



**HO-CHUNK NATION CODE (HCC)
TITLE 2 – GOVERNMENT CODE
SECTION 9 – CONFIRMATION PROCESS OF EXECUTIVE
DIRECTORS FOR THE HO-CHUNK NATION ACT**

ENACTED BY LEGISLATURE: FEBRUARY 20, 2001

LAST AMENDED: August 31, 2020

CITE AS: 2 HCC § 9

This Act supersedes HCC 96-005, Confirmation Process of Executive Directors for the Ho-Chunk Nation Act of 1996 as amended by Ho-Chunk Nation Legislative Resolutions 7/20/99F, 9/28/99B, and 8/10/99F.

Last Amended by Ho-Chunk Nation Legislative Resolution 8-31-20A

1. Authority.

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

b. Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget.

c. Article V, Section 2(e) of the Constitution grants the Legislature the power to raise revenue, including the power to levy and collect taxes and license fees.

d. Article VI, Section 2(e) of the Constitution grants the President the power to nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed.

2. Purpose and Applicability.

a. The purpose of this Act shall be:

(1) To assist in an orderly transition between Executive administrations through a confirmation process.

(2) To assist in an orderly confirmation process of an Executive Director whenever an Executive Director position is deemed vacant for whatever reason.

b. This Act shall be applicable to all Candidates, Interim Directors, and Executive Directors.

3. Definitions. As used in this Act, the following shall have the meaning provided here:

a. “Acting Appointment” means the appointment, selection, or designation by the President of a person to serve as the temporary head or administrator of an Executive Branch Department, when there is not an Interim Director or confirmed Executive Director of the particular Department.

b. “Candidate” means an individual whose application the President will submit or submits to the Legislature for consideration as to whether or not the individual shall be accepted as an Interim Director. A candidate shall not have any authority with respect to the Department until such time as the Legislature accepts the candidate and he or she is classified as an Interim Director. The only exception to the preceding sentence is if the candidate previously served as Executive Director in the same Executive Director position in the immediate preceding Administration. Until such time as the candidate becomes an Interim Director, the person chosen to be head of the department by the President shall serve with the same authority as an Interim Director.

c. “Confirmation” means giving legal force to the appointment of an Interim Director as a Director of an Executive Department.

d . “Confirmation Hearing” means that hearing conducted by the Legislature for the purpose of considering Background Investigation results of an Interim Director in rendering a confirmation. At the discretion of the Legislature, a confirmation hearing may simply be a review, during a normal Legislative Session, of the material submitted with respect to the Interim Director.

e . “Executive Director” means the person selected by the President and confirmed by the Legislature to serve as director of one of the Executive Branch departments.

f. “Interim Director” means a candidate whose nomination has been accepted by the Legislature and is awaiting confirmation. An Interim Director shall not possess the powers of a confirmed Executive Director, but shall be limited to the administration of the department in accordance with Section 5, subparagraph i.

g. “New Administration” means the installation of a new President regardless of the reason, i.e., election, re-election, or appointment.

h. “Nomination Hearing” means that hearing conducted by the Legislature for the purpose of obtaining information from the candidate in order for the Legislature to determine whether or not it wants to accept the candidate and thereby designate the individual as an Interim Director. At the discretion of the Legislature, a nomination

hearing may simply be a review, during a normal Legislative Session, of the material submitted by the President with respect to the candidate.

i. “President-Elect” means the individual duly elected to the Office of the President as certified by the Election Board, but who has not yet taken the Oath of Office.

4. Qualifications.

a. Any Interim Director selected by the President or President-Elect shall, at a minimum, meet the qualifications for employment contained in the position description approved by the Legislature.

b. Any person selected by the President or President-Elect as an Acting Appointment shall, at a minimum, meet the qualifications for employment contained in the position description approved by the Legislature.

c. The President or President-Elect shall not nominate an individual convicted of a felony, unless pardoned for that felony.

d. The President or President-Elect shall not name, as an Acting Appointment, an individual who has been convicted of a felony, unless pardoned for that felony.

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 for an Executive Director position, 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.

