adopt internal rules consistent with the Nation's existing accounting practices to verify its budgetary expenditures.

501.6-12. *Removal.* Removal of Commissioners must be pursuant to the Nation's Removal Law.

501.6-13. *Vacancies.* Any vacancy in an unexpired term of office, however caused, must be filled by appointment by the Oneida Business Committee, of a person qualified under sections 501.6-5 and 501.6-6 of this Ordinance, in accordance with the Nation's Boards, Committees and Commissions law.

501.6-14. *Authority and Responsibilities.* Subject to any restrictions contained in this Ordinance or other applicable law, the Commission is vested with powers including, but not limited to, the following:

(a) To exercise all power and authority necessary to effectuate the gaming regulatory purposes of this Ordinance, IGRA, Oneida Gaming Minimum Internal Controls, and the Compact.

(1) Unless otherwise indicated in this Ordinance, Commission regulation, or authorized by majority vote of the Commission, no Commissioner may act independently of the Commission. Any such action may constitute grounds for removal.

(b) To promote and ensure the integrity, security, honesty and fairness of the regulation and administration of Gaming.

(c) Subject to review and adoption by the Oneida Business Committee, to draft and

approve regulations pursuant to this Ordinance for the regulation of all Gaming Activity, including processes for the enforcement of such regulations consistent with the laws of the Nation.

(d) To draft and approve the Rules of Play and Oneida Gaming Minimum Internal Controls; provided, the Rules of Play and Oneida Gaming Minimum Internal Controls require review and comment by Senior Gaming Management prior to approval by the Commission and are subject to review by the Oneida Business Committee.

(1) Rules of Play and Oneida Gaming Minimum Internal Controls are minimum standards with which the Gaming Operations are required to comply and are audited against.

(2) Comments received from Senior Gaming Management must be included in any submission to the Oneida Business Committee.

(3) Rules of Play and Oneida Gaming Minimum Internal Controls are effective upon adoption by the Commission.

(4) The Commission shall provide notice of adoption of the Rules of Play and/or Oneida Gaming Minimum Internal Controls to the Oneida Business Committee at the next available regularly scheduled Oneida Business Committee meeting following such adoption.

(A) If the Oneida Business Committee has any concerns and/or requested revisions upon review of the Rules of Play and Oneida Gaming Minimum Internal Controls, the Commission shall work with the Oneida Business Committee to address such concerns and/or requested revisions.

(i) Unless the Oneida Business Committee repeals the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, they will remain in effect while the Commission and the Oneida Business Committee jointly work to amend the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission.

(ii) Should the Oneida Business Committee repeal the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls that were in effect immediately previous to those repealed will be automatically reinstated and effective immediately upon the repeal of the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission.

(B) If the Commission does not receive written notice from the Oneida Business Committee of intent to repeal or amend the Rules of Play and/or the Oneida Gaming Minimum Internal Controls within thirty (30) days of the date the Oneida Business Committee is provided notice of the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, they will remain in effect as adopted by the Commission.

(C) Should the Oneida Business Committee pursue amendments to the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, the amendments must be completed through one (1) of the following actions within six (6) months from the date the amendments are initiated by the Oneida Business Committee:

(i) if the Commission and the Oneida Business Committee reach an agreement as to the content of the amendments, the Commission must adopt revised Rules of Play and/or the Oneida Gaming Minimum Internal Controls that have been discussed with and agreed upon by the Oneida Business Committee; or

(ii) if the Commission and the Oneida Business Committee do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt revised Rules of Play and/or the Oneida Gaming Minimum Internal Controls that incorporate the amendments it deems necessary.

(D) If revised Rules of Play and/or Oneida Gaming Minimum Internal Controls are not adopted by either the Commission or the Oneida Business Committee within six (6) months from the date the amendments are initiated by the Oneida Business Committee, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls originally adopted by the Commission will remain in effect.

(e) To prepare proposals, including budgetary and monetary proposals, which might enable the Nation to carry out the purpose and intent of this Ordinance, and to submit the same for consideration by the Oneida Business Committee; provided, however, that no such proposal shall have any force or effect unless it is approved by the Oneida Business Committee.

(f) To monitor and enforce all laws and regulations governing the operation and conduct of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this Ordinance and/or regulations setting forth hearing or enforcement processes.

(g) To monitor and investigate all Gaming Operators for compliance with internal audits, and external audits.

(h) To inspect, examine, and photocopy all papers, books, and records of Gaming Activities and any other matters necessary to carry out the duties pursuant hereto; provided, that all photocopies of documents must be maintained in a confidential manner or in the same manner as the original.

(i) To grant, deny, revoke, condition, suspend or reinstate the Licenses of Gaming Employees, Gaming Services vendors, and Gaming Operators.

(j) To conduct hearings relating to Licenses issued under this Ordinance by the Commission.

(k) To review all vendors doing business with the Gaming Operator to verify that such persons or entities hold a valid License, where required, to do business with a Gaming Operator.

(l) To retain professional advisors such as attorneys, law enforcement specialists, and Gaming professionals consistent with the Nation's laws and practices.

(m) To arbitrate, negotiate, or settle any dispute to which it is a party, and which relates to its authorized activities.

(n) To act as the designated agent to receive all regulatory notices not included in section 501.5-6 of this Ordinance.

(o) To investigate all Regulatory Incidents.

(p) To issue warnings or notices of violation, in accordance with regulations, to Gaming Operators and Licensees for non-compliance with the Compact, Oneida Gaming Minimum

Internal Controls, Rules of Play, IGRA, or this Ordinance.

(q) To make determinations regarding suitability for licensing.

(r) To establish an administrative structure by regulation to carry out its authority and responsibilities.

(s) To establish, where needed, additional processes for conducting licensing hearings by regulation.

(t) To establish and collect fees for processing License applications by regulation.

(u) To establish and impose a point system for findings of regulatory violations by any Gaming Employee by regulation.

(v) To establish and impose a fine system for findings of regulatory violations by any Gaming Services vendor or permittee by regulation.

(w) To approve procedures that provide for the fair and impartial resolution of patron complaints.

501.6-15. *Reporting Requirements.* The Commission shall adhere to the following reporting requirements:

(a) A true, complete and accurate record of all proceedings of the Commission must be kept and maintained;

(b) Complete and accurate minutes of all Commission meetings must be filed with the Secretary of the Oneida Business Committee within thirty (30) days of their approval by the Commission;

(c) Quarterly, or as may be directed by the Oneida Business Committee, reports of the Commission's activities, including information regarding funding, income and expenses and any other matters to which the parties may agree, must be submitted to the Oneida Business Committee.

