



HO-CHUNK NATION LEGISLATURE
Governing Body of the Ho-Chunk Nation

30-Day Public Review

**HO-CHUNK NATION LEGISLATURE
AUTHORIZATION TO PLACE PROPOSED AMENDMENTS TO THE
CHARITABLE REQUEST ACT (4 HCC § 8)
OUT FOR THIRTY DAY PUBLIC COMMENT**

RESOLUTION 08-29-23 A

- WHEREAS,** on November 1, 1994, the Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation (“Constitution”), formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation (“Nation”) is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants 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(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions; and
- WHEREAS,** Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation; 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,** the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which was last amended on January 6, 2022; and
- WHEREAS,** the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and

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WHEREAS, Section 44, subparagraph d (1) (a) of the *Legislative Organization Act* provides that the Public Review period for consideration of proposed laws or amendments will typically be forty-five (45) days; and

WHEREAS, the *Charitable Request Act* (4 HCC § 8) was enacted by the Legislature on January 11, 2001, which was last amended February 7, 2017; and

WHEREAS, the Legislature previously placed proposed amendments to the *Charitable Request Act* (4 HCC § 8) out for 45-day public comment through Resolution 02-15-22 G; and

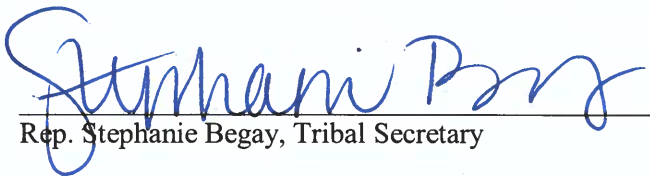
WHEREAS, the Legislature has made additional proposed amendments to the *Charitable Request Act* (4 HCC § 8), including, but not limited to, Section 5.f. concerning Disabled/Handicapped tribal members; and

WHEREAS, due to the length of time since the *Charitable Request Act* (4 HCC § 8) was placed out for 45-day public comment and the additional proposed amendments, the Legislature wishes to place the proposed amendments to the *Charitable Request Act* (4 HCC § 8) out for 30-day public comment;

NOW, THEREFORE, BE IT RESOLVED, that the Legislature, pursuant to its Constitutional authority, hereby places the attached proposed amendments to the *Charitable Request Act* (4 HCC § 8) out for thirty (30) day public comment, to run from the date the proposed amendments are posted on the Nation's website.

CERTIFICATION

I, the undersigned, as Secretary for the Ho-Chunk Nation Legislature, hereby certify 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 on the **29th day of August, 2023**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **12 members, 0 opposed, and 0 abstaining**, pursuant to the authority of 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 said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.


Rep. Stephanie Begay, Tribal Secretary

08.29.23
Date

HO-CHUNK NATION CODE (HCC)
TITLE 4 – CHILDREN, FAMILY, AND ELDER WELFARE CODE
SECTION 8 – CHARITABLE REQUEST ACT

ENACTED BY LEGISLATURE: JANUARY 11, 2001

LAST AMENDED AND RESTATED: February 7, 2017

CITE AS: 4 HCC § 8

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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(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

c. Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation.

~~d. The Ho-Chunk Nation Tribal Aging Unit (TAU) Advisory Board By-Laws provides the TAU Board the power and the duty to review and to make recommendations on proposals relating to Elder Assistance Fund matters prior to approval by the Legislature.~~

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2. **Purpose.** This ~~Policy Act~~ regulates the funding, management, and use of the following funds.

a. The Elder Assistance Fund was established to benefit and enrich the lives of the Nation's Elders by providing for their health, care, and welfare.

~~b. The Elder Tax Assistance Program was established to benefit and promote the welfare of the Nation's Elite Elders by providing financial assistance to pay property and personal income taxes.~~

~~cb.~~ The Youth Assistance Fund was established to benefit and promote the welfare of the Nation's children.

~~de.~~ The Charitable Contributions Fund was established to benefit and promote programs, activities, and services that contribute to the social advancement and general welfare of the Ho-Chunk Nation and tribal members.

3. **Scope.** This ~~policy Act~~ applies to only the funds under the control of the Legislature. The Department of Business has its own budget line item for promotions, sponsorship, and donations to non-profit organizations.

4. **Definitions.** Terms used in this ~~policy Act~~ have the following meaning.

a. "Charitable Contribution" means a financial gift made by the Legislature to an individual or organization for the overall benefit of the Nation.

~~b. "Child" means a person who is an enrolled member of the Nation or eligible for enrollment and less than eighteen (18) years old, except for Tribal members eligible for education assistance pursuant to paragraph 5c(2), below.~~

~~c. "Disabled/Handicapped" means any Tribal member unable to engage in any substantial gainful activities by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.~~

~~bd.~~ "Elder" means any person who is sixty (60) years of age or more and has been is an enrolled member of the Ho-Chunk Nation ~~for a minimum of five (5) years~~.