(a) If the Legislature elects to deny the application of the candidate, the Legislature shall use the Resolution attached as Appendix A and entitled “DENIAL OF ACCEPTANCE OF APPLICATION OF [NAME OF CANDIDATE] TO BE INTERIM DIRECTOR OF THE [NAME OF EXECUTIVE DEPARTMENT]” or a similarly worded Resolution. If the Legislature denies the application of the candidate, the position of Executive Director shall be considered vacant and the President shall be required to submit another candidate to the Legislature for its consideration within fourteen (14) days of the Legislature passing the denial Resolution. The President shall make an Acting Appointment for the particular Department of an individual from within the Department, and chosen by the President, to serve as the head of the Department until the Legislature accepts an Interim Executive Director. The President shall provide notice to the Legislature of any such appointment within three (3) working days of such appointment. Any person who has been denied a nomination is prohibited from being an Acting Appointment of the Department for which their nomination was denied.

(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 similarly worded Resolution. Only upon the Legislature accepting the application of the candidate, shall the candidate be considered an Interim Director.

(2) In the second stage the individual who the President wants to be an Executive Director shall be classified as an Interim Director. The Legislature must confirm or deny the appointment of an Interim Director to the position of Executive Director within ninety (90) days after acceptance of the nomination or it shall be deemed confirmed.

c. Nominations.

(1) The President-Elect of a New Administration resulting from an election shall submit to the Legislature, within thirty (30) days after the election results are certified, his or her candidates for all Executive Director Positions. The President-Elect of a New Administration shall only submit one (1) name as a candidate for each Executive Director position. The President-Elect shall include with the nomination letter to the Legislature a complete résumé of the candidate, a list of at least three (3) personal and/or business references of the candidate, and a signed release form with the candidate’s consent to a background investigation.

(2) The President of a New Administration resulting from an appointment shall submit to the Legislature, within thirty (30) days after the appointment, his or her candidates for all Executive Director Positions. The President of a New Administration shall only submit one (1) name as a candidate for each Executive Director position. The President shall include with the nomination letter to the Legislature a complete résumé of the candidate, a list of at least three (3) personal and/or business references of the candidate, and a signed release form with the candidate’s consent to a background investigation.

(3) In the event that an Executive Director vacancy occurs for any reason, the President must nominate a candidate within fourteen (14) days of such vacancy to fill the vacant position. The President shall only submit one (1) name as a candidate for each Executive Director position that is vacant. The President shall include with the nomination letter to the Legislature a complete résumé of the candidate, a list of at least three (3) personal and/or business references of the candidate, and a signed release form with the candidate's consent to a background investigation.

d. The Legislature may conduct Nomination Hearings as deemed required to obtain further information about or from the candidate.

e. In the event that the Legislature denies an application of a candidate, the President shall have fourteen (14) days to nominate another candidate for that Executive Director position and may not nominate the same individual who the Legislature denied his or her nomination.

f. Individuals whose nominations have been accepted but not confirmed by the Legislature shall hold the title of Interim Director until such time as their appointment is confirmed or denied.

g. In the event that the Legislature denies an application of an Interim Director, the President shall have fourteen (14) days to nominate another individual for that Executive Director position and may not nominate the same individual who the Legislature denied his or her nomination.

h. Upon acceptance of a nomination, the Legislature must confirm or deny the appointment of the Interim Director to the position of Executive Director within ninety (90) days after acceptance of the nomination or it shall be deemed confirmed.

i. Powers and Restrictions of Interim Director or Person Chosen to be Head of the Department by the President. An Interim Director or Person Chosen to be Head of the Department by the President shall not possess the powers of a confirmed Executive Director, but shall be limited to the administration of the department. The Interim Director or Person Chosen to be Head of the Department by the President shall lack the power to hire, terminate, promote, or make decisions affecting subordinate employee compensation until confirmed, but may follow the employment laws in matters of disciplinary actions, up to and including the ability to suspend as needed for the administration of the Department. Compensation of the Interim Director shall be set at the base wage for that position until confirmed, unless the Interim Director was the immediate prior office holder, served as the confirmed Executive Director in the immediate prior Presidential Administration and is being put forth as a nominee. The Interim Director shall have restricted travel privileges. Compensation of the Person Chosen to be Head of the Department by the President shall not be impacted. The Interim Director shall be prohibited from travel for forty-five (45) days, unless the travel is required or mandated for the explicit purpose of completing a task specific to and for the

Nation. The restriction on travel covers travel to conferences and training within the forty-five (45) days, but does not include travel for the express purpose of completing a required job task.