501.6-16. *Oneida Gaming Commission Personnel.* The Commission shall hire an Executive Director who is responsible for hiring and managing the personnel of the Commission.

(a) The Executive Director shall hire such personnel as is necessary to assist the Commission to fulfill its responsibilities under this Ordinance, the IGRA, the Compact and all governing regulations, including the Oneida Gaming Minimum Internal Controls.

(b) The Executive Director and personnel of the Commission must be hired through the Nation's regular personnel procedure and are subject to its personnel policies and salary schedules.

(1) The Executive Director and personnel shall meet the requirements set forth in section 501.12-3 of this Ordinance at hiring and during employment.

501.7. Gaming Surveillance: Powers, Duties and Limitations

501.7-1. *Purpose.* The purpose of Gaming Surveillance is to observe and report Regulatory Incidents to the Commission and Gaming General Manager to provide for the regulation, operation, and compliance of Gaming Activities under this Ordinance.

(a) Gaming Surveillance is a department within the Commission's administrative structure and supervision must be identified within the organizational chart adopted by the Commission; provided, nothing in the designation of supervisory responsibility may be deemed to prohibit the responsibility of Gaming Surveillance to provide information and/or video and/or audio records to the parties identified in section 501.7-3 of this Ordinance.

501.7-2. Gaming Surveillance shall be responsible for all Gaming surveillance activities including, but not limited to, equipment and maintenance of equipment, observation and reporting

of all persons to include Gaming Employees, customers, consultants, and Gaming Services vendors.

501.7-3. Surveillance personnel shall provide to Senior Gaming Management, the Commission, or Gaming Security a copy of any time-recorded video and accompanying audio (if available) within twenty-four (24) hours of request.

501.7-4. Gaming Surveillance shall:

(a) Develop, implement and maintain written policies and procedures for the conduct and integrity of the Surveillance Department.

(b) Develop, implement and maintain additional procedures governing the use and release of the surveillance recordings or reports.

(c) Work cooperatively with the Gaming Security Department to carry out its official duties and to coordinate its activities in order to effectuate the protection of patrons and the assets of the Gaming Operation.

(d) Develop, implement and maintain written policies and procedures for implementation of duties and responsibilities identified with the Oneida Gaming Minimum Internal Controls, subject to approval by the Commission.

501.8. [Reserved for future use.]

501.9. Gaming Security Department

501.9-1. *Purpose.* The purpose of the Gaming Security Department is to protect Gaming assets, patrons and Gaming Employees from an activity, repeat activity, or ongoing activities which could injure or jeopardize Gaming assets, patrons and Gaming Employees.

(a) The Oneida Business Committee shall be responsible for the supervision, as well as oversight, of the Gaming Security Department and the Gaming Security Department shall report directly to the Oneida Business Committee per the process and schedule set by the Oneida Business Committee; provided, all reports of the Gaming Security Department must be copied to the Commission.

501.9-2. *Reporting.* The Internal Security Director, Gaming General Manager and Commission shall enter into an agreement, subject to ratification by the Oneida Business Committee, describing their responsibilities and reporting requirements under this Ordinance.

(a) When investigations involve or uncover a possible criminal or quasi-criminal activity, the Gaming Security Department shall report the activity to the Oneida Police Department for further review and investigation by the Oneida Police Department under its separate departmental authority.

501.9-3. The Gaming Security Department shall:

(a) Develop, implement and maintain written policies and procedures for the conduct and integrity of Gaming Security, as identified in the Oneida Gaming Minimum Internal Controls and subject to approval by the Commission.

(b) Develop, implement and maintain additional procedures governing the use and release of the investigation reports.

(c) Work cooperatively with Gaming Surveillance to carry out its official duties and to coordinate activities between the departments.

501.9-4. *Investigations.* This section is intended to authorize report gathering, information gathering, and preliminary review, to be conducted by the Gaming Security Department.

501.10. Background Investigations

501.10-1. The Human Resources Department and the Commission shall enter into an agreement, subject to ratification by the Oneida Business Committee, for carrying out Background Investigations for employees as required under this Ordinance.

501.10-2. Background Investigations must be conducted on all persons or entities as specified under this Ordinance.

(a) All Background Investigations must be conducted to ensure that the Nation in its Gaming Operations may not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods in the conduct of such Gaming.

(1) The identity of any person interviewed in order to conduct a Background Investigation must be confidential.

501.11. Licenses, Generally

501.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing of all applications for a License.

(a) All Gaming Employees, Gaming Services vendors and Gaming Operators shall apply for a License from the Commission prior to their participation in any Gaming Activity.

(b) All Gaming Facilities must be licensed by the Oneida Business Committee.

501.11-2. *Temporary License.* All Applicants, upon receipt by the Commission of a completed application for a License and completion of a preliminary Background Investigation, may receive a temporary license for a ninety (90) day period, unless a Background Investigation of the application demonstrates grounds to disqualify the Applicant.

(a) A temporary license permits the Licensee to engage in such activities pursuant to any terms and conditions imposed and specified by the Commission.

(b) A temporary license is valid until either replaced by a License, the ninety (90) day temporary license period has concluded, or the temporary license is cancelled by the Commission, whichever occurs first.

501.11-3. *Revocable.* A License is revocable only in accordance with the procedures set forth in this Ordinance.

(a) A Licensee has only those rights and protections regarding a License granted in this Ordinance.

501.11-4. All Applicants:

(a) Consent to the release of any information relevant to the Applicant's Background Investigation by any person or entity in possession of such information.

(b) Consent to the jurisdiction of the Nation and are subject to all applicable Oneida, Federal, and State laws, regulations and/or policies.

501.11-5. All Licensees are subject to ongoing review at least every two (2) years by the Commission.

501.11-6. *Status of Licenses.* The Commission shall notify the Gaming Operation of the status of all Licenses, whether temporary or permanent, including all Commission action to revoke, suspend or condition a License.

501.11-7. *Commission Licensing Actions.* The Commission may grant, deny, revoke, condition, suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this Ordinance.

- (a) Authority to place conditions on a License may be exercised only upon promulgation of regulations.

501.11-8. *Noncompliance.* The Commission may issue a notice of noncompliance when the Commission has developed regulations that identify procedures that notices of noncompliance may be issued to Licensees and permittees which provide an opportunity to correct actions.

