



## LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2<sup>nd</sup> Floor Norbert Hill Center

June 7, 2023

9:00 a.m.

### **I. Call to Order and Approval of the Agenda**

### **II. Minutes to be Approved**

1. May 17, 2023 LOC Meeting Minutes (pg. 2)

### **III. Current Business**

1. Petition: L. Dallas - Emergency Amendments to the Election Law for the 2023 General Election (pg. 5)

### **IV. New Submissions**

1. Petition: L. Dallas - Allow the General Tribal Council Full Informational Access to the Oneida Nation's Revenue (pg. 21)
2. Petition: L. Dallas - Direct the Oneida Business Committee to Plan for and Construct a General Tribal Council Meeting Facility (pg. 23)
3. Petition: R. Skenandore - Make the Tribal Minimum Wage \$15.00/hour Mean \$15.00/hour with No Exceptions or Loopholes (pg. 25)

### **V. Additions**

### **VI. Administrative Updates**

1. E-Poll Results: Approval of Two GTC Petition SOEs and Memorandum (pg. 27)

### **VII. Executive Session**

### **VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
May 17, 2023  
9:00 a.m.

**Present:** David P. Jordan, Marie Cornelius, Kirby Metoxen, Daniel Guzman King, Jennifer Webster

**Others Present:** Clorissa N. Leeman, Grace Elliott, Brooke Doxtator, Keith Doxtator, Rhiannon Metoxen (Microsoft Teams), Matt Denny (Microsoft Teams), Todd Vanden Heuvel (Microsoft Teams), Kristal Hill (Microsoft Teams), Kaylynn Gresham (Microsoft Teams), Rae Skenandore (Microsoft Teams), Michelle Braaten (Microsoft Teams), Debra Powless (Microsoft Teams), Eric Boulanger (Microsoft Teams), Mark Powless (Microsoft Teams), Kelly Danforth (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Joy Salzwedel (Microsoft Teams), Michelle Tipple (Microsoft Teams), Venessa Cardish (Microsoft Teams), Reynold Danforth (Microsoft Teams), Louise Cornelius (Microsoft Teams)

**I. Call to Order and Approval of the Agenda**

David P. Jordan called the May 3, 2023, Legislative Operating Committee meeting to order at 9:00 a.m.

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

**II. Minutes to be Approved**

**1. May 3, 2023 LOC Meeting Minutes**

Motion by Marie Cornelius to approve the May 3, 2023, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

**III. Current Business**

**1. Oneida Life Insurance Plan Law**

Motion by Jennifer Webster to approve the updated draft of the Oneida Life Insurance Plan law, legislative analysis, and public meeting notice, and forward the Oneida Life Insurance Plan law to a public meeting to be held on July 13, 2023; seconded by Marie Cornelius. Motion carried unanimously.



**2. Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020**

Motion by Marie Cornelius to defer this item to be approved via e-poll by the end of the week; seconded by Jennifer Webster. Motion carried unanimously.

**3. Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings**

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

**4. Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position**

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**5. Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020-Present**

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020-Present and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**6. Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election**

Motion by Jennifer Webster to accept the status update memorandum for the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**7. Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training**

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**8. Petition: L. Dallas – Oneida Nation Disability Fund**

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Oneida Nation Disability Fund and forward to the Oneida Business Committee; seconded

by Jennifer Webster. Motion carried unanimously.

**9. Petition: L. Dallas – Repeal and Replace Current Removal Law**

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Repeal and Replace Current Removal Law and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

**10. Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authority to all Entities**

Motion by Jennifer Webster to defer this item to be approved via e-poll by the end of the week; seconded by Marie Cornelius. Motion carried unanimously.

**11. Petition: L. Dallas – Transitional Housing**

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas – Transitional Housing and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**12. Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting**

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Items**

**1. Review of the Eviction and Termination Law**

Motion by Marie Cornelius to defer this item to be approved via e-poll by the end of the week; seconded by Jennifer Webster. Motion carried unanimously.

**VII. Executive Session**

**VIII. Adjourn**

Motion by Marie Cornelius to adjourn at 9:39 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee  
June 7, 2023

# Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election

**Submission Date: 5/3/23**

**LOC Sponsor: All LOC Members**

**Summary:** *This petition calls for a special General Tribal Council (GTC) meeting to be called prior to the 2023 General Election to consider the following:*

- *Make emergency amendments to the Oneida Nation of Wisconsin Election law that will be effective for the 2023 Oneida Nation of Wisconsin Tri-Annual General Elections and all elections held thereafter. The emergency amendments shall include, but are not limited to, the following:*
  - *Entire Election Process shall be conducted under audio and video recording*
  - *Counting of the ballots for any part of the election process(es) (i.e., the day of election, for recounts, ties, etc.) shall be conducted in a facility large enough to conduct the ballot counting process(es) in a restricted area in the presence of the General Tribal Council*
  - *Ballots shall always be kept under audio and video surveillance*
  - *Poll Watchers from the point the ballots being retrieved to the point the ballots are placed back under surveillance in a secure area.*
  - *Remove any and all Oneida Business Committee Members from the Election Processes*
  - *Declaration of the Election Results shall be brought to the General Tribal Council for review, discussion and approval, denial or modification by the General Tribal Council only*
  - *Filling vacancies*
  - *Election Outcomes and Ties*
  - *Recount Process*
- *To direct that the emergency amendments shall apply to the 2023 Oneida Nation of Wisconsin Tri-Annual General Elections; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

**4/26/23 OBC:** Motion by Marie Cornelius to acknowledge receipt of the petition from Linda Dallas regarding Emergency Amendments to the Election Law for the 2023 General Election; to direct the BC

Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, May 17, 2023; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the May 24, 2023, regular Business Committee meeting agenda and the first BC meeting of the month thereafter or until the final documents are submitted, seconded by Brandon Stevens. Motion carried.

**5/3/23 LOC:** Motion by Marie Cornelius to add the Petition: L. Dallas – Emergency Amendments to the Election Law for 2023 General Election with all LOC members as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

**5/17/23 LOC:** Motion by Jennifer Webster to accept the status update memorandum for the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election and forward to the Oneida Business Committee; seconded by Marie Cornelius. Motion carried unanimously.

**Next Steps:**

- Accept the statement of effect for the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election and forward to the Oneida Business Committee.



## Statement of Effect

*Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election*

### Summary

This petition requests the General Tribal Council to make emergency amendments to the Election law that will be effective for the 2023 General Elections and all elections held thereafter.

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

*Date: June 2, 2023*

### *Analysis by the Legislative Reference Office*

On April 14, 2023, the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on April 17, 2023. On April 26, 2023, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the May 24, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on May 3, 2023, for a statement of effect to be developed by the Legislative Reference Office.

The purpose of this Petition is to call a special emergency meeting of the General Tribal Council prior to the 2023 Oneida Nation Tri-Annual General Elections to consider the following:

- *Make emergency amendments to the Oneida Nation of Wisconsin Election law that will be effective for the 2023 Oneida Nation of Wisconsin Tri-Annual General Elections and all elections held thereafter. The emergency amendments shall include, but are not limited to, the following:*
  - *Entire Election Process shall be conducted under audio and video recording*
  - *Counting of the ballots for any part of the election process(es) (i.e., the day of election, for recounts, ties, etc.) shall be conducted in a facility large enough to conduct the ballot counting process(es) in a restricted area in the presence of the General Tribal Council*
  - *Ballots shall always be kept under audio and video surveillance*
  - *Poll Watchers from the point the ballots being retrieved to the point the ballots are placed back under surveillance in a secure area.*
  - *Remove any and all Oneida Business Committee Members from the Election Processes*

- *Declaration of the Election Results shall be brought to the General Tribal Council for review, discussion and approval, denial or modification by the General Tribal Council only*
- *Filling vacancies*
- *Election Outcomes and Ties*
- *Recount Process*
- *To direct that the emergency amendments shall apply to the 2023 Oneida Nation of Wisconsin Tri-Annual General Elections; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

### *The Legislative Process*

The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

The legislative process begins when any person who is interested in pursuing the development of or amendment to a law of the Nation submits a written request for legislation to the Legislative Reference Office, who then is responsible for placing the request for legislation on the agenda of the next duly called Legislative Operating Committee meeting. [1 O.C. 109.5-1, 109.5-2]. General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Operating Committee is comprised of the five (5) Oneida Business Committee members who do not hold officer positions. [1 O.C. 110.4-1(b)]. Once the Legislative Operating Committee receives a request for legislation, the Legislative Operating Committee then either accepts or denies the request, except that the Legislative Operating Committee is not allowed to deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(a)-(b)].

Once the Legislative Operating Committee accepts a request for legislation and directs that legislation be developed in accordance with the Legislative Procedures Act, a draft of the legislation is created through research, review of other similar laws, collaboration with affected



entities, and community engagement efforts. The Legislative Procedures Act provides guidance on how a law should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all laws of the Nation. [1 O.C. 109.11]. Once a draft of the proposed legislation is approved by the Legislative Operating Committee, a legislative analysis of the draft legislation is completed. [1 O.C. 109.7-1]. The purpose of the legislative analysis is to describe the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. [1 O.C. 109.3-1(g)]. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. *Id.*

Once a draft and legislative analysis are completed for proposed legislation, the Legislative Operating Committee moves forward with obtaining public review of the proposed legislation. The Legislative Operating Committee determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation. [1 O.C. 109.8-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is published in the Kalihwisaks, while the public meeting notice, proposed draft of the legislation, legislative analysis, and fiscal impact statement if available, are published on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>, and electronically noticed to all managers and directors. [1 O.C. 109.8-2]. The managers and directors who receive the public meeting materials are then required by the Legislative Procedures Act to direct employees of the Nation who have special knowledge or expertise on the proposed legislation to provide public comments. [1 O.C. 109.8-4(a)].

The public meeting on the proposed legislation is required to be presided over by at least one (1) member of the Legislative Operating Committee. [1 O.C. 109.8-3(a)]. The purpose of the public meeting is to solicit oral comments from members of the community on the proposed legislation. [1 O.C. 109.8-3]. After the public meeting concludes, the Legislative Operating Committee holds open a public comment period for at least five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period individuals may submit written comments including data, views, arguments, or concerns to the Oneida Business Committee Secretary or the Legislative Reference Office in person or through United States mail, interoffice mail, e-mail, or fax. [1 O.C. 109.8-1(c), 109.4-4(b)].

Once the public comment period has concluded, the Legislative Operating Committee is required by the Legislative Procedures Act to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed legislation. [1 O.C. 109.8-4]. The Legislative Operating Committee accomplishes this responsibility through the

development of a public comment review memorandum that provides the Legislative Operating Committee's consideration of every comment received, and demonstrates any changes made to the proposed legislation based on the public comments.

A fiscal impact statement is also required for all proposed legislation. [1 O.C. 109.6-1]. A fiscal impact statement provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as 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 Legislative Operating Committee may direct that a fiscal impact statement be submitted by any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation, or the Finance Department. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A, *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 Legislative Operating Committee, the Legislative Operating Committee may direct the Finance Department or any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

After all the requirements of the Legislative Procedures Act are met and the Legislative Operating Committee is satisfied with proposed legislation, the Legislative Operating Committee then forwards an adoption packet comprised of the proposed legislation, legislative analysis, fiscal impact statement, resolution, statement of effect, and an adoption memorandum to the Oneida Business Committee for consideration. [1 O.C. 109.9-1 The Oneida Business Committee then either considers whether to approve or deny the adoption of the legislation or forwards the legislation to the General Tribal Council for consideration of adoption. [1 O.C. 109.9-1(a)-(b)].]. A law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2]. . Resolution BC-09-25-19-B, *Updated Statement of Effect Requirement for Resolutions*, requires that all resolutions proposed for adoption by the Oneida Business Committee or the Oneida General Tribal Council be accompanied by a statement of effect developed by the Legislative Reference Office, unless the resolution meets one of the following exemptions to the requirement for a statement of effect: resolutions for grant applications; self-governance contract or compact resolutions; resolutions for the purchase of land or placement of land into trust status; nominations of individuals to serve on a particular entity; resolutions in support of a cause or individual; resolutions regarding the pardoning or forgiveness of any member of the Nation; and resolutions which approve a contract or agreement accompanied by a legal review. For those laws considered by the Oneida Business Committee a majority vote is required for the adoption of the law, while amendments and repeals of a law are handled in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)]. The Oneida Business Committee utilizes

Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution and Bylaws of the Oneida Nation. [1 O.C. 117.4-1]. For those laws considered by the General Tribal Council, adoption, amendment, and repeal of laws are done in accordance with the laws governing General Tribal Council action. [1 O.C. 109.9-2(b)]. Any action by the General Tribal Council to overrule previous passed motions or resolution requires a two-thirds (2/3) vote. [1 O.C. 113.3-1(a)(3)].