~~ce.~~ "Elite Elder" means any person who is seventy (70) years of age or more and has been is an enrolled member of the Ho-Chunk Nation ~~for a minimum of five (5) years~~.

~~df.~~ "Emergency" means a situation involving a direct threat to the health, safety, or welfare of a Tribal member of the Ho-Chunk Nation or that person's immediate family, which requires an immediate response. This does not include situations that are chronic or recurring.

eg. “Grant” means financial or other assistance provided by the Nation to enhance the health, safety, or welfare of a Tribal member without obligation of repayment by the Elder, the child’s family, or the disabled/handicapped member.

f. Health and Welfare means an individual’s physical and psychological wellbeing, safety, happiness and prosperity.

gh. “Lease” means an agreement, which gives rise to a relationship between a lessor and a lessee for real or personal property. It is a contract for exclusive possession of property for a defined term where the owner has the absolute right to retake, control, repossess, or use the property.

ih. “Nation” means the Ho-Chunk Nation.

i. “Youth” means a person who is an enrolled member of the Nation or eligible for enrollment and less than eighteen (18) years old, except for Tribal members eligible for education assistance pursuant to paragraph 5(e), below.

5. Declaration of ~~Policy~~ Assistance.

a. Each of the funds shall be used as the payer of last resort. Applicants for grants and financial assistance shall have completely exhausted all other available resources to be eligible for assistance using these funds. The Legislature shall have the discretion to approve or deny any request for financial assistance under this Act and contingent on funding availability, but no payments made shall discriminate in favor of the governing body of the Nation (Legislature). No payments shall be lavish, extravagant or compensation for services.

~~b.~~ b. Elder Assistance Fund. The Elder Assistance Fund shall be reserved to only fund grants and other types of assistance benefiting the general health and welfare of the Nation’s Elders.

(1) For the purpose of group activities, at least fifty-one (51) percent of the participants must be Elders to qualify for the grant or financial assistance.

~~(2) The Tribal Aging Unit (TAU) Advisory Board (“Board”) shall have oversight of the Elder Assistance Fund.~~

~~(23)~~ All reasonable requests necessary for the health and welfare of Elite Elders shall be honored as a matter of policy.

(3) Moving Expenses. The Elder Assistance Fund may be used to fund up to \$700.00 for a onetime permanent relocation of an Elder.

c. Elder Home Repair Fund. The Elder Home Repair Fund shall be reserved to fund assistance for elders with certain types of eligible home repairs.

(1) Assistance for an elder's home repairs shall be in accordance with the Elder Home Repair Policy, which is administered by the Department of Social Services Tribal Aging Unit and the Finance Commission.

(2) Any assistance under this Section shall be attributable to a once in a lifetime benefit of \$25,000.

~~(d4.)~~ Elder Tax Assistance Program. This program provides Elite Elders with financial assistance to pay property and personal income taxes.

(1a) Available Assistance. Assistance will be given to pay property and/or income taxes. Each qualified Elite Elder is eligible for a grant of up to \$3,000 total for tax assistance each tax year. In addition to the current tax year, back taxes within the preceding three (3) tax years can be paid within the \$3,000 yearly cap. This assistance is only available for taxes owed by the Elite Elder. Tax bills and income tax returns must be in the name of the eligible Elite Elder.

(2b) Application. Elite Elders shall be eligible to apply for this assistance by completing an application available through the Department of Treasury. Application must include a list of all income and a copy of the tax bill or income tax return for which the Elite Elder is requesting assistance for.

(3e) Program Administrator. The Department of Treasury shall administer this program. It shall develop and publish the necessary application forms and instructions necessary to implement this program.

(4d) Payment. Unpaid tax assistance shall be paid by the Department of Treasury directly to the taxing authority (county, state, or federal). For taxes already paid, the Elite Elder may be reimbursed by the Nation's Department of Treasury, subject to the yearly cap, and based upon evidence of payment made to the applicable taxing authority, pursuant to Section 5.~~db.~~(14)(a).

(5e) Income. The financial assistance received by an Elite Elder under this program shall be considered taxable income if the Elite Elder's income exceeds the limit permitted for the size of the household pursuant to federal guidelines available from the Program Administrator.

ee. Youth Assistance Fund. The Youth Assistance Fund shall be reserved to fund grants and other types of assistance benefiting the Nation's children.

(1) All funding requests for youth events shall be submitted to the Legislature at least ninety (90) days prior to the event.