- (a) Such regulations must include procedures for appeal of such notices and may include the ability to issue fines not to exceed one thousand dollars (\$1000.00) per violation for Gaming Services vendors and permittees.

501.12. Gaming Employee License

501.12-1. *Scope of Section.* This section applies only to Gaming Employee Licenses and licensing actions.

501.12-2. *License Application.* Every Applicant for a License shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified, which must certify:

- (a) Applicant's full name and all other names used (oral or written), Social Security Number(s), place of birth, date of birth, citizenship, gender, and all languages (spoken or written).
- (b) Currently, and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number(s).
- (c) The names and current addresses, of at least three (3) personal references, including one (1) personal reference who was acquainted with the Applicant during each period of residence listed in subsection (b) above.
- (d) Current business and residence telephone numbers.
- (e) A description of any existing and previous business relationships with Indian Tribes, including ownership interest in those businesses.
- (f) A description of any existing and previous business relationship with the Gaming industry generally, including ownership interest in those businesses.
- (g) The name and address of any licensing or regulatory agency with which the Applicant has filed an application for a license or permit related to Gaming, whether or not such license or permit was granted.
- (h) The name and address of any licensing or regulatory agency with which the Applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted.
- (i) For each felony conviction or ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition, if any.
- (j) For each misdemeanor or ongoing misdemeanor prosecution (excluding violations for which jail time is not part of the potential sentence) within ten (10) years of the date of the application, the name and address of the court involved, and the date and disposition.
- (k) For each criminal charge (excluding charges for which jail time is not part of the potential sentence) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to subsections (i) or (j) of this section, the criminal charge, the name and address of the court involved and the date and disposition.
- (l) A photograph.

(m) Fingerprints consistent with procedures adopted by the Commission which meet the criteria set forth in 25 C.F.R. section 522.2(h).

(1) The Commission is the agency that takes the fingerprints.

(n) Any other information the Commission deems relevant for a Gaming Employee License.

(o) A statement that each Applicant has read and understands notices and the NIGC requirements relating to:

(1) The Privacy Act of 1974;

(2) Fraud and False Statements Act; and

(3) Fair Credit Reporting Act.

501.12-3. *License Qualifications.* No License may be granted if the Applicant:

(a) Is under the age of eighteen (18).

(b) Unless pardoned for activities under this subsection by the Nation, or pardoned for activities under this subsection by another Federally-recognized Indian Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for activities under this subsection by the state or Federal government, has been convicted of, or entered a plea of guilty or no contest to, any of the following:

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

(3) Any offense involving a violation of any provision of Chapters 562 or 565 of the Wisconsin Statutes, any rule promulgated by the State of Wisconsin Department of Administration, Division of Gaming, or any rule promulgated by the Wisconsin Racing Board;

(4) A felony not addressed in paragraphs (1), (2), or (3), during the immediately preceding ten (10) years; or

(5) Any offense involving the violation of any provision of the Nation's law that regulates the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.

(c) Is determined to be a person whose prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of Gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities in the operation of Gaming Activities or the carrying on of the business and financial arrangements incidental thereto.

(d) Possesses a financial interest in or management responsibility for any Gaming Activity or Gaming Services vendor, or he or she has any personal, business, or legal relationship which places him or her in a conflict of interest as defined in this Ordinance or the Nation's Conflict of Interest law.

(e) Each person licensed as a Gaming Employee has a continuing obligation to inform the Commission immediately upon the existence of any circumstance or the occurrence of any event which may disqualify him or her from being licensed as a Gaming Employee.

(1) Failure to report any such occurrence may result in suspension or revocation of the Gaming Employee's License.

501.12-4. *Initial Eligibility Determination.*

(a) Based on the results of the preliminary Background Investigation, the Commission shall make an initial determination regarding an Applicant's eligibility and either:

(1) Grant a temporary license, with or without conditions, to the Applicant; or

- 630 (2) Deny the License application and provide notice to the Applicant that he or
631 she may request a hearing regarding the decision consistent with subsection (b)
632 below.
- 633 (b) If the Commission determines that an Applicant is ineligible for a License, the
634 Commission shall notify the Applicant.
- 635 (1) The Commission shall set forth regulations for an Applicant to review any
636 information discovered during the preliminary Background Investigation prior to
637 scheduling a hearing under section 501.12-10 of this Ordinance.
- 638 (2) The suspension or revocation hearing provisions set forth at section 501.12-9
639 of this Ordinance do not apply to Initial Eligibility Determinations.
- 640 501.12-5. *Eligibility Determination and Notification to NIGC.* When a Gaming Employee begins
641 employment at a Gaming Operation, the Commission shall:
- 642 (a) Require the Gaming Employee to submit a completed application for employment
643 that contains the notices and information listed in section 501.12-2 of this Ordinance;
- 644 (b) Review the Background Investigation of the Gaming Employee;
- 645 (1) Within sixty (60) days after a Gaming Employee begins employment at a
646 Gaming Facility under a temporary license, the Commission shall make an
647 eligibility determination regarding whether the Gaming Employee may receive a
648 License based upon the results of the Background Investigation.
- 649 (c) Create an investigative report based on each Background Investigation performed;
- 650 (1) The investigative report must include the steps in conducting the Background
651 Investigation, results obtained, conclusions reached and the basis for those
652 conclusions.
- 653 (d) Prior to issuing a License to a Gaming Employee and within sixty (60) days after the
654 Gaming Employee begins employment at a Gaming Facility, submit a notice of results of
655 the Background Investigation to the NIGC for inclusion in the Indian Gaming Individual
656 Record System; and
- 657 (1) The notice of results must include the following, provided that any additional
658 or alternate information must be forwarded as directed in regulations or rules
659 adopted by the NIGC:
- 660 (A) The Gaming Employee's name, date of birth, and Social Security
661 Number;
- 662 (B) The date on which the Gaming Employee began employment;
- 663 (C) A summary of the information presented in the investigative report,
664 including:
- 665 (i) License(s) that have previously been denied;
- 666 (ii) Gaming licenses that have been revoked, even if subsequently
667 reinstated;
- 668 (iii) Every known criminal charge brought against the Gaming
669 Employee within the last ten (10) years of the date of the application;
670 and
- 671 (iv) Every felony of which the Gaming Employee has been
672 convicted or any ongoing prosecution.
- 673 (D) A copy of the eligibility determination made under section 501.12-5
674 (b) of this Ordinance.
- 675 (e) All applications, Background Investigations, investigative reports, suitability

determinations, findings and decisions of the Commission must be retained in the Commission's files for a period of at least three (3) years from the date the Gaming Employee's employment is terminated.