Once legislation is adopted through resolution by either the Oneida Business Committee or the General Tribal Council the law shall become effective ten (10) business days after the date of adoption unless a different effective date is specified. [1 O.C. 109.9-3]. The Legislative Operating Committee is then responsible for publishing the law in the Oneida Code of laws by the effective date. [1 O.C. 109.9-4]. The Oneida Code of Laws can be found on the Oneida Register on the Nation's website at the following location: <https://oneida-nsn.gov/government/register/laws/>. Any law adopted in substantial compliance with the Legislative Procedures Act is considered valid. [1 O.C. 109.10-1]. No law can be contested based on non-compliance with the procedural requirements of the Legislative Procedures Act after one (1) year from the effective date of the law. [1 O.C. 109.10-2].

The Legislative Procedures Act provides a separate process for the adoption of emergency legislation. The Legislative Procedures Act delegates authority to the Oneida Business Committee to temporarily enact an emergency law where legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5]. The Legislative Operating Committee is responsible for first reviewing emergency legislation and for forwarding to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)]. A legislative analysis of the proposed emergency legislation is required to be completed and attached to the proposed legislation when it is forwarded to the Oneida Business Committee, however, the fiscal impact statement and public comment period are not required prior to emergency legislation being considered. *Id.* A resolution and statement of effect are also required for emergency legislation in accordance with section 109.9-2 of the Legislative Procedures Act and resolution BC-09-25-19-B. An emergency law becomes effective immediately upon its approval by the Oneida Business Committee and remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)]. An emergency law expires when:

- six (6) months have passed since the emergency law went into effect and an emergency law extension has not been approved; or
- six (6) months have passed since the emergency law extension went into effect; or
- a law is permanently adopted in the emergency law's place, following the regular process provided by the Legislative Procedures Act, before the emergency law expires. [1 O.C. 109.9-5(b)(1)-(3)].

### *Emergency Amendment of the Election Law*

Article III Section 5 of the Constitution and Bylaws of the Oneida Nation (“the Constitution”) requires that the General Tribal Council enact necessary rules and regulations governing the elections of tribal officials.

The General Tribal Council adopted the Nation’s Election law in June of 1993 in accordance with Article III Section 5 of the Constitution. The Election Law was most recently amended on a permanent basis by the General Tribal Council on April 23, 2017, to incorporate constitutional amendments into the law which lowered the age of qualified voters from twenty-one (21) to eighteen (18).

The Election law governs the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. [1 O.C. 102.1-1]. Additionally, the Election law defines the duties and responsibilities of the Election Board members and other persons employed by the Nation in the conduct of elections and is intended to govern all procedures used in the election process. [1 O.C. 102.1-2].

The Petition’s request for the General Tribal Council to consider making emergency amendments to the Election law to be effective for the 2023 General Election and all elections held thereafter, would violate the process and procedures contained within the Legislative Procedures Act.

Through the adoption of the Legislative Procedures Act the General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. All proposed legislation, whether it be regular or emergency legislation, must begin the legislative process by first being considered by the Legislative Operating Committee. [1 O.C. 109.5-1, 109.9-5(a)]. The General Tribal Council cannot make emergency amendments to the Election law without following the process and procedures set forth by the Legislative Procedures Act and forwarding a legislative proposal to be processed and developed by the Legislative Operating Committee. The Legislative Operating Committee cannot deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(b)].

Looking specifically at making emergency amendments to a law of the Nation, emergency legislation is only allowed when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population *and* the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

The Petition requests that emergency amendments be made to the Election law to address the following:

- Require the election process be conducted under audio and video recording.
  - The Election law currently does not require that any process or procedure of an election be conducted under audio or video recording.
- Require that the counting of the ballots for any part of the election process be conducted in a facility large enough to conduct the ballot counting process(es) in a restricted area in the presence of the General Tribal Council.
  - The Election law does not currently require that any counting of ballots be conducted in the presence of the General Tribal Council. The Election law does however address counting the election ballots in a secure manner. The Election law requires that at least one (1) Oneida Police Officer be present during the time the polls are open, and until the counting of the ballots is completed and tentative results posted. [1 O.C. 102.9-4]. If a ballot counting machine is used, the Oneida Election Board judges open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count. [1 O.C. 102.9-3(a)]. All ballots being votes, are required to be placed in a receptacle clearly marked "Ballot Box" which is locked until counting at the close of polls. [1 O.C. 102.9-9]. For electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received. *Id.* When ballots are counted by machine, at the close of polls the Oneida Election Board judges generate from the ballot counting machine copies of the election totals from the votes cast. [1 O.C. 102.10-1]. At least three (3) Election Board members are required to sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened. [1 O.C. 102.10-2]. When ballots are manually counted, at the close of polls the Oneida Election Board judges unlock the ballot box and remove the ballots. [1 O.C. 102.10-3]. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. [1 O.C. 102.10-4]. The sealed ballots are required to be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots. *Id.* The sealed ballots are opened at the time of counting by the Election Officials and witnessed and monitored by an Oneida Police Officer. [1 O.C. 102.10-5]. Ballots must be counted by two (2) different Election Officials until two (2) final tallies are equal in back-to-back counting. [1 O.C. 102.10-6]. Final tallies are verified by the Oneida Election Board judges. *Id.*
- Require ballots be kept under audio and video surveillance.
  - The Election law does not currently require that ballots be kept under audio and video surveillance. The Election law does however address securing the ballots. Once the polls are open, the Election law requires that at least one (1) Oneida Police Officer be present until the counting of the ballots is completed, and tentative results posted. [1 O.C. 102.9-4]. The Election law also provides for securely counting the ballots – see above for an explanation of the provisions regarding the



counting of ballots. In regard to securing ballots, the Election law requires that the Oneida Election Board judges place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. [1 O.C. 102.10-7]. The secured ballots, and the election totals with the signed tape, if applicable, are then secured by the Oneida Election Board judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. *Id.* The Oneida Police Officer is then responsible for delivering, on the day of the election, the sealed container to the Records Management Department for retaining. *Id.*

- Require the use of poll watchers from the point the ballots being retrieved to the point the ballots are placed back under surveillance in a secure area.
  - The Election law does not currently require the use of poll watchers. Instead, once the polls are open, the Election law requires that at least one (1) Oneida Police Officer be present until the counting of the ballots is completed, and tentative results posted. [1 O.C. 102.9-4]. The Election law also requires the presence of Oneida Election Board members during the election process.
- Remove any and all Oneida Business Committee Members from the election processes.
  - The Oneida Election Board was established to carrying out the provisions of the Election law and Article III, Sections 2 and 3 of the Constitution. [1 O.C. 102.4-1].
  - The Election law clearly provides for in what manner members of the Oneida Business Committee are involved in an election.
    - Any vacancy on the Oneida Election Board in an unexpired term is filled by appointment by the Oneida Business Committee for the balance of the unexpired term. [1 O.C. 102.4-5].
    - The Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Oneida Election Board, as recommended by the Oneida Election Board, to assist with election day and pre-election activities. [1 O.C. 102.4-7].
    - Oneida Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Oneida Business Committee. [1 O.C. 102.4-11].
    - Violation of the contribution restrictions shall result in a fine imposed by the Oneida Election Board in an amount specified in a resolution adopted by the Business Committee. [1 O.C. 102.5-8(b)].
    - Violation of the campaign sign restrictions shall result in a fine imposed by the Oneida Election Board in an amount specified in a resolution adopted by the Oneida Business Committee. [1 O.C. 102.5-9(e)].
    - When the Oneida Election Board makes a final decision in regard to voter eligibility, within five (5) business days of receiving the appeal, the Oneida Election Board reports this decision in the final report sent to the Oneida Business Committee. [1 O.C. 102.8-7].

- The Oneida Business Committee declares the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report. *[1 O.C. 102.11-13]*.
  - The Oneida Business Committee may initiate special elections. *[1 O.C. 102.12-10]*.
  - Amendments to the Constitution may be initiated by the Oneida Business Committee. *[1 O.C. 102.13-1]*.
- The Election law provides for specific responsibilities of the Oneida Business Committee Secretary.
  - Applications and petitions where the applicant was not nominated during caucus are filed by presenting the information to the Nation's Secretary, or designated agent, during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, within five (5) business days after the caucus. *[1 O.C. 102.5-4]*.
  - The Nation's Secretary is responsible for forwarding all petitions to the Election Board Chairperson the next business day following the close of petition submissions. *[1 O.C. 102.6-3(f)]*.
  - A candidate requests a recount by hand delivering a written request to the office of the Nation's Secretary, or noticed designated agent, within five (5) business days after the election; and the Nation's Secretary is then responsible for contacting the Oneida Election Board Chairperson by the next business day after the request for recounts. *[1 O.C. 102.11-5]*.
  - The Oneida Election Board forwards a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. *[1 O.C. 102.11-12]*.
  - Referendum questions are to be presented to the Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership. *[1 O.C. 102.12-9]*.
  - The Secretary also has responsibilities in processing requests for constitutional amendments. *[1 O.C. 102.13-1]*.
- Require that declaration of the election results be brought to the General Tribal Council for review, discussion and approval, denial, or modification by the General Tribal Council.
  - The Election law currently addresses the declaration of results of an election. The tentative results of an election are announced and posted by the Oneida Election Board within twenty-four (24) hours after the closing of the polls. *[1 O.C. 102.11-1]*. The Election Board is then responsible for forwarding a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. *[1 O.C. 102.11-12]*. The Final Report contains information on the total number of persons

voting; total votes cast for each candidate by subsection of the ballot; list of any ties and final results of those ties, including the method of resolution; list of candidates elected and position elected to; number of spoiled ballots; and the cost of the election, including the compensation paid to each Oneida Election Board member. [1 O.C. 102.11-12(a)-(f)]. The Business Committee then declares the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report. [1 O.C. 102.11-13]. The Oneida Business Committee simply declares the result of the election, and does not approve, deny, or modify the results.