6. Background Investigation. The Legislature shall designate the Compliance Division to conduct a background investigation on each Interim Director whose nomination has been accepted. Such investigation shall be concluded within forty-five (45) days and include a written summary of any findings. The investigation shall include, but is not limited to, the following information:

- a. Education qualifications.
- b. Results of contacts with the nominee's references.
- c. State of Wisconsin or any other state criminal investigation and/or criminal conviction records.
- d. Federal Bureau of Investigation (FBI) records check.
- e. A review of the Financial Disclosure Statement by the Interim Director that shall include ownership or interest in any business, partnership, or corporation.
- f. A review of any gaming license application that has been filed by the Interim Director with the Ho-Chunk Nation.

7. Confirmation Process.

a. By Legislature.

(1) The Legislature shall schedule and conduct Confirmation Hearings on each Interim Director within ten (10) working days of receipt of the results of the Background Investigation done by the Compliance Division.

(2) The Legislature shall schedule and conduct a Confirmation Vote on each Interim Director within fourteen (14) days of the Confirmation Hearing.

(3) Upon confirmation, the appointment of the Director has full force and effect. If the Legislature elects to confirm the application of the Interim Director, the Legislature shall use the Resolution attached as Appendix C and entitled "CONFIRMATION OF [NAME OF INTERIM DIRECTOR] TO THE POSITION OF EXECUTIVE DIRECTOR OF [NAME OF EXECUTIVE DEPARTMENT]" or a similarly worded Resolution.

(4) In the event that the Legislature denies a confirmation, the President shall have fourteen (14) days to nominate another candidate for that Executive Director position, but

may not nominate the same individual who the Legislature denied his or her nomination. From the effective date of the denial, the position of the Executive Director shall be considered vacant. The candidate who was denied shall vacate the position and abdicate the title of Interim Director within forty-eight (48) hours of the effective date of denial. Any person who has been denied a confirmation is prohibited from being an Acting Appointment of the Department for which their confirmation was denied.

(a) The President shall make an Acting Appointment for the particular Department of an individual from within the Department, and chosen by the President, to serve as the head of the Department until the Legislature accepts another Interim Executive Director. The President shall provide notice to the Legislature of any such appointment within three (3) working days of such appointment. The person serving as the Acting Appointment, or head of the Department, shall not have any more authority than an individual who was or is classified as an Interim Director.

(b) If the Legislature elects to deny the application of the Interim Director, the Legislature shall use the Resolution attached as Appendix D and entitled “DENIAL OF APPLICATION OF [NAME OF INTERIM DIRECTOR] TO THE POSITION OF EXECUTIVE DIRECTOR OF [NAME OF EXECUTIVE DEPARTMENT]” or a similarly worded Resolution.

b. Pursuant to Article VI, Section 2(e) of the Constitution of the Ho-Chunk Nation (see Section 1, subparagraph d.), an Interim Director shall be deemed confirmed if the Legislature fails to take a confirmation vote within ninety (90) days of accepting the nomination.

8. Confidentiality.

a. It shall be unlawful for any current or former employee or contractor to reveal to any individual, any information discovered under this Act. All information obtained shall be protected by applicable Tribal, federal, or state laws; unless explicit permission is given by the Interim Director.

b. The candidate or Interim Director may have access to his or her file only by complying with the requirements set forth in the *Ho-Chunk Nation Discovery Act*.

9. Severability. If any provision of this law shall in the future be declared invalid by the Judiciary, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

Legislative History:

9/10/96	Adopted by the Legislature.
8/10/99	Amended by Legislative Resolution 8/10/99F.
7/20/99	Section 306 amended by Legislative Resolution 7/20/99F.
9/28/99	Sections 307 thru 311 amended by Legislative Resolution 9/28/99B.