501.12-6. *License Issuance.* The Commission may issue a License to a Gaming Employee at any time after providing the NIGC with a notice of results as required under section 501.12-5(d) of this Ordinance; however, a Gaming Employee who does not have a License ninety (90) days after the start of employment must have his or her employment terminated.

(a) The Commission shall notify the NIGC of the issuance or denial of a License to a Gaming Employee within thirty (30) days after the License is issued or denied.

(b) Any Gaming Employee License issued under this section is effective from the date of issuance and must contain the Gaming Employee's photograph, the Gaming Employee's name, and the date that the License became effective.

(1) If a Gaming Employee is promoted, transferred, reassigned, or the position is reclassified, the Gaming Employee shall notify in writing the Commission, and the Commission shall review the Gaming Employee's License.

(c) The Commission retains the right to grant, deny, revoke, condition, suspend, or reinstate Licenses subject to the right to appeal the decision under the processes set forth in this Ordinance.

501.12-7. *Requirement to Wear License.* During working hours, all Licensees shall wear their License in a conspicuous place that is plainly visible by all employees, the Nation's Gaming patrons and surveillance.

501.12-8. *NIGC Review.*

(a) During a thirty (30) day period, beginning when the NIGC receives a notice of results submitted pursuant to section 501.12-5(d) above, the Chairman of the NIGC may request additional information from the Commission concerning the Gaming Employee.

(1) Such a request suspends the thirty (30) day period until the Chairman receives the additional information.

(b) If, within the thirty (30) day period after the NIGC receives the notice of results, the NIGC notifies the Commission that it has no objection to the issuance of a License, and the Commission has not yet issued a License to the Gaming Employee, the Commission may grant the License to the Gaming Employee.

(c) If, within the thirty (30) day period after the NIGC receives the notice of results, the NIGC provides the Commission with a statement itemizing objections to the issuance of a License, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC.

(1) The Commission shall make the final decision whether to issue a License to the Gaming Employee, or if the Gaming Employee has already been licensed, whether to suspend or revoke the License in accordance with section 501.12-9 of this Ordinance.

(d) Upon receipt of notification from the NIGC that a Gaming Employee who has already been licensed is not eligible for employment, the Commission shall immediately suspend the License in accordance with section 501.12-9 of this Ordinance.

501.12-9. *Suspension or Revocation of Licenses.* Except as provided in section 501.12-8(d) or 501.12-9(c) of this Ordinance, no License may be suspended or revoked except after notice and opportunity for hearing.

(a) *Basis for Licensing Action.* The Commission may suspend, condition, or revoke any

License issued under this Ordinance if:

(1) After the issuance of a License, the Commission receives from the NIGC or other source reliable information indicating that a Gaming Employee is not eligible for a License under section 501.12-3 of this Ordinance; or such information would justify the denial of the renewal of any License, the Commission shall issue a written notice of suspension.

(2) The Commission issues a written notice of suspension demonstrating that the Licensee:

(A) Has knowingly made a materially false or misleading statement in any application for a License, in any amendment thereto, or in response to a request by the Commission for supplemental information or in connection with any investigation of the Commission;

(B) Has knowingly promoted, played, or participated in any Gaming Activity operated in violation of the Compact, Oneida or federal law, and this Ordinance;

(C) Has bribed, attempted to bribe, or has received a bribe from a Commissioner or any other person in an attempt to avoid or circumvent any applicable law;

(D) Has falsified any books or records relating to any transaction connected with the operation of a Gaming Activity;

(E) Has refused to comply with any lawful directive of the Nation, Federal government, or any court of competent jurisdiction; or

(F) Has been convicted of, or entered a plea of guilty or no contest to, a crime involving the sale of illegal narcotics or controlled substances.

(b) *Suspension Notice.* The Commission's notice of suspension must be in writing and must, at a minimum, notify the Licensee of the following:

(1) The Licensee's right to review a file prior to any hearing regarding the notice of suspension, and to make copies of any documents contained in that file;

(2) The Licensee's right to request a hearing on the proposed licensing action, to present documents and witness testimony at that hearing, and to be represented by counsel;

(3) The specific grounds upon which the proposed licensing action is based, including citations to relevant sections of this Ordinance, the IGRA and any applicable regulations and/or the Compact; and

(4) The time and place set by the Commission for the Licensee's hearing.

(c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest and effective regulation and control of Gaming Activities requires the immediate exclusion of a Licensee, the Commission may immediately suspend a License prior to the conduct of a hearing on the matter.

(1) Such an immediate suspension may take effect upon service of the notice of immediate suspension.

(d) Any notice of suspension or notice of immediate suspension must set forth the times and dates for when the Licensee may review his or her file and the date for a hearing on any proposed licensing action.

(e) Within fifteen (15) business days after a hearing, the Commission shall issue a final written licensing decision and decide whether to suspend, uphold an immediate suspension,

revoke, or take other action concerning a License.

(1) If the License was suspended, conditioned or revoked based on information from the NIGC or other source under section 501.12-8(d) or 501.12-9(a)(1) of this Ordinance, the Commission shall forward a copy of its decision to the NIGC within forty-five (45) days of receiving the NIGC's or the other source's notification indicating that a Gaming Employee is not eligible for a License.

(f) If a Licensee fails to appear for his or her hearing before the Commission, that right is deemed to have been waived and the Commission will proceed on the proposed licensing action by default.

(g) Unless identified in this Ordinance or regulations of the Commission, the hearing processes set forth in the Nation's Administrative Procedures Act shall apply.

501.12-10. *Original Hearing Body.* Any person aggrieved by a licensing decision of the Commission may appeal the decision by filing a request for an original hearing before the Commission.

(a) The Licensee may file any such request with the Commission in writing on or before the fifteenth (15th) day following receipt of the Commission's decision.

(b) The Commission shall certify the record, developed in accordance with section 501.12-4 or 501.12-9(a) of this Ordinance, within thirty (30) days of the date of the filing of the request for an original hearing.

(c) Those Commissioners serving on the original hearing body may not include the Commissioners who participated in the licensing decision from which the original hearing is scheduled.

(d) The Commission may decide to review the decision solely on the licensing decision record and briefs filed regarding the request for reconsideration.

(1) The Commission may also, in its sole discretion, grant oral arguments.

(e) The Commission shall issue a written decision determining whether to uphold the Commission's licensing decision, including whether to revoke or reinstate a License, within one hundred twenty (120) days from receipt of the request for the original hearing.