- Address filling vacancies.
  - The Election law currently only addresses filling vacancies for the Oneida Election Board. The Election law provides that any vacancy in an unexpired term is filled by appointment by the Oneida Business Committee for the balance of the unexpired term. [1 O.C. 102.4-5]. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board. *Id.*
- Address election outcomes and ties.
  - The Election law currently addresses election outcomes as well as how ties are handled during elections. The tentative results of an election are announced and posted by the Oneida Election Board within twenty-four (24) hours after the closing of the polls. [1 O.C. 102.11-1]. The Election Board is required to post, in the prominent locations, and publish in the Nation's newspaper, the tentative results of an election. [1 O.C. 102.11-2]. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board is required to conduct an automatic recount of the votes for each candidate receiving the same number of votes. [1 O.C. 102.11-3]. Any recount conducted is the only recount allowed for the tied candidates. *Id.* For Business Committee positions, a run-off election between the candidates with the same number of votes is held if there remains a tie after the recount. [1 O.C. 102.11-4]. Said run-off election is held within twenty-one (21) calendar days after the recount. *Id.* For all other positions, if there remains a tie after the recount, the Oneida Election Board decides the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public. *Id.*
- Address the recount process.
  - The Election law currently addresses recount procedures. A candidate may request the Oneida Election Board to complete a recount if the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. [1 O.C. 102.11-5]. A candidate requests a recount by hand delivering a written request to the office of the Nation's Secretary, or noticed designated agent, within five (5) business days after the election. *Id.* Requests are



limited to one (1) request per candidate. *Id.* The Nation's Secretary is then required to contact the Oneida Election Board Chairperson by the next business day after the request for recounts. *Id.* The Oneida Election Board is then required to respond by the close of business on the fifth (5th) day after the request regarding the results of the recount, provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section. [1 O.C. 102.11-6]. All recounts are conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. [1 O.C. 102.11-7]. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results. *Id.* The Oneida Police Officer is responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location. [1 O.C. 102.11-8]. A recount is conducted by a quorum of the Oneida Election Board, including at least three (3) of the original Election Officials. [1 O.C. 102.11-9]. The locked, sealed ballots are then opened by the Oneida Election Board Chairperson, and an Oneida Police Officer is required to witness the recount. *Id.* Recounting of ballots may be performed manually or by computer, provided that all ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. [1 O.C. 102.11-10]. Sub-sections of candidates may be recounted in lieu of a full recount. *Id.* Manually counted ballots are required to be recounted by the Oneida Election Board; the ballots shall be counted twice by different persons and certified by the Judges. [1 O.C. 102.11-10(a)]. Computer counted ballots are required to be recounted twice and certified by the Judges. [1 O.C. 102.11-10(b)]. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or the Oneida Election Board. *Id.*

The Petition fails to provide how the adoption of emergency amendments to the Election law would meet this standard for emergency legislation required by the Legislative Procedures Act. There is no information provided that demonstrates that the request emergency amendments are necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population. Additionally, the amendment of the Election law on an emergency basis would not be required sooner than would be possible under the Legislative Procedures Act since this Petition will not be considered by the General Tribal Council until October 2023, well after the conclusion of the 2023 General Election. It would be a violation of the Legislative Procedures Act to adopt emergency amendments to a law of the Nation without first meeting the standard for emergency legislation provided for in section 109.9-5 of the Legislative Procedures Act. Additionally, a legislative analysis of the proposed emergency legislation, a resolution, and a

corresponding statement of effect have also not yet been developed but are required for the consideration of emergency legislation. [*1 O.C. 109.9-2, 109.9-5(a); Resolution BC-09-25-19-B*].

The Petition's request that the General Tribal Council be the body to make emergency amendments to the Election law conflicts with the Legislative Procedures Act. Through the adoption of the Legislative Procedures Act the General Tribal Council delegated the Oneida Business Committee as the body who has the authority to adopt legislation on an emergency basis. [*1 O.C. 109.9-5*].

The Petition's request for the General Tribal Council to consider making emergency amendments to the Election law to be effective for the 2023 General Election *and all elections held thereafter* is also a violation of the processes and procedures of the Legislative Procedures Act. Once adopted by the Oneida Business Committee emergency legislation stays in effect for six (6) months. [*1 O.C. 109.9-5(b)*]. There is a one (1) time opportunity to extend the emergency legislation for an additional period of up to six (6) months, bringing the total time emergency legislation is allowed to remain effective to a one (1) year period. *Id.* If at the end of the one (1) year effective period for emergency legislation, the emergency legislation has not been adopted on a permanent basis in accordance with the regular legislative process provided for in the Legislative Procedures Act, then the emergency legislation expires. *Id.* Therefore, the Petition's request that the emergency amendments be effective for the 2023 General Election and all elections held thereafter is invalid since any emergency amendments would only be allowed to be effective for a one (1) year period of time before regular permanent amendments to the Election law would need to be adopted in accordance with the Legislative Procedures Act.

### *180 Day Timeframe for Petitions*

Article III, Section 6 of the Constitution sets forth the process by which members of the Nation may petition to call a special meeting to bring a subject before the General Tribal Council for consideration. [*Constitution Article III, Section 6*]. The Constitution provides that the chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council. *Id.*

The General Tribal Council enacted the Ten Day Notice Policy on March 4, 1991, for the purpose of providing notice to the General Tribal Council of regular or special business to be conducted or action taken at a General Tribal Council meeting. [*1 O.C. 110.1-1*]. Requiring prior notice of the agenda items and information related to items assisted in creating informed discussion and improved decision-making by the General Tribal Council on matters that affected the Nation which became increasingly more complex and technical.

In an effort to provide consistency in the timeframe for when petitions are presented to the General Tribal Council, on July 17, 2017, the General Tribal Council adopted a motion which required

petitions submitted under Article III, Section 6 of the Constitution to be processed and brought to the General Tribal Council within one hundred and twenty (120) days of submission.

Then, in an effort to balance General Tribal Council's desire to have timely presentations of petitions with the acknowledgement that one hundred and twenty (120) days does not provide enough time to properly develop the necessary analyses to provide information to the General Tribal Council to make an informed decisions while also recognizing scheduling constraints, on January 21, 2019, the General Tribal Council adopted resolution GTC-01-21-19-A, *Amending the 120-Day Petition Timeline Adopted by the General Tribal Council*. Resolution GTC-01-21-19-A adopted a rule regarding petitions which superseded the July 17, 2017, action setting a one hundred and twenty (120) day timeframe, and instead required that petitions be presented to the General Tribal Council within one hundred and eighty (180) days of receipt by the Oneida Business Committee Support Office, now known as the Government Administrative Office, and that no petition can contain more than one subject matter.

This Petition requests that a special emergency meeting of the General Tribal Council be called *prior* to the 2023 General Election for the General Tribal Council to consider making emergency amendments to the Election law that will be effective for the 2023 General Elections and all elections held thereafter.

This Petition was submitted to the Government Administrative Office on April 14, 2023. The 2023 General Election is scheduled for July 15, 2023 – ninety-one (91) days after the Petition was submitted. In accordance with resolution GTC-01-21-19-A, the one hundred and eighty (180) day deadline for presenting the Petition to the General Tribal Council for consideration is October 11, 2023.

The Petition's request that a special emergency meeting of the General Tribal Council be called prior to the 2023 General Election conflicts with the General Tribal Council's directive provided through resolution GTC-01-21-19-A which sets the one hundred and eighty (180) day timeframe for presenting petitions to the General Tribal Council for consideration

If the General Tribal Council wanted to amend resolution GTC-01-21-19-A to change the one hundred and eighty (180) day timeline for presenting a petition to the General Tribal Council for consideration, then the Ten Day Notice Policy would require that any action to overrule a previously passed motion or resolution of the General Tribal Council requires a two-thirds (2/3) majority vote. [1 O.C. 110.3-1(a)(3)].

### **Conclusion**

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election would have the following legislative effect:

1. The Petition’s request for the General Tribal Council to consider making emergency amendments to the Election law to be effective for the 2023 General Election and all elections held thereafter, would violate the process and procedures contained within the Legislative Procedures Act.
  - a. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council.
  - b. The Petition fails to provide how the adoption of emergency amendments to the Election law would meet this standard for emergency legislation required by the Legislative Procedures Act. It would be a violation of the Legislative Procedures Act to adopt emergency amendments to a law of the Nation without first meeting the standard for emergency legislation provided for in section 109.9-5 of the Legislative Procedures Act.
  - c. A legislative analysis of the proposed emergency legislation, a resolution, and a corresponding statement of effect have also not yet been developed but are required for the consideration of adoption of emergency legislation.
  - d. The Petition’s request that the General Tribal Council be the body to make emergency amendments to the Election law conflicts with the Legislative Procedures Act ‘s delegation of authority to the Oneida Business Committee to adopt legislation on an emergency basis.
  - e. The Petition’s request that the emergency amendments be effective for the 2023 General Election and all elections held thereafter is invalid since any emergency amendments would only be allowed to be effective for a one (1) year period of time before regular permanent amendments to the Election law would need to be adopted in accordance with the Legislative Procedures Act.
2. The Petition’s request that a special emergency meeting of the General Tribal Council be called prior to the 2023 General Election conflicts with the General Tribal Council’s directive provided through resolution GTC-01-21-19-A which sets the one hundred and eighty (180) day timeframe for presenting petitions to the General Tribal Council for consideration

### **Requested Action**

Accept the statement of effect for the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election.



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
 Oneida-nsn.gov



## AGENDA REQUEST FORM

- 1) Request Date: May 24, 2023
- 2) Contact Person(s): Clorissa N. Leeman  
 Dept: Legislative Reference Office (LRO)  
 Phone Number: (920) 869-4417 Email: cleeman@oneidation.org
- 3) Agenda Title: Petition: L. Dallas - Allow the General Tribal Council Full Informational Access to the Oneida Nation's Revenue
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 5/24/23, the OBC acknowledged receipt of this Petition and directed the LRO to complete the statement of effect with status updates to be submitted to the 6/28/23 OBC meeting agenda and the first OBC meeting of the month thereafter until final materials are received.

List any supporting materials included and submitted with the Agenda Request Form

- |  |          |
|--|----------|
| 1) <u>Excerpt from 5/24/23 DRAFT OBC Meeting Minutes</u> | 3) _____ |
| 2) _____   | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:  
 \_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
 \_\_\_\_\_
- 7) Do you consider this request urgent?     Yes     No  
 If yes, please indicate why:  
Status update due June 28, 2023

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:  
**Clorissa N. Leeman**

Digitally signed by Clorissa N. Leeman  
 Date: 2023.06.02 08:07:12 -05'00'

*Please send this form and all supporting materials to:*

**LOC@oneidation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
 P.O. Box 365  
 Oneida, WI 54155  
 Phone 920-869-4376

**DRAFT****F. PETITIONER LINDA DALLAS - Accept the fiscal impact statements - petition # 2023-01 through # 2023-28****1. Accept the fiscal impact statements - petition # 2023-01 through # 2023-28 (01:15:45)**

Sponsor: Keith Doxtator, Chief Financial Officer

Motion by Lisa Liggins to accept the fiscal impact statements for petition # 2023-02, 2023-03, 2023-05, 2023-06, 2023-07, 2023-11, 2023-13, 2023-14, 2023-15, 2023-20, 2023-22, 2023-23, 2023-24, 2023-25 and 2023-26, seconded by Jenny Webster. Motion carried:

Ayes: Marie Cornelius, Daniel Guzman King, David P. Jordan, Lisa Liggins, Kirby Metoxen, Brandon Stevens, Jennifer Webster

Not Present: Tina Danforth

Motion by Lisa Liggins to direct the Chief Financial Officer to submit the remaining fiscal impact statements by the close of business on Wednesday May 31, 2023, to the Secretary mailbox, seconded by Brandon Stevens. Motion carried:

Ayes: Marie Cornelius, Daniel Guzman King, David P. Jordan, Lisa Liggins, Brandon Stevens, Jennifer Webster

Not Present: Tina Danforth, Kirby Metoxen

*For the record: Secretary Lisa Liggins stated, I would like to thank the staff in the LRO office, specifically Clorissa Leeman. Attorney Leeman who has worked countless hours on preparing these statement of effects, being short staffed in there. As well I would like to thank Chief Counsel Jo Anne House. As well as all of the attorneys working for her that were assigned these areas in order to meet the deadline that was required. And the CFO for coming in the middle of the process here and being able to do his best to meet the deadlines and we'll get the information out to the petitioners in a timely manner. It was a lot of work and I appreciate the group effort involved. Thank you.*

*For the record: Councilwoman Marie Cornelius stated, I just want to add a comment on how unprecedented these petitions are. I feel like it's an attack on our government and also unconstitutional and abuse of our Oneida Constitution. Thank you.*

**G. PETITIONER LINDA DALLAS - Allow the General Tribal Council full informational access to the Oneida Nation's revenue # 2023-30****1. Approve three (3) requested actions regarding petition # 2023-30 (01:21:20)**

Sponsor: Lisa Liggins, Secretary

Motion by Lisa Liggins to acknowledge receipt of the petition from Linda Dallas regarding Allow the General Tribal Council full informational access to the Oneida Nation's revenue; to direct the Business Committee Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, June 14, 2023; And to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statements of effect with status updates to be submitted for the June 28, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until all final documents are submitted, seconded by Jennifer Webster. Motion carried:

Ayes: Marie Cornelius, Daniel Guzman King, David P. Jordan, Lisa Liggins, Kirby Metoxen, Brandon Stevens, Jennifer Webster

Not Present: Tina Danforth





**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: May 24, 2023
- 2) Contact Person(s): Clorissa N. Leeman  
 Dept: Legislative Reference Office (LRO)  
 Phone Number: (920) 869-4417 Email: cleeman@oneidation.org
- 3) Agenda Title: Petition: L. Dallas - Direct the Oneida Business Committee to Plan for and Construct a General Tribal Council Meeting Facility
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 5/24/23, the OBC acknowledged receipt of this Petition and directed the LRO to complete the statement of effect with status updates to be submitted to the 6/28/23 OBC meeting agenda and the first OBC meeting of the month thereafter until final materials are received.