(2) Educational Assistance. The Youth Assistance Fund may be used for grants to students in a state accredited pre-kindergarten through high school program, up to the age

~~of twenty-three (23) years, in an accredited program_ to assist with student fees and activities provided that the student is a full-time student and is sponsored by the Ho-Chunk Nation Department of Education. Further, the student must meet the school's minimum Grade Point Average (GPA) for completion of work.~~

fd. Charitable Contribution Fund. The Charitable Contribution Fund shall be used to fund grants and other types of donations to tribal members, and for the sponsorship of events and activities that benefit the Nation or its tribal member communities that are:

(1) are not funded through donations from the Department of Business; and

(2) able to demonstrate they have fund raised ten percent (10%) of the funds needed.

~~The Charitable Contribution Fund shall be reserved to fund grants and other types of donations for Tribal members and for the sponsorship of events and activities benefiting the Nation that are not funded through donations from the Department of Business.~~

~~e. Disabled/Handicapped Members.~~

~~(1) Special Equipment.~~

~~(a) Members with disabilities may request special equipment not otherwise provided by federal, state or other public programs, or other Tribal programs or resources.~~

~~(b) Requests shall be made through the Department of Health and Social Services and shall include a statement from a physician stating the extent of and the permanence of the disability. The Department shall confirm the degree of the disability and the necessity for the requested equipment and make a recommendation to the Legislature.~~

~~(c) Equipment purchased from charitable funds and provided to a Member shall remain the property of the Nation under the control of the Department of Health and Social Services and shall be leased to the Member. The equipment will be returned to the Nation when no longer used or required by the Member. The Member may be held liable for damage or loss of the equipment.~~

~~(d) Special equipment as used in this section does not include motor vehicles.~~

~~(2) Special Needs and Services. Disabled/handicapped members with special needs or services not provided for by federal, state, or other Nation programs may make application to the Legislature for consideration.~~

gf. Exclusions. The Elder Assistance Fund, Youth Assistance Fund, Elder Home Repair Fund, and Charitable Contribution Fund shall not be used to provide funds for the following:

(1) Local, state, or federal taxes, which includes property, income, or sales tax, except that qualified Elders may use up to \$3,000 annually pursuant to paragraph ~~5b(5d)~~, above.

(2) Utility expenses, rent, mortgage, educational loans, medical, dental, personal expenses, or obligations in arrears.

(3) Damage or loss due to fire.

(4) Vehicle purchases or repairs.

(5) Purchase of household appliances or luxury items such as televisions, stereos, etc.

(6) Moving expenses, except as ~~follows provided in Section 5(b)(3):~~

~~(b) A grant of \$700.00 for a one-time permanent relocation of a disabled/handicapped Tribal member.~~

(7) Modeling fees. Any fees used toward beauty pageants, modeling (both upfront fees to an agency or expenses needed in order to apply to an agency such as photographs) or any other similar fees.

(8) Child custody and divorces.

(9) Adult sporting event participation fees, entry fees, travel expenses or per diem to such events.

6. Fund Revenue Sources. The Youth and Elder Assistance Funds, Elder Tax Assistance Program, Elder Home Repair Fund, and the Charitable Contribution Fund shall be ~~an annual~~ appropriated ~~ion~~ by the Legislature.

7. Procedures for Requesting Funds.

a. ~~All requests for financial assistance from Tribal members for personal financial assistance under this Act~~, except for the Elder Tax Assistance Program (see paragraph 5(d)~~b(5)~~), shall ~~be~~ submitted through a Charitable Request Act Form in writing to the Legislature. Requests must be accompanied by all documentation justifying the request and include a statement of other sources of funding requested and the amounts granted by such sources. This documentation includes denial letters from governmental agencies from which assistance had been sought and denied. See paragraph 5(f)(1)~~b(3)~~ for special provisions when requesting funds for

Elders with disabilities. No requests shall be approved, except for emergencies, during the period two (2) weeks prior to and two (2) weeks after per capita payments.

b. A Legislative staff member shall review the ~~District~~Charitable Request Act Form. If there is a determination that information is missing or additional information is required, the requestor will be informed of the need to submit such information prior to the request being considered by the Legislature. If there is a determination that the request does not meet the requirements of this ~~Policy-Act~~ or the laws of the Nation, the request shall be denied ~~by the Legislative staff member~~ and a denial notice provided to the person making the request.

c. All requests for donations or sponsorship from non-profit organizations not affiliated with the Nation, as determined by the Legislature upon receipt, shall be referred to the Department of Business prior to consideration by the Legislature, unless a denial letter is included with the Charitable Request Act Form.

