HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE ACCEPTANCE OF APPLICATION OF LYNETTE LEGARDE TO BE INTERIM DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION RESOLUTION 07-19-11 E

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

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

WHEREAS, Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") gives the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and

WHEREAS, Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power; and

WHEREAS, Article V, Section 2(c) of the Constitution grants the Legislature the power to constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature; and

WHEREAS, Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and

WHEREAS, Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals; and

WHEREAS, Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and

WHEREAS, Article VI, section 2(e) provides "[t]he President shall have the power . . . (e) To nominate the Executive Directors of each Department subject to confirmation by

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the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed."; and

WHEREAS, the Legislature adopted the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9) (hereinafter "Confirmation Act"); and

WHEREAS, section 2 of the Confirmation Act provides "[t]he purpose of this Act is to assist in an orderly transition between Executive administrations through a confirmation process. This Act shall be applicable to all Executive Directors, Interim Directors, and candidates for a Director Position."; and

WHEREAS, Section 5 of the Confirmation Act provides:

5. **Nomination Process**. The President, pursuant to Article VI, Section 2(e) of the Constitution of the Ho-Chunk Nation, must name all Executive Directors, subject to the confirmation of the Legislature:

a. Confirmation by the Legislature of an Executive Director during a previous presidential administration shall have neither force nor effect in subsequent New Administrations nor, in the event that an individual is re-elected as President, shall nominations or appointments remain in force or effect.

b. When a vacancy occurs for any reason, there shall be two (2) stages in the confirmation process for an individual who the President wants to be the Executive Director of an Executive Department:

(1) In the first stage the individual who the President wants to be Executive Director shall be classified as a Candidate. For an individual to be classified as a Candidate, the Legislature will not have taken any action with respect to that individual. The President, within fourteen (14) days of a vacancy, shall submit the candidate's application to the Legislature for its consideration. Upon the President submitting an application of a Candidate, the Legislature within two (2) regular Legislative Sessions at a Nomination Hearing shall either deny or accept the candidate.; and

WHEREAS, Section 5, subparagraph b. (1) (b) of the Confirmation Act further provides:

(b) If the Legislature elects to accept the application of the candidate, the Legislature shall use the Resolution attached as Appendix B and entitled "ACCEPTANCE OF APPLICATION OF [NAME OF CANDIDATE] TO BE INTERIM DIRECTOR OF THE [NAME OF EXECUTIVE DEPARTMENT]" or a similar Resolution. Only upon the Legislature accepting the application of the candidate, shall the candidate be considered an Interim Director.

WHEREAS, the President selected Lynette LeGarde to be a candidate for the position of Executive Director of the Department of Administration.

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NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, accepts the application of Lynette LeGarde to be Interim Director of the Department of Administration.

BE IT FURTHER RESOLVED that Lynette LeGarde shall be considered an Interim Director of the Department of Administration.

BE IT FURTHER RESOLVED that, pursuant to Section 6 of the Confirmation Act, the Legislature designates the Compliance Division to conduct a background investigation on Lynette LeGarde. Such investigation shall be concluded within forty-five (45) days and include a written summary of any findings.

BE IT FURTHER RESOLVED that, pursuant to Article VI, section 2, subparagraph (e) "that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed", which means that the Legislature must take a confirmation vote on the candidacy of Lynette LeGarde by October 18, 2011, or he or she shall be the Executive Director of the Department Of Administration.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **12** constituting a quorum were present at a meeting duly called and convened and held that on the **19th day of July, 2011**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **11members, 0 opposed, and 1 abstaining**, pursuant to the Article V, Section 2(a) through (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Hope B. Smith

Hope B. Smith, Tribal Secretary

July 19, 2011

Date