List any supporting materials included and submitted with the Agenda Request Form

- |  |          |
|--|----------|
| 1) <u>Excerpt from 5/24/23 DRAFT OBC Meeting Minutes</u> | 3) _____ |
| 2) _____   | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:  
 \_\_\_\_\_

- 6) Please list all other departments or person(s) you have brought your concern to:  
 \_\_\_\_\_

- 7) Do you consider this request urgent?  Yes  No

If yes, please indicate why:

Status update due June 28, 2023

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:  
**Clorissa N. Leeman**

Digitally signed by Clorissa N. Leeman  
 Date: 2023.06.02 08:07:12 -05'00'

*Please send this form and all supporting materials to:*

**LOC@oneidation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
 P.O. Box 365  
 Oneida, WI 54155  
 Phone 920-869-4376

**DRAFT****H. PETITIONER LINDA DALLAS - Direct the Oneida Business Committee to plan for and construct a General Tribal Council meeting facility # 2023-31****1. Approve three (3) requested actions regarding petition # 2023-31 (01:23:53)**

Sponsor: Lisa Liggins, Secretary

Motion by Jennifer Webster to acknowledge receipt of the petition from Linda Dallas regarding direct the Oneida Business Committee to plan for and construct a General Tribal Council meeting facility; to direct the Business Committee Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, June 14, 2023; to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the June 28, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Lisa Liggins. Motion carried:

Ayes: Marie Cornelius, Daniel Guzman King, David P. Jordan, Lisa Liggins, Kirby Metoxen, Brandon Stevens, Jennifer Webster

Not Present: Tina Danforth

**I. PETITIONER RAYMOND SKENANDORE - Make the tribal minimum wage \$15.00/hour mean \$15.00/hour with no exceptions or loopholes # 2023-32****1. Approve three (3) requested actions regarding petition # 2023-32 (01:25:19)**

Sponsor: Lisa Liggins, Secretary

Motion by Lisa Liggins to acknowledge receipt of the petition from Raymond Skenandore regarding Make the tribal minimum wage \$15.00/hour mean \$15.00/hour with no exceptions or loopholes; to direct the Business Committee Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, June 14, 2023; to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the June 28, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Lisa Liggins, Kirby Metoxen, Brandon Stevens, Jennifer Webster

Abstained: Marie Cornelius

Not Present: Tina Danforth





**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
 Oneida-nsn.gov



## AGENDA REQUEST FORM

- 1) Request Date: May 24, 2023
- 2) Contact Person(s): Clorissa N. Leeman  
 Dept: Legislative Reference Office (LRO)  
 Phone Number: (920) 869-4417 Email: cleeman@oneidanation.org
- 3) Agenda Title: Petition: R. Skenandore - Make the Tribal Minimum Wage \$15.00/hour Mean \$15.00/hour with No Exceptions or Loopholes
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 5/24/23, the OBC acknowledged receipt of this Petition and directed the LRO to complete the statement of effect with status updates to be submitted to the 6/28/23 OBC meeting agenda and the first OBC meeting of the month thereafter until final materials are received.

List any supporting materials included and submitted with the Agenda Request Form

- |  |          |
|--|----------|
| 1) <u>Excerpt from 5/24/23 DRAFT OBC Meeting Minutes</u> | 3) _____ |
| 2) _____   | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:  
 \_\_\_\_\_

- 6) Please list all other departments or person(s) you have brought your concern to:  
 \_\_\_\_\_

- 7) Do you consider this request urgent?  Yes  No

If yes, please indicate why:

Status update due June 28, 2023

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:  
**Clorissa N. Leeman**

Digitally signed by Clorissa N. Leeman  
 Date: 2023.06.02 08:07:12 -05'00'

*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

**DRAFT****H. PETITIONER LINDA DALLAS - Direct the Oneida Business Committee to plan for and construct a General Tribal Council meeting facility # 2023-31****1. Approve three (3) requested actions regarding petition # 2023-31 (01:23:53)**

Sponsor: Lisa Liggins, Secretary

Motion by Jennifer Webster to acknowledge receipt of the petition from Linda Dallas regarding direct the Oneida Business Committee to plan for and construct a General Tribal Council meeting facility; to direct the Business Committee Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, June 14, 2023; to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the June 28, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Lisa Liggins. Motion carried:

Ayes: Marie Cornelius, Daniel Guzman King, David P. Jordan, Lisa Liggins, Kirby Metoxen, Brandon Stevens, Jennifer Webster

Not Present: Tina Danforth

**I. PETITIONER RAYMOND SKENANDORE - Make the tribal minimum wage \$15.00/hour mean \$15.00/hour with no exceptions or loopholes # 2023-32****1. Approve three (3) requested actions regarding petition # 2023-32 (01:25:19)**

Sponsor: Lisa Liggins, Secretary

Motion by Lisa Liggins to acknowledge receipt of the petition from Raymond Skenandore regarding Make the tribal minimum wage \$15.00/hour mean \$15.00/hour with no exceptions or loopholes; to direct the Business Committee Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, June 14, 2023; to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the June 28, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Lisa Liggins, Kirby Metoxen, Brandon Stevens, Jennifer Webster

Abstained: Marie Cornelius

Not Present: Tina Danforth

# May 18, 2023 Legislative Operating Committee E-Poll Results

## Approval of Two GTC Petition SOEs and Memorandum

E-POLL REQUEST: Approval of Two GTC Petition SOEs and Memorandum



LOC

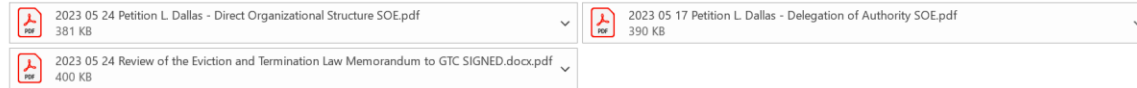
To: David P. Jordan; Daniel P. Guzman; Kirby W. Metoxen; Jennifer A. Webster; Ethel M. Cornelius

Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

Vote by clicking Vote in the Respond group above.  
This message was sent with High importance.

Reply Reply All Forward

Thu 5/18/2023 3:49 PM



**Good Afternoon Legislative Operating Committee,**

This e-mail serves as the e-poll for the approval of the following materials:

- Statement of effect for the Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020;
- Statement of effect for the Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authority to all Entities; and
- Review of the Eviction and Termination Law Memorandum.

### EXECUTIVE SUMMARY

At the May 17, 2023, Legislative Operating Committee meeting the Legislative Operating Committee took action to “*defer this item to be approved via e-poll by the end of the week*” in regard to three agenda items:

- Item III.2 under Current Business: Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020;
- Item III.10 under Current Business: Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authority to all Entities; and
- Item VI.1 under Administrative Updates: Review of the Eviction and Termination Law.

The Legislative Reference Office noted during the Legislative Operating Committee meeting that some additional time was needed to finish the development of the statements of effect and memorandums for these three legislative items, but all items were due to be submitted to the May 24, 2023, Oneida Business Committee meeting agenda so approval via e-poll would be necessary.

Attached to this e-poll please find the following materials:

- Statement of effect for the Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020;
- Statement of effect for the Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authority to all Entities; and
- Review of the Eviction and Termination Law Memorandum.

The LOC is now being asked to approve by e-poll the above mentioned items and forward these items to the Oneida Business Committee for consideration.

An e-poll is necessary for this matter because the next Legislative Operating Committee meeting is not until June 7, 2023, and it is intended that these materials be included on the agenda for the May 24, 2023, Oneida Business Committee meeting.

### REQUESTED ACTION

- Approve the statement of effect for the Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020; statement of effect for the Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authority to all Entities; and Review of the Eviction and Termination Law Memorandum, and forward these legislative items to the Oneida Business Committee for consideration.

### DEADLINE FOR RESPONSE

**May 18, 2023 at 8:00 p.m.**

All supporting documentation has been attached to this email for your convenience.



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

### E-POLL RESULTS

This e-poll was approved by David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen. Marie Cornelius did not provide a response during the designated timeframe.

RE: E-POLL REQUEST: Approval of Two GTC Petition SOEs and Memorandum

David P. Jordan  
 To: LOC; Daniel P. Guzman; Kirby W. Metoxen; Jennifer A. Webster; Ethel M. Cornelius; David P. Jordan  
 Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

Reply Reply All Forward

Thu 5/18/2023 3:54 PM

Support

RE: E-POLL REQUEST: Approval of Two GTC Petition SOEs and Memorandum

Jennifer A. Webster  
 To: LOC; David P. Jordan; Daniel P. Guzman; Kirby W. Metoxen; Ethel M. Cornelius  
 Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

Reply Reply All Forward

Thu 5/18/2023 3:56 PM

Support,  
Jenny

RE: E-POLL REQUEST: Approval of Two GTC Petition SOEs and Memorandum

Daniel P. Guzman  
 To: LOC; David P. Jordan; Kirby W. Metoxen; Jennifer A. Webster; Ethel M. Cornelius  
 Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

Reply Reply All Forward

Thu 5/18/2023 4:16 PM

Support

Re: E-POLL REQUEST: Approval of Two GTC Petition SOEs and Memorandum

Kirby W. Metoxen  
 To: Daniel P. Guzman; LOC; David P. Jordan; Jennifer A. Webster; Ethel M. Cornelius  
 Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

Reply Reply All Forward

Thu 5/18/2023 6:34 PM

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Support



## Statement of Effect

*Petition: L. Dallas – Review and Discuss General Tribal Council’s Delegation of Power and Authorities to all Entities*

### Summary

This petition requests the General Tribal Council to direct the Oneida Business Committee to provide a complete list and supporting documentation showing any and all actions taken by the General Tribal Council which delegated any power or authority to any person, board, committee, commission, entity, corporation, or organization. The Petition also requests that the General Tribal Council direct that a General Tribal Council meeting be scheduled for the purpose of reviewing, discussing, upholding, overturning, and/or modifying any actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization.

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

*Date: May 17, 2023*

### *Analysis by the Legislative Reference Office*

On March 2, 2023, the Petition: L. Dallas – Review and Discuss General Tribal Council’s Delegation of Power and Authorities to all Entities (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

- *To direct the Oneida Business Committee to provide a complete list and supporting documentation showing any and all actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization, etc.*
- *To direct that a separate GTC meeting be scheduled for the sole purpose of reviewing, discussing, and upholding, overturning and/or modifying any actions*

*taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization, etc.; and*

- *To direct that separate GTC meetings shall be scheduled and held to address any actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization, etc. in the following order and categories: 1) Committees 2) Boards 3) Commission 4 ) Entities 5) Corporations 6) Organizations 7) Individuals 8) Anyone or anything not covered in the other seven(7) categories; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

#### *Request for Information on Delegated Authority*

The Petition requests that the General Tribal Council direct the Oneida Business Committee to provide a complete list and supporting documentation showing any and all actions taken by the General Tribal Council which delegated any power or authority to any person, board, committee, commission, entity, corporation, or organization.