(1) The Commission's decision is considered an original hearing decision and an appeal may be made to the Judiciary as an appeal of an original hearing body.

501.12-11. *Notice to Oneida Business Committee.* Prior to any suspension or revocation of a License of the Gaming General Manager, the Commission shall provide notice to the Oneida Business Committee twenty-four (24) hours prior to the issuance of the suspension or revocation.

501.12-12. *Record of Proceedings.* The Commission shall maintain a complete and accurate record of all licensure proceedings.

501.12-13. Revocation of a License is solely limited to the licensing matter. Employment related processes resulting from revocation of a License are determined solely through the personnel processes and procedures of the Nation and are not licensing matters governed by this Ordinance.

501.13. Gaming Services Licensing and Non-Gaming Services Permitting

501.13-1. *Scope of Section.* This section applies to all individuals and entities providing Gaming Services.

(a) The requirements of this Section are in addition to, and do not alter or amend any

requirements imposed by the Nation's Vendor Licensing law.²

501.13-2. *Gaming Services License or Non-Gaming Services Permit Required.*

(a) *Gaming Services License.* Any Gaming Services vendor providing Gaming related contract goods or services as defined under Article VII(A) of the Compact to the Gaming Operation shall possess a valid Gaming Services License.

(b) *Non-Gaming Services Permit.* Any vendor providing non-gaming related goods or services to the Gaming Operation shall possess a valid Non-Gaming Services permit.

(c) Determinations regarding the issuance of a License or permit under this section must be made by the Commission which may be subject to requests for reconsideration by the Gaming Services vendor within fourteen (14) business days of receipt by the Gaming Services vendor of the notice of License or permit determination.

501.13-3. *Approved Gaming Services Vendor List.* The Commission shall maintain an updated and complete list of all Gaming Services vendors that possess current and valid Gaming Services Licenses or Non-Gaming Services permits from the Commission, which is known as the Approved License and Permit List.

(a) Gaming Operations may only do business with vendors that possess valid and current Gaming Services Licenses or Non-Gaming Services permits and who appear on the Approved License and Permit List.

501.13-4. *Gaming Services License/Permit Application.* Every Applicant for a License or permit shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified, which must provide and certify the following; provided, Non-Gaming Services vendors with less than two thousand five hundred dollars (\$2,500.00) in services for the prior fiscal year are only required to file a notice of doing business with the Commission:

(a) The Applicant's name and mailing address;

(b) The names and addresses of each officer or management official of the Applicant;

(c) A copy of the Applicant's articles of incorporation and bylaws, or if not a corporation, the Applicant's organizational documents;

(d) Identification of an agent of service for the Applicant;

(e) The name and address of each person having a direct or indirect financial interest in the Applicant;

(f) The nature of the License or permit applied for, describing the activity to be engaged in under the License or permit;

(g) Explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to the United States, or any state, of the Applicant, any person involved in the organization, and any person of interest whose name appears or is required to appear on the application;

(h) Whether the Applicant is or has been licensed by the State of Wisconsin Office of Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;

(i) Whether the Applicant has been licensed in the State of New Jersey, Nevada or by any other gaming jurisdiction, including any Indian Tribe or Tribal governmental organization and, if so, proof of such licensure and the status of any such License;

(j) Whether the Applicant has been denied a License by any gaming jurisdiction and, if

² See also Appendix 1. Vendor Licensing/Permit.

so, the identity of the jurisdiction, the date of such decision and the circumstances surrounding that decision;

(k) Whether any License held by the Applicant has been refused renewal, conditioned, suspended or revoked by an issuing authority and, if so, the circumstances surrounding that action;

(l) A statement of waiver allowing the Nation to conduct a Background Investigation of the Applicant and any person whose name appears or is required to appear on the application;

(m) Whether the Applicant or any person whose name appears or is required to appear on the application has or has had any business with the Nation or any business or personal relationship with any of the Nation's officers or employees;

(n) The name and contact information for all Tribes or Tribal organizations with whom the Applicant or any person whose name appears or is required to appear on the application has done business;

(o) Whether the Applicant or any person whose name appears or is required to appear on the application maintains any involvement in the business of wholesale distribution of alcoholic beverages;

(p) A statement that the Applicant has read and understands notices and the NIGC requirements relating to:

(1) The Privacy Act of 1974;

(2) False statements; and

(3) The Fair Credit Reporting Act.

(q) All additional information necessary to allow the Commission to investigate the Applicant and any person whose name appears or is required to appear on the application.

501.13-5. *Signature on Application.* Applications for Licenses or permits must be signed by the following person:

(a) For companies and corporations (both for profit and non-profit), the highest ranking official of the corporation or other person to whom the authority to execute the application has been properly delegated.

(b) For a sole proprietorship, the principal owner.

(c) For a partnership, all partners.

(d) For a limited partnership, the general partner or partners.

501.13-6. *Incomplete Applications.* Applications that do not contain all information requested, including proper signatures, will be considered incomplete.

(a) Incomplete applications will not be considered by the Commission.

(b) The Commission shall notify an Applicant if an application is incomplete and what additional information is necessary to complete the application.

(1) If an Applicant who has submitted an incomplete application, and been notified of the deficiency in that application, fails to provide the information requested by the Commission, the application will be returned to the Applicant and the file closed.

501.13-7. *Supplemental Information.* The Commission may, in its discretion, request supplemental information from the Applicant.

(a) Supplemental information requested by the Commission must be promptly submitted by the Applicant.

(1) An Applicant's failure or refusal to submit supplemental information

requested by the Commission may constitute grounds for the denial of the application.

501.13-8. *Continuing Duty to Provide Information.* Applicants, permittees, and Licensees owe a continuing duty to provide the Commission with information and materials relevant to the Applicant's, permittee's, or Licensee's character or fitness to be licensed, including but not limited to any change in the licensing or permitting status of the Applicant, permittee, or Licensee in any foreign jurisdiction.

(a) An Applicant's, permittee's, or Licensee's failure to notify the Commission promptly of inaccuracies on an application or new information or materials relevant to him or her may constitute grounds to deny, suspend or revoke a License or permit.

501.13-9. *Background Investigations.* Background Investigations for Gaming Services vendors must be conducted as follows:

(a) *Gaming Related Equipment Gaming Services Vendors under Fifty Thousand Dollars (\$50,000.00) in Goods and/or Services Annually.* The Commission shall conduct the Background Investigations that are sufficient to determine the eligibility for licensing of all Gaming Services vendors that provide or anticipate providing under fifty thousand dollars (\$50,000.00) in goods and services annually.