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2/20/01	Enacted as 2 HCC § 9 by Legislative Resolution 2/20/01A.
2/27/01	Amended and Restated by Legislative Resolution 2/27/01B adding paragraph 5g.
4/3/01	Legislative Resolution 4/3/01D amended the effective date of 2HCC9 to July 1, 2001.
12/19/01	Amended and Restated by Legislative Resolution 12/19/01C amending paragraph 7a(4) requiring incumbent nominees to vacate their positions if not confirmed by the Legislature.
7/22/03	Amended and Restated by Legislative Resolution 7/22/03A amending paragraph 5g establishing the wage for Interim Directors who are incumbent Executive Directors being re-nominated to the same position.
01/20/10	Legislature passes motion to refer Confirmation Act to the Administration Committee to review provisions of Confirmation Act.
02/19/10	Administration Committee reviews proposed amendments and passes motion to refer version with proposed amendments to the Legislature to be placed out for forty-five day public comment.
02/22/10	Legislature adopts Resolution 02-22-10-A placing proposed amendments out for forty-five day public comment.
05/04/10	After receiving no public comments regarding proposed amendments to Act, Legislature presented Act with accompanying Resolution to adopt the amendments to the Act. Legislature adopts Resolution 05 - 04 - 10 - C adopting proposed amendments to the Act.
8/18/20	Legislature defeats Quick Passage Resolution 8-18-20E, including proposed amendments to the Act regarding Acting Appointments (Section 3.a), the Qualifications of Acting Appointments (Section 4), the Background Investigation process (Section 6), and provisions regarding Acting Appointments when the Legislature denies a nomination or confirmation (Section 5 and Section 7).
8/31/20	Legislature adopts Quick Passage Resolution 8-31-20A, including proposed amendments to the Act regarding Acting Appointments (Section 3.a), the Qualifications of Acting Appointments (Section 4), the Background Investigation process (Section 6), and provisions regarding Acting Appointments when the Legislature denies a nomination or confirmation (Section 5 and Section 7). <u>Note</u> : Amending language adopted differs from that proposed in Quick Passage Resolution 8-18-20E, by striking reference to credit check history and reference to “select,” and instead opting for “accept.”

APPENDIX A

**HO-CHUNK NATION LEGISLATURE
DENIAL OF ACCEPTANCE OF APPLICATION OF
[NAME OF CANDIDATE] TO BE INTERIM DIRECTOR OF THE
[NAME OF EXECUTIVE DEPARTMENT]
RESOLUTION ____ - ____ - ____ - ____**

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 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) (a) of the Confirmation Act further provides:

If the Legislature elects to deny the application of the candidate, the Legislature shall use the Resolution attached as Appendix A and entitled “DENIAL OF ACCEPTANCE OF APPLICATION OF [NAME OF

CANDIDATE] TO BE INTERIM DIRECTOR OF THE [NAME OF EXECUTIVE DEPARTMENT]” or a similarly worded Resolution. If the Legislature denies the application of the candidate, the position of Executive Director shall be considered vacant and the President shall be required to submit another candidate to the Legislature for its consideration within fourteen (14) days of the Legislature passing the denial Resolution.

WHEREAS, the President selected [NAME OF CANDIDATE] to be a candidate for the position of Executive Director of [NAME OF DEPARTMENT].

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, denies the acceptance of [NAME OF CANDIDATE] to be an Interim Director of [NAME OF DEPARTMENT].

BE IT FURTHER RESOLVED that the position of Executive Director of [NAME OF DEPARTMENT] shall be considered vacant and the President shall be required to submit another candidate to the Legislature for its consideration within fourteen (14) days of the Legislature passing this denial Resolution.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of ___ **members** of whom ___ constituting a quorum were present at a meeting duly called and convened and held that on the ___ **day of** __, **20**___, that the foregoing resolution was adopted at said meeting by an affirmative vote of ___ **members**, ___ **opposed**, and ___ **abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

[NAME OF TRIBAL SECRETARY], Tribal Secretary

Date

APPENDIX B

**HO-CHUNK NATION LEGISLATURE
ACCEPTANCE OF APPLICATION OF [NAME OF CANDIDATE] TO BE
INTERIM DIRECTOR OF THE
[NAME OF EXECUTIVE DEPARTMENT]
RESOLUTION ____ - ____ - ____ - ____**

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 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 [NAME OF CANDIDATE] to be a candidate for the position of Executive Director of [NAME OF DEPARTMENT].

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, accepts the application of [NAME OF CANDIDATE] to be Interim Director of the [NAME OF EXECUTIVE DEPARTMENT].

BE IT FURTHER RESOLVED that [NAME OF CANDIDATE] shall be considered an Interim Director of the [NAME OF EXECUTIVE DEPARTMENT].

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 [NAME OF INTERIM DIRECTOR]. 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 [NAME OF INTERIM DIRECTOR] by [DATE] or he or she shall be the [EXECUTIVE DIRECTOR OF EXECUTIVE DEPARTMENT].