There is no legislative impact in regard to the General Tribal Council requesting information on authority that may have been delegated by the General Tribal Council to other entities be presented.

#### *Review, Discussion, and Modification of Delegated Authority*

The Petition requests that the General Tribal Council direct that a General Tribal Council meeting be scheduled for the purpose of reviewing, discussing, upholding, overturning, and/or modifying any actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization.

There is no legislative impact in regard to the General Tribal Council *reviewing and discussing* any authority that may have been delegated by the General Tribal Council to other entities. Reviewing and discussing the delegated authorities of the General Tribal Council may provide the membership with greater understanding of the different roles and responsibilities different entities of the Nation maintain.

The General Tribal Council taking action to *overturn or modify* prior actions taken by the General Tribal Council to delegate authority to other entities would have legislative impacts.



There are various laws of the Nation that codify action taken by the General Tribal Council to delegate authority and responsibilities to another entity of the Nation. Some examples include:

- The Election law establishes the Oneida Election Board and provides their various authorities and responsibilities. [1 O.C. 102.1-2, 102.4-1, 102.4-9].
- The Legislative Procedures Act delegates authority to the Legislative Operating Committee to develop laws of the Nation. [1 O.C. 109.4-2].
- The Membership Ordinance delegates the Oneida Trust Enrollment Committee the responsibility for maintaining the official rolls of the Oneida Nation. [1 O.C. 124.5-1].
- The Oneida Nation Gaming Ordinance established the Oneida Gaming Commission and provides the authorities and responsibilities of those elected to the Oneida Gaming Commission. [5 O.C. 501.6-1, 501.6-14].
- The Real Property law provides the composition of, as well as the various authority and responsibilities of the Oneida Land Commission. [6 O.C. 601.12-2]. There are also various laws of the Nation related to property and land that delegate rulemaking authority<sup>1</sup> to the Oneida Land Commission in accordance with the Administrative Rulemaking law, providing further authority and responsibilities, including the following:
  - The Real Property law delegates rulemaking authority to the Oneida Land Commission to develop rules which govern probate, process for selling a residential property, and easements and land use licenses. [6 O.C. 601.8-1, 601.12-1, 601.12-3(a)].
  - The Leasing law delegates rulemaking authority to the Oneida Land Commission to develop rules regarding lease applications, lease valuation, or administrative fees for costs associated with issuing a lease document or conducting any other administrative transaction. [6 O.C. 602.5-1, 602.7-5, 602.10-5].
  - The Eviction and Termination law delegates rulemaking authority to the Oneida Land Commission to develop rules to govern residential, agricultural, and business contracts, as well as the disposition of personal property, [6 O.C. 610.4-1, 610.4-2, 610.6-1].
  - The Landlord Tenant law delegates rulemaking authority to the Oneida Land Commission to develop rules to govern rental programs, selection of applicants, disposition of personal property, and a decrease in rent due to untenability. [6 O.C. 611.4-1, 611.4-3, 611.6-2, 611.6-3(c)(2)].
  - The Mortgage and Foreclosure law delegates rulemaking authority to the Oneida Land Commission to develop rules to govern mortgage selection, mortgage requirements, [6 O.C. 612.4-3, 612.4-4].
- The Legal Resource Center law established the Legal Resource Center to provide legal advice and representation to both members of the Nation and employees in cases before the Judiciary and to represent the Oneida General Tribal Council at General Tribal Council meetings, and provides the authorities and responsibilities of the Legal Resource Center

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<sup>1</sup> Most delegations of rulemaking authority to the Oneida Land Commission are joint delegations of rulemaking authority in conjunction with Land Management or the Comprehensive Housing Division.

attorney and advocates. [8 O.C. 811.1-1, 811.4-1, 811.5-3, 811.6-3]. The Legal Resource Center law delegates rulemaking authority to the attorney, or advocates in their absence, to delegate rules establishing how clients apply for services. [8 O.C. 811.4-5, 811.5-3(l)].

- The Oneida Personnel Policies and Procedures provides the various authorities and responsibilities of the Oneida Personnel Commission. [Oneida Personnel Policies and Procedures Section III and Section V].

If the General Tribal Council were to take action to overturn or modify any previously made delegation of authority to an entity of the Nation, the Ten Day Notice Policy requires that any action to overrule a previously passed motion or resolution of the General Tribal Council has a two-thirds (2/3) majority vote. [1 O.C. 110.3-1(a)(3)].

Since much of the authority delegated by the General Tribal Council to a separate entity of the Nation has been codified in law, any action by the General Tribal Council to overturn or modify that previously made delegation of authority to an entity of the Nation would require amendments be made to the law in accordance with the Legislative Procedures Act to address the modified delegation of authority. See below for an explanation of the legislative process as provided for in the Legislative Procedures Act.

If any of the aforementioned laws of the Nation which codified authority delegated from the General Tribal Council to an entity of the Nation also delegated administrative rulemaking authority to the same entity of the Nation based on that delegation of authority, then amendments to any adopted administrative rules may also be necessary if the General Tribal Council ultimately takes action to modify or overturn the delegation of authority to the entity. See below for an explanation of the administrative rulemaking process as provided for in the Administrative Rulemaking law.

Additionally, since the Boards, Committees and Commissions law mandates that every board, committee, and commission of the Nation create bylaws that conform to its requirements and include information of its authority, the boards, committees and commissions have bylaws that refer to authorities and responsibilities that have been delegated to them by the General Tribal Council. [1 O.C. 105.10-1, 105.10-2]. If the General Tribal Council takes action to modify or overturn the delegation of authority to an entity which is a board, committee, or commission of the Nation, then the entity's bylaws would need to be amended to reflect the change in authority or responsibilities.

### *The Legislative Process*

The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that



there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

The legislative process begins when any person who is interested in pursuing the development of or amendment to a law of the Nation submits a written request for legislation to the Legislative Reference Office, who then is responsible for placing the request for legislation on the agenda of the next duly called Legislative Operating Committee meeting. [1 O.C. 109.5-1, 109.5-2]. General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Operating Committee is comprised of the five (5) Oneida Business Committee members who do not hold officer positions. [1 O.C. 110.4-1(b)]. Once the Legislative Operating Committee receives a request for legislation, the Legislative Operating Committee then either accepts or denies the request, except that the Legislative Operating Committee is not allowed to deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(a)-(b)].

Once the Legislative Operating Committee accepts a request for legislation and directs that legislation be developed in accordance with the Legislative Procedures Act, a draft of the legislation is created through research, review of other similar laws, collaboration with affected entities, and community engagement efforts. The Legislative Procedures Act provides guidance on how a law should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all laws of the Nation. [1 O.C. 109.11]. Once a draft of the proposed legislation is approved by the Legislative Operating Committee, a legislative analysis of the draft legislation is completed. [1 O.C. 109.7-1]. The purpose of the legislative analysis is to describe the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. [1 O.C. 109.3-1(g)]. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. *Id.*

Once a draft and legislative analysis are completed for proposed legislation, the Legislative Operating Committee moves forward with obtaining public review of the proposed legislation. The Legislative Operating Committee determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation. [1 O.C. 109.8-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is published in

the Kalihwisaks, while the public meeting notice, proposed draft of the legislation, legislative analysis, and fiscal impact statement if available, are published on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>, and electronically noticed to all managers and directors. [1 O.C. 109.8-2]. The managers and directors who receive the public meeting materials are then required by the Legislative Procedures Act to direct employees of the Nation who have special knowledge or expertise on the proposed legislation to provide public comments. [1 O.C. 109.8-4(a)].

The public meeting on the proposed legislation is required to be presided over by at least one (1) member of the Legislative Operating Committee. [1 O.C. 109.8-3(a)]. The purpose of the public meeting is to solicit oral comments from members of the community on the proposed legislation. [1 O.C. 109.8-3]. After the public meeting concludes, the Legislative Operating Committee holds open a public comment period for at least five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period individuals may submit written comments including data, views, arguments, or concerns to the Oneida Business Committee Secretary or the Legislative Reference Office in person or through United States mail, interoffice mail, e-mail, or fax. [1 O.C. 109.8-1(c), 109.4-4(b)].

Once the public comment period has concluded, the Legislative Operating Committee is required by the Legislative Procedures Act to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed legislation. [1 O.C. 109.8-4]. The Legislative Operating Committee accomplishes this responsibility through the development of a public comment review memorandum that provides the Legislative Operating Committee's consideration of every comment received, and demonstrates any changes made to the proposed legislation based on the public comments.

A fiscal impact statement is also required for all proposed legislation. [1 O.C. 109.6-1]. A fiscal impact statement provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as 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 Legislative Operating Committee may direct that a fiscal impact statement be submitted by any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation, or the Finance Department. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A, *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 Legislative Operating Committee, the Legislative Operating Committee may direct the Finance Department or any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning

the subject matter of the legislation to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

After all the requirements of the Legislative Procedures Act are met and the Legislative Operating Committee is satisfied with proposed legislation, the Legislative Operating Committee then forwards an adoption packet comprised of the proposed legislation, legislative analysis, fiscal impact statement, resolution, statement of effect, and an adoption memorandum to the Oneida Business Committee for consideration. [1 O.C. 109.9-1]. The Oneida Business Committee then either considers whether to approve or deny the adoption of the legislation or forwards the legislation to the General Tribal Council for consideration of adoption. [1 O.C. 109.9-1(a)-(b)]. A law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2]. For those laws considered by the Oneida Business Committee a majority vote is required for the adoption of the law, while amendments and repeals of a law are handled in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)]. The Oneida Business Committee utilizes Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution and Bylaws of the Oneida Nation. [1 O.C. 117.4-1]. For those laws considered by the General Tribal Council, adoption, amendment, and repeal of laws are done in accordance with the laws governing General Tribal Council action. [1 O.C. 109.9-2(b)]. Any action by the General Tribal Council to overrule previously passed motions or resolution requires a two-thirds (2/3) vote. [1 O.C. 113.3-1(a)(3)].

Once legislation is adopted through resolution by either the Oneida Business Committee or the General Tribal Council the law shall become effective ten (10) business days after the date of adoption unless a different effective date is specified. [1 O.C. 109.9-3]. The Legislative Operating Committee is then responsible for publishing the law in the Oneida Code of laws by the effective date. [1 O.C. 109.9-4]. The Oneida Code of Laws can be found on the Oneida Register on the Nation's website at the following location: <https://oneida-nsn.gov/government/register/laws/>. Any law adopted in substantial compliance with the Legislative Procedures Act is considered valid. [1 O.C. 109.10-1]. No law can be contested based on non-compliance with the procedural requirements of the Legislative Procedures Act after one (1) year from the effective date of the law. [1 O.C. 109.10-2].

### *The Administrative Rulemaking Process*

The Administrative Rulemaking law provides a process for the adoption and amendment of administrative rules. [1 O.C. 106.1-1]. It is the policy of the Nation to ensure there is an efficient, effective and democratic process for enacting and revising administrative rules, and that authorized agencies act in a responsible and consistent manner when enacting and revising administrative rules. [1 O.C. 106.1-2].

Only authorized agencies, or any board, committee, commission, department, program or officer of the Nation that has been granted rulemaking authority, may promulgate rules. [1 O.C. 106.3-1(a), 106.4-1]. Authorized agencies are granted rulemaking authority through a law of the Nation. *Id.* Authorized agencies may develop rules interpreting the provisions of any law enforced or administered by it; provided that, a rule may not exceed the rulemaking authority granted under the law for which the rule is being promulgated. *Id.* Authorized agencies are required to adhere to the rulemaking procedures as provided in the Administrative Rulemaking law. *Id.*

Rules developed pursuant to the Administrative Rulemaking law have the same force and effect as the law which delegated the authorized agency rulemaking authority, and rules are required to be followed by both the general public and the authorized agency promulgating the rule. [1 O.C. 106.4-1(a)]. A rule developed in accordance with the Administrative Rulemaking law shall not conflict or supersede a law, policy or rule of the Nation or a resolution passed by the Oneida Business Committee or the Oneida General Tribal Council. [1 O.C. 106.4-1(b)]. A rule is not the same thing as a standard operating procedure. [1 O.C. 106.4-1(c)].