(b) *Gaming Related Equipment Gaming Services Vendors over Fifty Thousand Dollars (\$50,000.00) in Goods and/or Services Annually.* The Commission shall review the background investigation conducted by the Wisconsin Office of Indian Gaming Regulation and shall conduct any necessary additional Background Investigation to ensure that the State background investigation is complete and current.

(c) *Other Non-Gaming Related Goods and/or Services Gaming Services Vendors.* The Commission shall conduct Background Investigations on a sufficient number of randomly selected applications in order to verify the accuracy of all applications.

(1) The random selection process must be identified by regulation of the Commission.

501.13-10. *Licensing Action in a Foreign Jurisdiction.* If the States of Wisconsin, New Jersey, Nevada or any other gaming jurisdiction refuse to renew a License or permit, or conditions, suspends or revokes the License or permit of an Applicant, permittee or Licensee, such action may constitute grounds for similar action by the Commission.

501.13-11. *Claim of Privilege.* At any time during the licensing or permitting process, the Applicant may claim any privilege afforded by law.

(a) An Applicant's claim of privilege with respect to the production of requested information or documents or the provision of required testimony or evidence may constitute grounds for the denial, suspension or revocation of a License or permit.

501.13-12. *Withdrawal of an Application.* An Applicant may request to withdraw an application by submitting a written request to the Commission.

(a) The Commission retains the right, in its exclusive discretion, to grant or deny a request for withdrawal.

(b) An Applicant who withdraws an application is precluded from re-applying for a Gaming Services License or Non-Gaming Services permit for a period of one (1) year from the date the application was withdrawn.

501.13-13. *Suspension or Revocation of Gaming Services Licenses or Permits.* Except as provided in section 501.13-13(c) of this Ordinance, no License or permit may be suspended or revoked except after notice and opportunity for hearing.

946 (a) *Basis for Licensing or Permitting Action.* The Commission may suspend, modify, or
947 revoke any Gaming Services License or Non-Gaming Services permit issued under this
948 Ordinance if, after issuance of the License or permit, the Commission receives reliable
949 information that would justify denial of the issuance or renewal of a License or permit, or
950 if the Commission determines that the Licensee or permittee has:

- 951 (1) Knowingly made a materially false or misleading statement in any application
952 for a License or permit, in any amendment thereto, or in response to a request by
953 the Commission for supplemental information or in connection with any
954 investigation of the Commission;
- 955 (2) Knowingly promoted, played or participated in any Gaming Activity operated
956 in violation of the Compact, any law of the Nation, or other applicable law;
- 957 (3) Bribed or attempted to bribe a Commissioner or any other person in an
958 attempt to avoid or circumvent any applicable law;
- 959 (4) Falsified any books or records relating to any transaction connected with
960 operation of a Gaming Activity;
- 961 (5) Refused to comply with a lawful directive of the Nation, the federal
962 government, or any court of competent jurisdiction; or
- 963 (6) Been convicted of or entered a plea of guilty or no contest to a crime involving
964 the sale of illegal narcotics or controlled substances.

965 (b) *Suspension Notice.* The Commission shall provide a Licensee or permittee with
966 written notice of suspension, which must, at a minimum, notify the Licensee or permittee
967 of the following:

- 968 (1) The Licensee's or permittee's right to conduct a file review prior to any
969 hearing regarding the notice of suspension, and to make copies of any documents
970 in that file;
- 971 (2) The Licensee's or permittee's right to present documents and witness
972 testimony at the hearing and to be represented by counsel;
- 973 (3) The specific grounds upon which the suspension is based, including citations
974 to relevant sections of this Ordinance, the IGRA, any applicable regulations and/or
975 the Compact; and
- 976 (4) The time and place set by the Commission for the Licensee's or permittee's
977 file review and hearing.

978 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest and
979 effective regulation and control of others require the immediate exclusion of a Licensee or
980 permittee, the Commission may immediately suspend a License or permit prior to a hearing
981 on the matter.

- 982 (1) Such an immediate suspension takes effect upon service of the notice of
983 immediate suspension.

984 (d) *File Review and Hearing.* Any notice of suspension or notice of immediate
985 suspension must set forth the time and date for the Licensee or permittee to conduct a file
986 review and for a hearing.

987 (e) *Final Written Decision.* Within fifteen (15) business days after a hearing, the
988 Commission shall issue a final written decision and decide whether to suspend, uphold an
989 immediate suspension, revoke, or take other action concerning a License or permit.

990 (f) *Default.* If a Licensee or permittee fails to appear for his or her hearing before the
991 Commission, that right is deemed to have been waived and the Commission will proceed

on the proposed licensing action by default.

(g) Unless identified in this Ordinance or regulations of the Commission, the hearing processes set forth in the Nation's Administrative Procedures Act shall apply.

501.13-14. *Original Hearing Body.* Any person aggrieved by a licensing or permitting decision of the Commission may appeal the decision by filing a request for an original hearing before the Commission.

(a) The Applicant, Licensee or permittee may file such request with the Commission in writing on or before the fifteenth (15th) day following the receipt of the Commission's decision.

(b) The Commission shall certify the record, developed in accordance with section 501.13-9 or 501. 13 -13(a) of this Ordinance, within thirty (30) days of the date of the filing of the request for an original hearing.

(1) Those Commissioners participating in the initial licensing or permitting decision may not participate in the original hearing.

(c) The Commission may determine to review the decision solely on the licensing or permitting decision record and briefs filed regarding the request for reconsideration.

(1) The Commission may also, in its sole discretion, grant oral arguments.

(d) The Commission shall issue a written decision within one hundred twenty (120) days from receipt of the request for the original hearing.

(1) The Commission's decision is considered an original hearing decision and an appeal may be made to the Judiciary as an appeal of an original hearing body.

501.14. Gaming Facility License

501.14-1. The construction and maintenance of any Gaming Facility, and the operation of Gaming Activities, must be conducted in a manner which adequately protects the environment and the public health and safety, and must comply with requirements of the Compact and all other applicable health, safety, and environmental standards.

501.14-2. The Oneida Business Committee must receive, review and grant or deny any application for licensing any Gaming Facilities located within the Reservation. Applicants shall provide the Oneida Business Committee sufficient information to show the following:

(a) The Gaming Facility meets all applicable health and safety standards of the Nation and Federal government.

(1) To show compliance with applicable health and safety standards, Gaming Operator shall submit certified copies of Compliance Certificates issued by the agencies responsible for the enforcement of the health and safety standards.