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of ___ **members** of whom ___ constituting a quorum were present at a meeting duly called and convened and held that on the ___ **day of** __, **20** __, that the foregoing resolution was adopted at said meeting by an affirmative vote of ___ **members**, ___ **opposed**, and ___ **abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

[NAME OF TRIBAL SECRETARY], Tribal Secretary

Date

APPENDIX C

**HO-CHUNK NATION LEGISLATURE
CONFIRMATION OF [NAME OF INTERIM DIRECTOR] TO
THE POSITION OF EXECUTIVE DIRECTOR OF
[NAME OF EXECUTIVE DEPARTMENT]
RESOLUTION ____ - ____ - ____ - ____**

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 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;; and

WHEREAS, on [DATE PRESIDENT NOMINATED CANDIDATE] [NAME OF PRESIDENT] presented the nomination of [NAME OF CANDIDATE] as Executive Director of [NAME OF EXECUTIVE DEPARTMENT]; and

WHEREAS, the Legislature adopted [RESOLUTION ACCEPTING APPLICATION OF CANDIDATE]; and

WHEREAS, the adoption of the aforementioned Resolution:

- (1) Classified the candidate as an Interim Director and proceeded to move his or her candidacy to the second stage of the confirmation process pursuant to the requirements of the Confirmation Act;
- (2) Required the Compliance Division to conduct a background investigation on [NAME OF INTERIM DIRECTOR], which must be concluded within forty-five days of adoption of the aforementioned Resolution; and

- (3) Required the Legislature to take action with respect to the nomination within 90 days or, 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.”

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, hereby confirms [NAME OF INTERIM DIRECTOR] to the Position of Executive Director of [NAME OF EXECUTIVE DEPARTMENT] in accordance with Section 5 of the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9).

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of ___ **members** of whom ___ constituting a quorum were present at a meeting duly called and convened and held that on the ___ **day of** __, **20**__, that the foregoing resolution was adopted at said meeting by an affirmative vote of ___ **members**, ___ **opposed**, and ___ **abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

[NAME OF TRIBAL SECRETARY], Tribal Secretary

Date

APPENDIX D

**HO-CHUNK NATION LEGISLATURE
DENIAL OF APPLICATION OF [NAME OF INTERIM DIRECTOR]
TO THE POSITION OF EXECUTIVE DIRECTOR OF
[NAME OF EXECUTIVE DEPARTMENT]
RESOLUTION ____ - ____ - ____ - ____**

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 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;; and

WHEREAS, on [DATE PRESIDENT NOMINATED CANDIDATE] [NAME OF PRESIDENT] presented the nomination of [NAME OF CANDIDATE] as Executive Director of [NAME OF EXECUTIVE DEPARTMENT]; and

WHEREAS, the Legislature adopted [RESOLUTION ACCEPTING APPLICATION OF CANDIDATE]; and

WHEREAS, the adoption of the aforementioned Resolution:

- (1) Classified the candidate as an Interim Director and proceeded to move his or her candidacy to the second stage of the confirmation process pursuant to the requirements of the Confirmation Act;
- (2) Required the Compliance Division to conduct a background investigation on [NAME OF INTERIM DIRECTOR], which must be concluded within forty-five days of adoption of the aforementioned Resolution; and

- (3) Required the Legislature to take action with respect to the nomination within 90 days or, 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.”

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, hereby denies the confirmation of [NAME OF INTERIM DIRECTOR] to the Position of Executive Director of [NAME OF EXECUTIVE DEPARTMENT] in accordance with Section 5 of the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9).

BE IT FURTHER RESOLVED that the Legislature, pursuant to its Constitutional authority and consistent with the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9) directs that the President shall nominate another candidate for the Executive Director position of the [NAME OF EXECUTIVE DEPARTMENT] and shall not be able to nominate the same individual whose nomination was denied as a result of this Resolution and that individual shall vacate the position and abdicate the title of Interim Director within forty-eight hours of the effective date of this denial.

BE IT FURTHER RESOLVED that the Legislature, pursuant to its Constitutional authority and consistent with the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9) directs that the President shall have fourteen days to nominate another candidate for the Executive Director position.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of ___ members of whom ___ constituting a quorum were present at a meeting duly called and convened and held that on the ___ day of __, 20___, that the foregoing resolution was adopted at said meeting by an affirmative vote of ___ members, ___ opposed, and ___ abstaining, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

[NAME OF TRIBAL SECRETARY], Tribal Secretary

Date