The Administrative Rulemaking law provides that the Legislative Operating Committee is responsible for creating a template for rules with which authorized agencies shall comply with, in an effort to provide guidance on how a rule should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all rules of the Nation. [1 O.C. 106.5-1]. Once an authorized agency drafts a rule, The authorized agency shall prepare a summary report regarding each proposed rule, which includes the following information:

- the name of the proposed rule;
- a reference to the law that the proposed rule interprets, along with a list of any other related laws, rules, or resolutions that may be affected by the proposed rule; a brief summary of the proposed rule;
- any changes made to the proposed rule based on the public comment period, if applicable;
- a statement of effect for the rule prepared by the Legislative Reference Office upon request by the authorized agency; and
- the financial analysis. [1 O.C. 106.5-2].

Once a draft and summary report are completed for a proposed rule, the authorized agency then moves forward with obtaining public review of the proposed rule. [1 O.C. 106.6-1]. The authorized agency determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed rule. [1 O.C. 106.6-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is required to be published in the Kalihwisaks and on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>.*Id.*

The public meeting on the proposed rule is required to be presided over by at least one (1) representative of the authorized agency. [1 O.C. 106.6-2(d)]. After the public meeting concludes, the authorized agency is then required to hold open a public comment period for the submission of written comments for at least five (5) business days. [1 O.C. 106.86-2(h)]. Once the public comment period has concluded, the authorized agency is required by the Administrative Rulemaking law to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed rule. [1 O.C. 106.6-4]. The authorized agency accomplishes this responsibility through the development of a public comment review memorandum that provides every public comment received and the authorized agency's response to each comment. [1 O.C. 106.6-5]. The authorized agency is required to hold an additional public meeting for the proposed rule if substantial changes are made to the proposed rule after the public comment period ends and all public comments are considered. [1 O.C. 106.6-6].

After the conclusion of the public meeting and public comment period the authorized agency then prepares an administrative record to seek certification from the Legislative Operating Committee. The administrative record contains the following information:

- A memorandum provided by the authorized agency containing the rule's procedural timeline including the dates the requirements of this law were fulfilled;
- The summary report;
- Draft of the proposed rule, and a draft of the rule considered for the required public meeting;
- The public meeting notice;
- The public meeting sign-in sheet;
- If the rule is being amended, redline drafts from the currently effective rule illustrating the proposed amendments;
- Minutes from the authorized agency's meeting during which the proposed rule was considered as an agenda item, or, if the authorized agency is not a board, committee or commission, a memo from the authorized agency's highest level of management approving the proposed rule;
- A memorandum provided by the authorized agency containing the public comments that were received, both orally and written, and the authorized agency's response to each
- comment;
- The effective dates of the original rule and any rule amendments subsequently made as established by the authorized agency; and
- (j) Any other supporting information that may be requested by the Legislative Reference Office. [1 O.C. 106.11-1].

Within six (6) months after a public meeting has expired, unless the Legislative Operating Committee determines there is good cause to go outside the time limits, the authorized agency is

required to submit the proposed rule and all items contained in the administrative record to the Legislative Operating Committee. [1 O.C. 106.7-1]. The Legislative Operating Committee is then responsible for certifying the proposed rule meets the following requirements: that promulgation of the rule complies with the procedural requirements contained in the Administrative Rulemaking law; that the administrative record is complete; and that the rule does not exceed its rulemaking authority or conflict with any other law, policy, rule or resolution of the Nation. [1 O.C. 106.7-2]. Upon receipt of a complete rule certification submission the Legislative Operating Committee either certifies the rule and forwards the administrative rule to the Oneida Business Committee, or denies the certification of the rule and forwards communication of why the rule was denied to the authorized agency. [1 O.C. 106.7-3].

Once a rule is forwarded to the Oneida Business Committee, the Oneida Business Committee then reviews and considers the proposed rule, the administrative record, and the Legislative Operating Committee's certification of compliance. [1 O.C. 106.8-1]. The Oneida Business Committee then either adopts, by motion, the proposed rule with a majority vote, or denies the adoption of the rule and request the authorized agency work with the Oneida Business Committee to address any concerns. [1 O.C. 106.8-2].

The authorized agency is responsible for determining a rule's effective date, provided that a rule may not become effective until the Oneida Business Committee adopts the proposed rule. [1 O.C. 106.9-1]. Any rule adopted is valid only if adopted in substantial compliance with this law. [1 O.C. 106.4-3]. Rules already in effect at the time of this law's adoption remain in effect unless directed to be updated based on this law's requirements by the Oneida Business Committee, and any amendments made to rules already in effect shall follow the requirements of this law. *Id.* Prior to publishing approved rules on the Oneida Register the Legislative Operating Committee shall create and/or update the administrative history on each rule which shall include the original effective date of the rule and the effective date of any amendments made to the rule. [1 O.C. 106.11-3].

### **Conclusion**

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authorities to all Entities would have the following legislative effect:

1. The Petition's request that the General Tribal Council direct the Oneida Business Committee to provide a complete list and supporting documentation showing any and all actions taken by the General Tribal Council which delegated any power or authority to any person, board, committee, commission, entity, corporation, or organization would have no legislative impact.
2. The Petition's request for the General Tribal Council to *review and discuss* any authority that may have been delegated by the General Tribal Council to other entities would have no legislative impact. Reviewing and discussing the delegated authorities of the General



Tribal Council may provide the membership with greater understanding of the different roles and responsibilities different entities of the Nation maintain.

3. The Petition's request for the General Tribal Council to *take action to overturn or modify* prior actions taken by the General Tribal Council to delegate authority to other entities would have legislative impacts.
  - a. If the General Tribal Council were to take action to overturn or modify any previously made delegation of authority to an entity of the Nation, the Ten Day Notice Policy requires that any action to overrule a previous passed motion or resolution of the General Tribal Council has a two-thirds (2/3) majority vote.
  - b. Since much of the authority delegated by the General Tribal Council to a separate entity of the Nation has been codified in law, any action by the General Tribal Council to overturn or modify that previously made delegation of authority to an entity of the Nation would require amendments be made to the law in accordance with the Legislative Procedures Act to address the modified delegation of authority.
  - c. If any of the aforementioned laws of the Nation which codified authority delegated from the General Tribal Council to an entity of the Nation also delegated administrative rulemaking authority to the same entity of the Nation based on that delegation of authority, then amendments to any adopted administrative rules may also be necessary if the General Tribal Council ultimately takes action to modify or overturn the delegation of authority to the entity.
  - d. Since the Boards, Committees and Commissions law mandates that every board, committee, and commission of the Nation create bylaws that conform to its requirements and include information of its authority, the boards, committees and commissions have bylaws that refer to authorities and responsibilities that have been delegated to them by the General Tribal Council. If the General Tribal Council takes action to modify or overturn the delegation of authority to an entity which is a board, committee, or commission of the Nation, then the entity's bylaws would need to be amended to reflect the change in authority or responsibilities.

### **Requested Action**

Accept the statement of effect for the Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authorities to all Entities.



## Statement of Effect

*Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020*

### Summary

This petition requests the General Tribal Council to direct that the Nation’s organizational structure return back to the state that it was in prior to the COVID-19 pandemic Public Health State of Emergency.

*Submitted by: Clorissa N. Leeman, Senior Staff Attorney, Legislative Reference Office  
Date: May 18, 2023*

### *Analysis by the Legislative Reference Office*

On March 2, 2023, the Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020 (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

- *Direct that the Oneida Nation of Wisconsin Organizational Structure return back to the state that it was prior to the Oneida Nation of Wisconsin shutting down due to Covid 19 In March of 2020, which will include the return of all departments, programs, services and the employees of those areas of the Oneida Nation of Wisconsin effective the Monday following this General Tribal Council Meeting;*
- *Direct that any and all changes made to the Oneida Nation of Wisconsin Organizational Structure (including boards, committees, and commissions) during the Covid-19 crisis from March 2020 to present (the day of this meeting) are hereby “Null and Void” effective immediately;*
- *Direct that any and all organizational structural changes (including boards, committees, and commissions) shall be brought before the General Tribal Council*



*in a separate GTC meeting scheduled for the solely purpose of presenting, reviewing, discussing and receiving approval/denial/modification(s) by the General Tribal Council PRIOR to ANY changes being implemented;*

- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

### *Declaration of the Public Health State of Emergency due to the COVID-19 Pandemic*

In early 2020, the world began experiencing the effects of the COVID-19 pandemic. As a result of the COVID-19 pandemic, in accordance with the authority granted to the Oneida Business Committee through the Emergency Management law, on March 12, 2020, Chairman Tehassi Hill signed a Declaration of Public Health State of Emergency. [3 O.C. 302.8-1]. A public health emergency is the occurrence or imminent threat of an illness or health condition which is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and poses a high probability of a large number of deaths or serious or long-term disability among humans or widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people. [3 O.C. 302.3-1(o)]. The Public Health State of Emergency was continuously extended until May 11, 2023, through adoption of the following resolutions: BC-03-26-20-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, and BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, BC-01-12-22-B, BC-03-23-22-A, BC-05-11-22-E, BC-07-13-22-F, BC-09-14-22-C, BC-10-26-22-H, BC-01-11-23-B, BC-03-08-23-A. [3 O.C. 302.8-2].

During this time of the Public Health State of Emergency the Nation took action that protected the health and welfare of the Oneida Nation community and employees which included health related restrictions such as closing programs, schools, offices and businesses; significantly reducing and restricting expenditures to protect the Nation's ability to provide needed health and safety services to members and the community during the pandemic; and, adopting actions which prohibited or limited public interactions, gatherings, and activities.

### *Directives of Petition*

This Petition requests the General Tribal Council consider directing the Nation's organizational structure to return back to the state it was in prior to the Nation shutting down due to COVID-19 in March of 2020, which would include the return of all departments, programs, services, employees, boards, committees, and commissions of all areas within the Nation effective the

Monday following the General Tribal Meeting. The Petition also requests that the General Tribal Council consider directing that all changes made to the Nation's organizational structure during the COVID-19 pandemic from March 2020 to present be hereby null and void effective immediately. The Petition also requests the General Tribal Council to direct that any and all organizational changes be required to be brought before the General Tribal Council in a separate meeting scheduled solely for the purpose of presenting, reviewing, discussing, and the approval, denial, or modification by the General Tribal Council prior to any changes being made and implemented.

The Petition does not contain enough information to develop a complete statement of effect that reviews all potential legislative impacts of the requested actions. The requested actions of this Petition are too vast to analyze without additional information that would highlight all the actual actions that would need to be addressed to set the Nation's organizational structure back to how it existed prior to March of 2020. The Petition is essentially asking that the General Tribal Council turn back time three (3) years.

Due to the fact that there is not enough information available for this statement of effect to fully analyze the legislative impacts of this Petition, this statement of effect intends to highlight some potential legislative impacts that would be likely to arise from the requested actions of this Petition.

#### *Oneida Personnel Policies and Procedures*

The General Tribal Council adopted the Oneida Personnel Policies and Procedures to provide the Nation's employee related policies and procedures including policies regarding recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping. Overall, the Oneida Personnel Policies and Procedures provides the various roles and responsibilities of the Nation's Human Resources Department, supervisors, employees, Oneida Personnel Commission, and the Oneida Nation Judiciary in regard to the management of employees of the Nation.

The Oneida Personnel Policies and Procedures would be greatly impacted by the requested actions of this Petition, and it is likely conflicts or violations of the Oneida Personnel Policies and Procedures would occur.