(2) If health and safety standards are not met, proof must be submitted by Gaming Operator that the Gaming Facility is in the process of improvements which will place the Gaming Facility in compliance with the applicable standards.

(b) The Gaming Facility meets applicable environmental standards of the Nation and Federal government.

(1) To show compliance with applicable environmental standards, Gaming Operator shall submit certified copies of an Environmental Assessment of the Gaming Facility which were prepared by the agency responsible for the enforcement of applicable environmental standards.

(2) If the applicable environmental standards are not met, proof must be submitted by Gaming Operator that Remediation of the Gaming Facility is being

actively sought which will place the Gaming Facility in compliance with the applicable standards.

501.14-3. Upon receipt and review of the above information, the Oneida Business Committee shall deliberate and either grant or deny for failure to meet the requirements of protecting the health and safety of patrons, public and employees of a Gaming Facility License to the Applicant.

(a) The Oneida Business Committee shall submit to the NIGC a copy of each Gaming Facility License issued.

501.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida Business Committee that a Gaming Facility will be closed by a governmental agency with proper authority due to environmental, health or safety concerns, the Oneida Business Committee shall suspend the License of the Gaming Facility.

(a) The Oneida Business Committee shall re-License the Gaming Facility after receiving the information required in section 501.14-2 of this Ordinance.

501.15. Gaming Operator License

501.15-1. *Consent to Jurisdiction.* The application for License and the conduct of Gaming within the jurisdiction of the Nation is considered consent to the jurisdiction of the Nation in all matters arising from the conduct of Gaming, and all matters arising under any of the provisions of this Ordinance or other laws of the Nation.

501.15-2. *License Required.* No Gaming Operator may conduct Gaming Activity unless such entity holds a valid and current Gaming Operator License issued by the Commission.

501.15-3. *Types of Licenses.* The Commission may issue each of the following types of Gaming Operator Licenses:

(a) *Tribally-Owned or Tribally-Operated Class II.* This License is required of all Tribally-owned or Tribally-operated Gaming Operations operating one or more Class II Gaming Activities.

(b) *Tribally-Owned or Tribally-Operated Class III.* This License is required of all Tribally-owned or Tribally-operated Gaming Operations operating one or more Class III Gaming Activities.

501.15-4. *Gaming Operator License Qualifications.* The Commission shall issue a Gaming Operator License to any Gaming Operation if:

(a) The Gaming Operation is to be located within the Reservation, or land taken into trust after October 17, 1988, for Gaming purposes;

(b) The Gaming Activity proposed to be played at the Gaming Operation is Class II or Class III Gaming as defined by this Ordinance and IGRA; and

(c) The proposed Gaming Operation is authorized by a resolution of the Oneida Business Committee.

501.15-5. *Provisions of General Applicability to All Gaming Operators.*

(a) *Site and Gaming Operator Specified.* Each Gaming Operator License may be applicable only to one (1) Gaming Operation and the Gaming Facility named on the License.

(b) *License Not Assignable.* No Gaming Operator License may be sold, lent, assigned or otherwise transferred.

(c) *Regulations Posted or Available.* Each Gaming Operator must have a copy of this Ordinance and any regulations promulgated thereunder available for inspection by any person at each Gaming Facility.

(d) *Display of License.* Each Gaming Operator must prominently display its License at each Gaming Facility.

501.15-6. *Grandfathered Gaming Facilities.* All Gaming Operators operating on the effective date of July 5, 2007, are hereby granted a License under this section.

501.15-7. *License Application Fees and License Taxes.* No application fees or License taxes may be required by the Nation for a Gaming Operator License.

501.15-8. *Closure of a Gaming Operation.* If the Commission finds that any Gaming Operation is operating in violation of this Ordinance, or otherwise presents a threat to the public, the Commission shall immediately notify the Oneida Business Committee.

(a) The Oneida Business Committee may close any Gaming Operation temporarily or permanently at any time with or without cause, at its sole discretion.

501.16. Games

501.16-1. Class II and Class III Games are hereby authorized by this Ordinance.

501.16-2. *Gaming Procedures.* Games operated under this Ordinance must be consistent with the Compact and any amendments thereto and the Internal Control Standards and Rules of Play of the Gaming Operation.

501.16-3. *Who May Not Play.* It is the policy of the Nation that particular Gaming Employees, employees of the Commission, particular governmental officials, and consultants who directly advise the Commission or employees at Gaming Facilities regarding gaming related activities may not participate in Gaming Activities conducted at Gaming Operations.

(a) At a minimum, members of the Oneida Business Committee, the Commission, the Gaming General Manager, assistant gaming general managers, directors of individual Games and assistant directors of individual Games may not participate in any Gaming Activity within the Reservation.

(b) The Oneida Business Committee may identify by resolution additional positions restrictions on Gaming Activity conducted at Gaming Facilities.

(1) Such resolution must be on file with the Commission.

(c) The Commission and Senior Gaming Management shall each develop and maintain their own standard operating procedure identifying other positions and any applicable restrictions on Gaming Activity conducted at Gaming Facilities.

(1) The standard operating procedure and the list of positions must be on file with the Commission.

501.17. Allocation of Gaming Funds

501.17-1. Net Gaming revenues may only be used for the following purposes:

(a) To fund government operations, programs, or services of the Nation;

(b) To provide for the general welfare of the Nation and its members; provided, that per capita payments may only be made pursuant to an approved revenue allocation plan;

(c) To promote economic development of the Nation;

(d) To contribute to charitable organizations;

(e) To assist in funding operations of other local governments;

(f) To fund programs designed to provide education, referrals, and treatment of Gaming addiction disorders; and

(g) For any other purpose as determined by the Oneida General Tribal Council or the Oneida Business Committee which is not inconsistent with the Oneida Nation Constitution

and IGRA.

501.18. Audits

501.18-1. *Annual Audit.* An annual audit of each Gaming Operation must be conducted by an independent, certified public accounting firm according to generally accepted accounting principles.

(a) Copies of the annual audit must be provided to the Oneida Business Committee, the Nation's Audit Committee, the Commission, and the NIGC by said certified public accounting firm.

(b) All contracts for supplies, services, or concessions for the Gaming Operations in excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in this section of the Ordinance.

(1) Contracts for legal services and accounting services are exempt from this requirement.

501.18-2. *Other Audits.* All audits, other than the annual audit under section 501.18-1 of this Ordinance, must be conducted pursuant to the Nation's Internal Audit law or any other applicable law of the Nation, and other audits authorized under the Compact.