~~d. All requests for donations or sponsorship from Tribal members or Tribal affiliated organizations shall be submitted in writing to the Legislature. Written justification is required. The justification shall include a statement of other sources of funding requested and the amounts granted.~~

~~8. Legislative Action:~~

~~a. Prior to deliberation by the Legislature, all requests shall be screened by Legislative staff members to ensure proper justification and eligibility for a grant or other financial assistance. Incomplete requests shall be returned for additional information.~~

~~b. The TAU Board shall be consulted on non-emergency requests for assistance by an Elder or the Elder's family.~~

~~c. Approved requests are not final until the minutes of the Legislature are ratified at the next duly called meeting of the Legislature.~~

89. Payment of Funds.

a. ~~Grant-Charitable Request Act~~ payments shall be made only to the vendor or service providers, unless expressly specified or exempted in the official Legislative Meeting minutes.

b. Payment vouchers involving equipment shall clearly state that the equipment or property is to be purchased in the name of the Nation and shall remain under Nation control, unless specifically exempted by the Legislature.

910. Reconciliation of Charitable Contributions. The expenditure of funds provided as charitable contributions for sponsorship of events shall be subject to reconciliation. Within ~~thirtyfifteen~~ (30+5) days after the sponsored event, the individual or organization that received the contribution shall provide receipts and vouchers for all expenditures to the Legislative staff

member. The individual or organization shall be responsible to the Nation for reimbursement of all unused funds.

104. Tax Liability. Payments made or services provided to or on behalf of a Member (or any Spouse or Dependent of the Member) pursuant to this Act, except as provided in Section 5(d)(5) Elder Tax Assistance Program, shall be treated as non-taxable assistance under the General Welfare Exclusion Ordinance (4 HCC § 17). The Nation shall determine on the basis of each ~~grantevent of financial assistance pursuant to this Act~~ and existing legal guidance whether to report any ~~grant event of financial assistance~~ as a taxable event on Form 1099 or to treat ~~the grantit~~ as qualifying as non-taxable. Notwithstanding the position which the Nation takes on taxability, any individual or organization receiving a financial ~~grant or sponsorship assistance~~ from the Nation pursuant to this Act is responsible for paying all Federal and State taxes that may be finally assessed on the ~~grantfunds~~. The Nation shall not be held liable for unpaid taxes by grantees or charitable contributions from the Nation.

112. Record Keeping. Legislative staff members shall maintain a record by individual or organizations within their respective Districts receiving grants, ~~or~~ donations or sponsorships under this ~~policy~~ Act.

Legislative History:

06.20.00	TAU Advisory Board reviews draft Elder Slot Fund Policy.
06.26.00	Vice President requested a Charitable Request Policy.
07.12.00	Draft Charitable Request Policy reviewed by Administration Committee and tabled for further review.
07.19.00	Reviewed by TAU Advisory Board.
09.13.00	Administration Committee forwards to full Legislature for 45-day Public Review.
01.11.01	Enacted by Legislative Resolution 01/11/01A.
02.06.02	Amended and Restated by Legislative Resolution 2/6/02B to amend para 5e (1) (elder over 80exception).
02.21.02	Amended and Restated by Legislative Resolution 2/21/02A adding the Elder Tax Assistance Program and deleting the District Request Form.
04.02.02	Amended and Restated by Legislative Resolution 4/2/02E clarifying the definition of disability (para 4c), funding of motor vehicles for the disabled (para 5e), and changing the Policy to an Act.

- 01.20.04 Amended and Restated by Legislative Resolution 1/20/04A adding paragraph 5c (2) providing for student educational grants funded from the Youth Slot Fund.
- 07.20.04 Legislature places amending draft out for 45-Day Public Review.
- 09.08.04 Amended and Restated by Legislative Resolution 9/8/04E reducing the age of Elite Elder to 70 and adding provisions for disabled/handicapped members.
- 11.02.04 Amended and Restated by Legislative Resolution 11/2/04C changing names of Elder and Youth Slot Funds to the Elder Assistance Fund and the Youth Assistance Fund, respectively.
- 08.04.09 Legislature places Charitable Request Act out for public review and comment by adoption of Resolution 8-04-09D.
- 08.23.11 Legislature adopts Resolution 8-23-11D, creating Legislative Workgroup to review the Charitable Request Act and update the law.
- 11.04.14 Legislative Resolution 11-04-14A Quick Passage Procedure to Amend the Charitable Contribution Act – Defeated.
- 11.04.14 Legislative Resolution 11-04-14B adopted, placing the Charitable Contribution Act out for forty-five day public review.
- 11.07.16 Legislature places Charitable Contribution Act out for forty-five day public review and comment, by motion.
- 02.07.17 Legislature adopts Resolution 2-07-17Y approving amendments to Section 5.b (4) of the Act.