Section III of the Oneida Personnel Policies and Procedures provides for the hiring and selection of employees of the Nation. Section V of the Oneida Personnel Policies and Procedures addresses investigating complaints and issuing discipline, including terminations, when necessary for unsatisfactory work performance or adverse behaviors. The Petition's request that the Nation's organizational structure be returned to how it was organized prior to March 2020 – and that all employees be brought back – would have great legislative impacts, specifically related to section III and section V of the Oneida Personnel Policies and Procedures. The Petition does not address

what happens with employees that do not wish to return to their prior positions, what happens to employees who have been lawfully hired to fill previously furloughed, laid off, or new positions, or what happens to employees who were lawfully terminated within the last three (3) years.

Section IV of the Oneidas Personnel Policies and Procedures provides how the Nation handles the compensation and benefits of employees. The Oneida Personnel Policies and Procedures provides that an ongoing plan will be instituted based on standard employee grades and step levels to assure that a uniform approach is taken to establish equitable salary and wage levels. *[Section IV.A.1.a]*. Since March of 2020, the Human Resources Department conducted wage analyses for employment positions within the Nation that resulted in a raise in the wage for many employees. Employees of the Nation have also received cost of living adjustments. It is unknown how this would be affected by the directive to return to the Nation's past organizational structure.

Section IV.A.5. of the Oneida Personnel Policies and Procedures addresses the vacation and personal days for employees. The amount of personal and vacations days an employee is eligible to accrue is determined by continuous service for the Nation. *[Section IV.A.5.b]*. The accruals of an employee's personal and vacation time would be impacted by the requests of this Petition.

Additionally, it is important to note that throughout all the various process and procedures regarding the management and supervision of an employee contained within the Oneida Personnel Policies and Procedures, in no instance is the General Tribal Council involved in employment matters in any way or granted any authority over the management and supervision of an employment position.

#### *Back Pay Law*

The Back Pay law sets forth the standards used in the calculation of back pay for all employees of the Nation. *[2 O.C. 206.1-1]*. The calculation of back pay begins on the day the employee is involuntarily separated and ends on the day the employee is reinstated. *[2 O.C. 206.4-3]*. The requests of this Petition may have legislative impacts on the Nation's Back Pay law.

#### *Furlough Law and Layoff Policy*

The purpose of the Furlough law is to enable the Nation to implement a furlough program in response to an interruption of governmental revenues or operations, insufficient treasury funds or other emergencies/ unplanned events as determined by the Oneida Business Committee in accordance with this law; establish a consistent and equitable process for implementation of a furlough program; and incorporate Indian preference into the furlough program and require that it be applied in accordance with this law. *[2 O.C. 205.1-1]*.

The Layoff Policy establishes a fair, respectful policy for employee layoff and recall which enables Oneida Nation programs and enterprises to operate effectively and efficiently in varying economic conditions within the parameters of Oneida Nation Seventh Generation Mission, Priorities, and Objectives. [2 O.C. 207.1-1].

Both the Furlough law and Layoff Policy provide that individuals that are not recalled from furlough or layoff by the end of the furlough or layoff period shall be terminated from their employment. [2 O.C. 207.5-3, 205.9-3]. The Petition's request that all employees be brought back, which would include those employees who were not recalled from their furlough or lay off, conflicts with the Furlough law and Layoff Policy's provisions that termination occurs if recall does not happen.

### *Attorney Contract Policy*

The Attorney Contract Policy regulates the utilization of attorneys within the Oneida Nation organization and attorneys and firms hired on retainer outside the Oneida Nation organization to maximize the professional services and reduce conflict among professionals. [2 O.C. 216.1-1]. The Attorney Contract Policy provides that all attorney contracts are required to be approved by the Oneida Business Committee, and all attorney contracts be signed by the Oneida Business Committee chairperson and one officer of the Oneida Business Committee on behalf of the Oneida Nation. [2 O.C. 216.4-1, 216-4-2].

Reverting the Nation's organization back to how it was organized prior to March 2020 could affect attorney contracts, and may impact the Attorney Contract Policy's delegation of authority to the Oneida Business Committee to approve attorney contracts on behalf of the Nation.

### *Elected and Appointed Boards, Committees, and Commissions*

This Petition's requests for Nation's organizational structure to return back to the state it was in prior to the Nation shutting down due to COVID-19 in March of 2020, includes the return of all boards, committees, and commissions of the Nation to how they were organized prior to March 2020.

The Boards, Committees, and Commissions law governs the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1]. The Boards, Committees, and Commissions law applies to all boards, committees, and commissions of the Nation created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership. [1 O.C. 105.3-1(i)]. The Oneida Business Committee and

corporations of the Nation are not subject to the provisions of the Boards, Committees, and Commissions law. [1 O.C. 105.1-1(a)-(b)].

The 2023 General Election is scheduled for July 15, 2023. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. [1 O.C. 102.11-1]. The Election Board is required to forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer, and potentially up to fifteen (15) business days. [1 O.C. 102.11-12]. The Business Committee then declares the official results of the election within ten (10) business days after receipt of the Final Report. [1 O.C. 102.11-13]. Newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee. [1 O.C. 102.11-15].

This Petition is not expected to be presented to the General Tribal Council for consideration until at least August 2023. The 2023 General Election will be completed prior to the consideration of this Petition by the General Tribal Council. Therefore, in addition to the numerous changes to elected and appointed positions that occurred since March 2020, there will be new officials elected to various positions of the Nation in July 2023.

It is likely that newly elected officials may be sworn in prior to the presentation of this petition to the General Tribal Council for consideration. Once an individual has been elected or appointed to a position and has taken the official oath of office, an individual appointed to a position within the Nation can only be removed from their position by termination by the Oneida Business Committee in accordance with the process and procedures contained within the Boards, Committees, and Commissions law; and an individual elected to a position within the Nation can only be removed from their position in accordance with the process and procedures contained within the Removal law. [1 O.C. 105.9-1, 105.7-4; 1 O.C. 104].

Reverting the organization of the Nation's boards, committees, and commissions of the Nation back to how it was organized prior to March 2020 would have legislative impacts on the Boards, Committees, and Commissions law and the Removal law.

### *Budget and Finances Law*

The Budget and Finances law sets 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:

- 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;

- 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;
- 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;
- establish a framework for effective financial risk management; and
- encourage participation by the Nation’s membership. [1 O.C. 121.1-1].

The Nation is required to develop, adopt, and manage an annual budget. [1 O.C. 121.5-1]. All revenues and expenditures of the Nation are required to be made in accordance with the annual budget. *Id.* The Nation’s annual budget is required to be a balanced budget, which does not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year. *Id.* The Budget and Finances law provides for the process and procedures to be used for the development and adoption of the Nation’s budget. [1 O.C. 121.5-4].

On December 28, 2022, the Oneida Business Committee adopted resolution BC-12-28-22-D, *Adoption of Fiscal Year 2023 Budget*, which adopted the Fiscal Year 2023 budget in the amount of five hundred and forty-nine million one hundred and six thousand nine hundred eighty-eight dollars (\$549,106,988) on behalf of the General Tribal Council.<sup>1</sup> The Fiscal Year 2023 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration. Therefore, any allocation of funding to support the requests of this Petition has not been included in the Fiscal Year 2023 budget. All expenditures of the Nation are required to be made in accordance with the annual budget. [1 O.C. 121.5-1].

After the budget is adopted, amendments of the budget are not permitted unless it is necessary to avoid a budget deficit. [1 O.C. 121.5-5]. The Treasurer and Chief Financial Officer are required to identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year, and then the Chief Financial Officer is then required to provide the Oneida Business Committee a written fiscal analysis and any input on the potential

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<sup>1</sup> The Budget and Finances law provides that 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 until such time as a budget is adopted. [1 O.C. 121.5-4(e)(1)]. The Oneida Business Committee took action to adopt a continuing budget resolution through the adoption of resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, which allowed organizational activities to continue until the final budget was presented for approval. Resolution BC-09-14-22-D provided that the continuing budget resolution would remain in effect from October 1, 2022, until December 31, 2022, or until the budget is adopted whichever is soonest. The Budget and Finances law then provides that if the General Tribal Council is not able to adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall proceed with the adoption of the Nation’s budget. [1 O.C. 121.5-4(e)(1)]. The Fiscal Year 2023 Budget was not able to be presented to the General Tribal Council for adoption prior to September 30, 2022. The Oneida Business Committee then adopted a continuing resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*. The Fiscal Year 2023 Budget was not presented to the General Tribal Council for consideration prior to the expiration of resolution BC-09-14-22-D, so the Oneida Business Committee then adopted the Fiscal Year 2023 Budget through resolution BC-12-28-22-D, *Adoption of Fiscal Year 2023 Budget*.



budget amendment. *Id.* The Oneida Business Committee is responsible for adopting an amendment to the budget through resolution of the Nation. *Id.* The Oneida Business Committee is required to present notification of the budget amendment at the next available General Tribal Council meeting. *Id.* So unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2023 budget to provide any allocation of funding to support the requests of this Petition would not be permissible under the Budget and Finances law.

Additionally, unbudgeted expenditures are permitted under the Budget and Finances law if granted approval by the Oneida Business Committee. [1 O.C. 121.6-4(a)]. The Chief Financial Officer is required to provide the Oneida Business Committee with a written fiscal analysis and any input on any potential unbudgeted expenditure. *Id.* The approval of any unbudgeted expenditure is required to be made by the Oneida Business Committee through the adoption of a resolution prior to the expenditure being made by a fund unit. *Id.* Any unbudgeted expenditure for items and specific projects which were not identified in the approved budget made for over two hundred and fifty thousand dollars (\$250,000) is required to be formally noticed by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council regular or special meeting. [1 O.C. 121.6-4(b), BC-05-11-22-B, BC-10-08-08-A.].

### **Conclusion**

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020 would have the following legislative effect:

1. This Petition does not contain enough information to develop a complete statement of effect that reviews all potential legislative impacts of the requested actions. The requested actions of this Petition are too vast to analyze without additional information that would highlight all the actual actions that would need to be addressed to set the Nation’s organizational structure back to how it existed prior to March of 2020. Due to the fact that there is not enough information available for this statement of effect to fully analyze the legislative impacts of this Petition, this statement of effect intends to highlight that there may be potential legislative impacts, including conflicts with or violations of law, that would be likely to arise from the requested actions of this Petition. The following laws of the Nation may be impacted by this Petition, but it should be noted that this is not an exhaustive list:

- Oneida Personnel Policies and Procedures;
- Furlough law;
- Layoff Policy;
- Back Pay law;
- Attorney Contract Policy;
- Boards, Committees, and Commissions law;
- Removal law; and
- Budget and Finances law.



**Requested Action**

Accept the statement of effect for the Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020.



TO: General Tribal Council  
FROM: David P. Jordan, Legislative Operating Committee Chairman  
DATE: May 24, 2023  
RE: Review of the Eviction and Termination Law

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### *Background*

On the agenda at the January 16, 2023, special General Tribal Council meeting the General Tribal Council considered the Petition: L. Elm – Real Property Law Eviction and Termination (“the Petition”). During discussions of the Petition, the General Tribal Council adopted a motion to accept the petition as information and to ask the Business Committee to review the Eviction & Termination law and to bring back a report back to General Tribal Council to the semi-annual meeting.

On July 6, 2022, the Legislative Operating Committee added the Eviction and Termination law to its Active Files List for review and consideration of amendments. The Legislative Operating Committee was already developing amendments to the Real Property law, and in those efforts determined the Eviction and Termination law should also be reviewed. The Legislative Operating Committee then held four (4) work meetings in collaboration with representatives from the Comprehensive Housing Division, the Environmental, Health, Safety, Land and Agriculture Division, Oneida Law Office, and Oneida Land Commission to review and discuss the Eviction and Termination law.