501.18-3. *Request for Audits.* Any audit, except the annual audit that is mandated by IGRA, may be authorized at any time by the Oneida General Tribal Council, the Oneida Business Committee or the Nation's Audit Committee.

501.19. Enforcement and Penalties

501.19-1. No individual or entity may own or operate a Gaming Facility unless specifically authorized to do so pursuant to this Ordinance.

501.19-2. *Violations/Prosecutions.* Violators of this Ordinance may be subject to disciplinary action, as well as civil and/or criminal prosecutions.

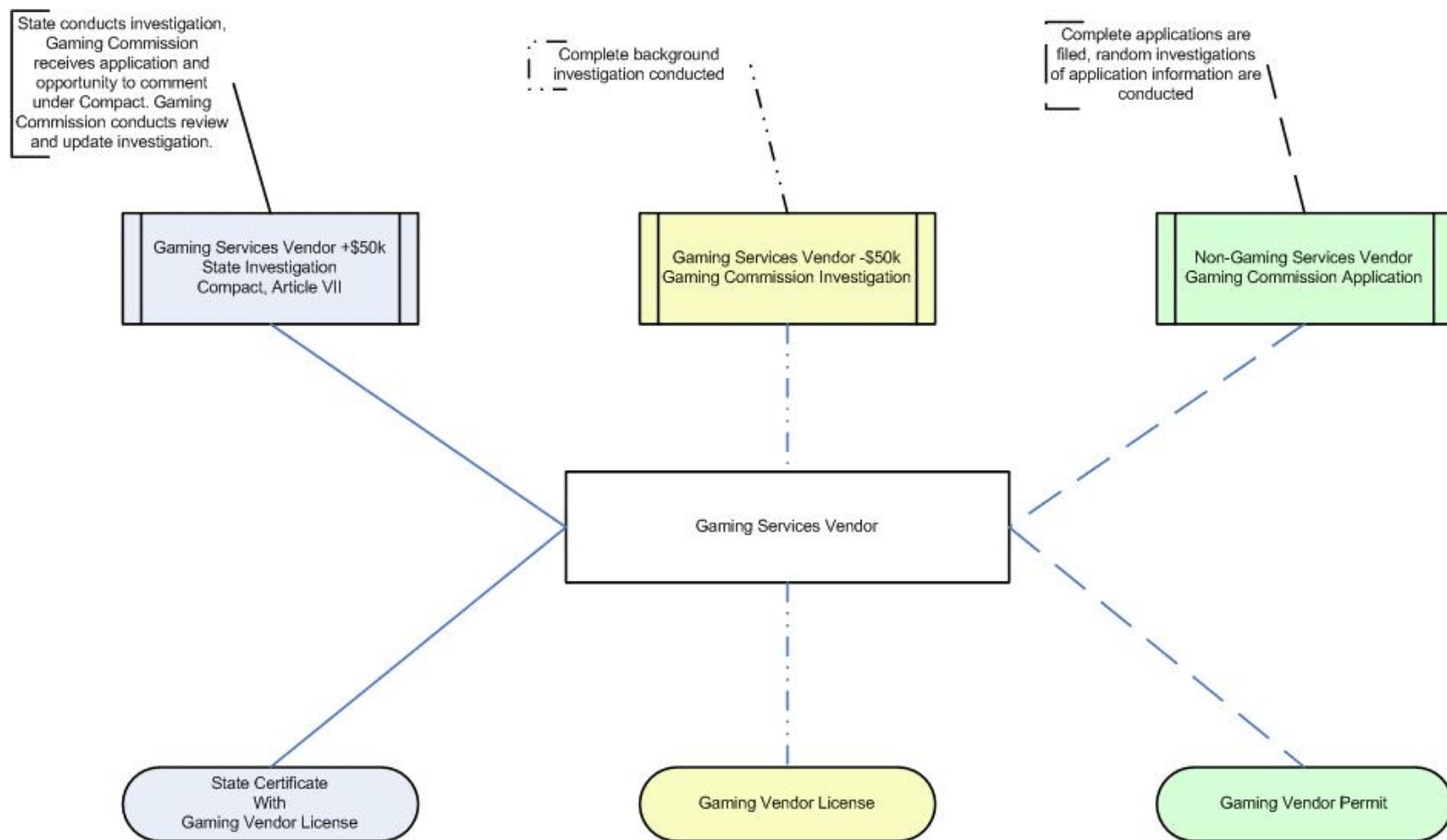
501.19-3. *Remedies.* The Oneida Business Committee may authorize commencement of an action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting from violations of this Ordinance.

End.

Adopted	GTC-7-05-04-A
Emergency Amended	BC-7-14-04-A
Amendment	BC-10-06-04-D
Emergency Amended	BC-11-03-04-A
Permanent Adoption	BC-3-23-05-C
Amended	BC-9-23-09-D
Amended	BC-06-25-14-C (effective 11 01 2014)
Emergency Amended	BC-10-08-14-C (effective 11 01 2014)
Amended	BC-09-09-15-A (effective 09 09 2015)
Emergency Amended	BC-05-12-21-D
Emergency Extended	BC-__-__-__-__

Emergency Extension Draft for OBC Consideration
2021 11 10

Appendix 1. Vendor License/Permit





Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: November 3, 2021
- 2) Contact Person(s): David P. Jordan
 Dept: LOC Chairman
 Phone Number: (920) 869-4483 Email: djordan1@oneidanation.org
- 3) Agenda Title: Elder Assistance Program Law
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Explore developing a new law to establish an approved program under
the Oneida General Welfare law which transitions the Nation's Elderly 65
+ Per Capita Payment Distribution Fund, from being utilized for per capita
payments to being utilized for general welfare assistance payments.

List any supporting materials included and submitted with the Agenda Request Form

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Oneida General Welfare Law
- 6) Please list all other departments or person(s) you have brought your concern to:
Recommendation came to LOC from CFO - shared this request with Trust Enrollment Committee and Trust Enrollment Department
- 7) Do you consider this request urgent? ☐ Yes ☒ No
 If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org
 or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

November 2021

November 2021

Su	Mo	Tu	We	Th	Fr	Sa
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December 2021

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Oct 31	Nov 1	2	3 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	4 3:00pm Oneida Personnel Policies and Procedures Emergency Amendments Work Meeting: OBC	5	6
7	8	9 10:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	10	11	12	13
14	15	16	17 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa	18	19	20
21	22	23	24	25	26	27
28	29	30	Dec 1	2	3	4