### *Review of the Eviction and Termination Law*

The purpose of the Eviction and Termination law is to provide consistent procedures relating to the Nation’s rental and leasing programs for terminating a contract and/or evicting an occupant which affords the applicant due process and protects all parties involved. [6 O.C. 610.1-1]. It is the policy of the Nation to provide fair termination and eviction processes that preserves the peace, harmony, safety, health, general welfare and the Nation’s resources. [6 O.C. 610.1-2]. Under the Eviction and Termination law the owner is the Nation in its capacity as a lessor as defined in the Leasing law or as a landlord as defined in the Landlord Tenant law, while the occupant is the person granted the right to use or occupy a premises pursuant to a lease or rental agreement entered into in accordance with the Leasing law or Landlord-Tenant law respectively. [6 O.C. 610.3-1(f)-(g)].

The Eviction and Termination law provides that an owner may terminate a contract, for either a lease document pursuant to the Leasing law or a rental agreement pursuant to the Landlord-Tenant law, prior to the contract term and evict the occupant, if the occupant:

- Violates the terms of the contract;
- Is alleged to have violated any applicable law or rule; and/or
- Is alleged to have committed one or more nuisance activities. Nuisance activities include, but are not limited to, allegations of harassment, disorderly conduct, battery, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, habitual noise violations, execution of warrants, alcohol violations, obstruction/resisting, inspection related calls in which a law enforcement agency responds. [6 O.C. 610.3-1(b), 610.3-1(e), 610.5-1].

The Eviction and Termination law sets forth standards for providing notice of eviction, as well as the manner and form of notice required, to protect the due process rights of the occupant. When an owner provides notice in compliance with these requirements, the occupant is not entitled to possession or use of the premises after the date of the termination provided in the notice. [6 O.C. 610.5-3]. The standards of providing notice for eviction differ depending on why an occupant is being evicted, for example:

- *Eviction for Failure to Pay Rents.*
  - If an occupant fails to pay any installment of rent when due, the occupant's contract is terminated if the owner gives the occupant notice requiring the tenant to pay rent or vacate on or before a date **at least thirty (30) calendar days** after the giving of the notice and if the occupant fails to pay accordingly. [6 O.C. 610.5-3(a)(1)].
  - If an occupant has been given notice for eviction due to failure to pay rent and has paid the rent on or before the specified date, or been permitted by the owner to remain in possession contrary to such notice, and thereafter fails to pay a subsequent installment of rent on time within one (1) year of said notice, the occupant's contract is terminated if the owner, while the occupant is in default in payment of rent, gives the occupant notice to vacate on or before a date **at least fourteen (14) calendar days** after the giving of the notice. [6 O.C. 610.5-3(a)(2)].
- *Eviction for Waste or Contract Breach other than Rent Payment.*
  - If an occupant commits waste, which is physical damage or deterioration caused to the premises, whether intentional or negligent, or breaches any covenant or condition of the occupant's contract, other than for payment of rent, the occupant's tenancy is terminated if the owner gives the occupant a notice requiring the occupant to remedy the default or vacate the premises on or before a date **at least thirty (30) calendar days** after the giving of the notice, and if the occupant fails to comply with such notice. [6 O.C. 610.3-1(l), 610.5-3(b)(1)]. An occupant is deemed to be complying with the notice if promptly upon receipt of such notice the occupant takes reasonable steps to remedy the default and proceeds with reasonable diligence, or if damages are adequate protection for the owner and the occupant.

makes a bona fide and reasonable offer to pay the owner all damages for the occupant's breach. [6 O.C. 610.5-3(b)(1)].

- If within one (1) year from the giving of any notice for eviction due to waste or contract breach, the occupant again commits waste or breaches the same or any other covenant or condition of the occupant's contract, other than for payment of rent, the occupant's contract is terminated if the owner, prior to the occupant's remedying the waste or breach, gives the occupant notice to vacate on or before a date **at least fourteen (14) calendar days** after the giving of the notice. [6 O.C. 610.5-3(b)(2)].
- *Eviction for Violation of Applicable Law or Rule or Nuisance by Occupant.*
  - In order to terminate a contract and evict an occupant for a violation of applicable law or rule or nuisance, the owner must have received notice, which may be from, but is not limited to, another occupant, law enforcement agency or a local government's office of the district attorney, which reports: a violation of an applicable law or rule on behalf of the occupant or in the occupant's unit, or a nuisance that exists in that occupant's unit or was caused by that occupant on the owner's property. [6 O.C. 610.5-3(c)(1)]. In order to terminate the contract, the owner is required to give the occupant written notice requiring the occupant to vacate on or before a date **at least five (5) calendar days** after the giving of the notice. [6 O.C. 610.5-3(c)(1)(B)].
  - The Eviction and Termination law provides protection to the occupant by providing the right to contest a termination based on a violation of applicable law or rule or nuisance by filing a complaint challenging the basis of the eviction with the Oneida Judiciary. [6 O.C. 610.5-3(c)(2)]. If the occupant contests the termination prior to the termination date provided in the notice, the eviction is stayed, and the contract may not be terminated without proof to the Oneida Judiciary by the owner by the greater preponderance of the credible evidence of the allegation that a violation of law and/or rule and/or nuisance exists in that occupant's unit or was caused by that occupant. [6 O.C. 610.5-3(c)(3)].
  - Despite an owner's satisfaction of the proof requirements of the Eviction and Termination law, the Oneida Judiciary may, at its discretion, stay an eviction by honoring any alternative agreement regarding pending actions entered into by the occupant and a court of competent jurisdiction pending successful completion of the alternative agreement. [6 O.C. 610.5-3(c)(4)].

The Eviction and Termination law is very specific as to what information notices provided need to include. Notices provided under the Eviction and Termination law are required to include:

- The violation of law and/or rule, committing of nuisance and/or breach of the contract, with citations to the applicable law, rule and/or contract clause;
- If the notice is for eviction due to the failure to pay rents, the current delinquent balance due;

- If the notice is eviction due to the failure to pay rents or eviction due to waste or contract breach:
  - A statement that the occupant has a thirty (30) day period to cure;
  - The date the period to cure expires and the termination becomes effective in the event occupant does not cure; and
  - Potential consequences for failure to cure, which may include, but are not limited to eviction and the assessment of damages against the occupant.
- If notice is for an eviction for violation of an applicable law, rule, or nuisance by the occupant, a statement that the occupant may request a hearing with the Oneida Judiciary prior to the effective date of the termination provided on the notice, and that, if the occupant timely files for a hearing, there is an automatic stay on the eviction pending the determination of the Oneida Judiciary;
- The contact information for the Comprehensive Housing Division staff available to answer questions and/or hear concerns of the occupant related to the notice. *[6 O.C. 610.5-3(d)(1)].*

The Eviction and Termination law provides how notice to an occupant, who is an individual, must be provided. An owner provides notice of an eviction by:

- Giving a copy of the notice personally to the occupant or by leaving a copy at the occupant's usual place of abode in the presence of some competent member of the occupant's family at least fourteen (14) years of age, who is informed of the contents of the notice, provided that the owner may request that the notice be personally served to the occupant by the Oneida Police Department.
- Leaving a copy with any competent person apparently in charge of the premises or occupying the premises or a part thereof, and by mailing a copy by first class mail to the occupant's last-known address.
- If notice cannot be given as described above with reasonable diligence, by affixing a copy of the notice on an entrance to the rented premises where it can be conveniently read and by mailing a copy by first class mail to the occupant's last-known address;
- By mailing a copy of the notice by registered or certified mail to the tenant at the tenant's last-known address; and
- By serving the occupant as prescribed in the Rules of Civil Procedure for the service of a summons. *[6 O.C. 610.5-3(d)(2)(A)-(E)].*

The Eviction and Termination law also provides how notice of eviction is provided to an occupant who is a corporation or partnership and not an individual. *[6 O.C. 610.5-3(d)(3)].*

The Eviction and Termination law then addresses what occurs when an occupant fails to vacate the premises following the notice of termination based on eviction, occupant termination, or expiration and non-renewal of a contract, which is that the owner secures and takes possession of the premises once the timeframe in the notice of termination has expired. *[6 O.C. 610.6-1]*. The Eviction and Termination law provides guidelines for how the owner may secure the property by changing the locks and handle personal property of the occupant that has been left in the property.

*Id.* A failure to vacate following notice of termination based on eviction, occupant termination or expiration and non-renewal of a contract does not in any circumstances, regardless of acceptance of rent payments, create a periodic tenancy, which is when an occupant uses/occupies a premises without an effective and valid contract by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month. [6 O.C. 610.6-2]. If an occupant remains in possession of the premises without consent of the owner after notice of termination based on eviction, occupant termination or expiration and non-renewal of a contract, the owner may, at the owner's discretion, recover from the occupant damages suffered by the owner because of the failure of the occupant to vacate within the time required. [6 O.C. 610.6-3]. In absence of proof of greater damages, the landlord can recover as minimum damages twice the rental value apportioned on a daily basis for the time the occupant remains in possession. *Id.* Rental value means the amount for which the premises might reasonably have been rented, but not less than the amount actually paid or payable by the occupant for the prior rental period and includes the money equivalent of any obligations undertaken by the occupant as part of the contract, such as regular property maintenance and repairs. *Id.* The owner is not prevented from seeking and recovering any other damages to which the owner may be entitled. *Id.*

The Eviction and Termination law then address withholding from and the return of the security deposits. The Eviction and Termination law very clearly provides for what an owner may withhold from the full amount of the security deposit for and provides a process for noticing and handling nonstandard withholding provisions. [6 O.C. 610.7-2, 610.7-3]. An owner may not withhold any amount from a security deposit for normal wear and tear, or for other damages or losses for which the occupant cannot reasonably be held responsible under the terms of the contract, and applicable laws and/or rules of the Nation. [6 O.C. 610.7-4]. The owner is required to deliver or mail to an occupant the full amount of any security deposit paid by the occupant, less any amounts that may be lawfully withheld, within thirty (30) calendar days after any of the following:

- If the occupant vacates the premises on the original termination date of the contract, the date on which the contract terminates;
- If the occupant vacates the premises or is evicted before the original termination date of the contract, the date on which the occupant's rental agreement terminates or, if the owner re-rents the premises before the occupant's rental agreement terminates, the date on which the new occupant takes occupancy/use of the premises; or
- If the occupant vacates the premises untimely or is removed from the premises, the date on which the owner learns that the occupant has vacated the premises or has been removed from the premises. [6 O.C. 610.7-5].

The Eviction and Termination law clearly grants jurisdiction to the Oneida Judiciary to hear complaints filed regarding actions taken pursuant to this law. [6 O.C. 610.8-1]. No administrative hearing body, including a board, committee, or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental agreement. [6 O.C. 610.8-2]. Although the Nation is the owner, the Comprehensive Housing Division is considered the owner in regard

to taking actions authorized under this law, and complaints filed with the Oneida Judiciary shall name the Comprehensive Housing Division and the specific program. [6 O.C. 610.8-3].

### *Conclusion*

A review of the Eviction and Termination law demonstrated that the law very clearly provides when a lease or rental agreement may be terminated and the occupant may be evicted, how notice of the eviction is provided to the occupant, and what occurs if an occupant fails to vacate the property. The Eviction and Termination law provides for the protection of due process rights of the occupant, while also protecting the Nation's rights to preserve the peace, harmony, safety, health, general welfare, and the Nation's resources. It has been determined that at this time amendments to the Eviction and Termination law are not necessary.

### **Requested Action**

Accept as information the memorandum entitled, *Review of the Eviction and Termination Law*.



# June 2023

June 2023						July 2023							
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3							1
4	5	6	7	8	9	10	2	3	4	5	6	7	8
11	12	13	14	15	16	17	9	10	11	12	13	14	15
18	19	20	21	22	23	24	16	17	18	19	20	21	22
25	26	27	28	29	30		23	24	25	26	27	28	29
							30	31					

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
May 29	30	31	Jun 1	2
5	6	7 8:30am LOC Prep (Microsoft Teams Meeting; BC_Conf_Room) - 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;	8	9
12	13	14	15	16
19	20	21 8:30am LOC Prep (Microsoft Teams Meeting; BC_Conf_Room) - 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;	22	23
26	27	28	29	30