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L A W O F F I C E S

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MEMORANDUM

DATE: September 12, 2005

TO: Delaware Nation

FROM: Steven D. Sandven, Esq.

RE: **ARTICLE X – POPULAR PARTICIPATION IN GOVERNMENT**

Purpose

The purpose of this section is to set forth the rules and procedures for how tribal members can ratify or overturn resolutions passed by the legislature. This section specifies who shall vote on the measure and what qualifies the vote as legal and binding. For clarity purposes, recall procedures are addressed in the memorandum entitled Article XI – REMOVAL.

Currently Reads

Petitions for recall referendum and initiative must comply with procedures set forth in the election ordinance as stated in Article VII, Section 3, of this constitution.

Section 1. Recall. Upon receipt of a petition signed by at least forty (40) of the tribe's registered voters it shall be the duty of the president to call and conduct within fifteen (15) days, a special meeting of the general council to consider the recall of a member of the executive committee. Such meeting is subject to quorum provisions. Only one (1) member of the committee shall be considered for recall at any give recall meeting. Once an individual is subjected to recall proceedings, she shall not again be considered for such action until at least six (6) months have passed.

Section 2. Referendum and Initiative. Upon receipt of a petition signed by at least forty (40) of the tribe's registered voters, it shall be the duty of the president to call and conduct within fifteen (15) days, a special meeting of the general council for the purpose of presenting to the voters for

their determination any issue or question. The decision of the majority of those voting shall be binding on the executive committee, provided a quorum is present.

Other Tribes (Referendum)

Miami Tribe of Oklahoma

Article XII

Section 1. Initiative. Initiative is the procedure whereby the members of the Miami Council may exercise their right to present to the Business Committee proposed legislation and compel a popular vote on its adoption. An initiative is put into motion by a petition. Upon receipt of a valid petition, signed by at least seventy-five (75) eligible voters, the Chief shall call and conduct a Special meeting of the Miami Council within sixty (60) days of receipt of the petition. The Council shall determine such issues and questions as contained in the petition. A majority vote of those in attendance at such meeting, where a quorum is declared, shall be required to adopt such a measure as presented at the meeting. Voting will be conducted by written secret ballot. (a) In the event the Chief does not call a meeting of the Miami Council within the specified sixty (60) days of presenting such petition, a spokesperson for the petitioners is hereby authorized to call and conduct such a meeting of the Council. (b) The decision of the Council shall be binding on the Business Committee and the Tribe and shall remain in force until amended or rescinded by the Council, except as it may expire by its own terms.

Section 2. Referendum. Referendum is the exercise of authority whereby the Business Committee, at its discretion, may refer any matter before it to the Miami Council for its decision, at a special meeting of the Council called for that purpose. A majority of those voting at such a meeting, where a quorum is declared, is required to pass on any such matter before it. Voting shall be by written secret ballot. If the proposed measure is adopted it shall be binding on the Business Committee and the Tribe, until amended or repealed, except that it may expire by its own terms.

Grand Traverse Band of Ottawa and Chippewa

Article IX

Section 1. Initiative.

(a) The members of the Band shall have the power to propose, by initiative, any ordinance to the Tribal Council or to repeal or amend any ordinance in accordance with the provisions of this Article; provided that ordinances making appropriations for tribal institutions or ordinances establishing the tribal budget shall be exempt from the initiative process.

(b) The procedure for initiative shall be as follows: (1) The proponents of an initiative shall submit their proposal in writing to the Tribal Council for examination as to technical sufficiency and to insure clarity before such proposal is circulated to obtain the requisite support. The Council shall submit comments and recommendation in writing within fourteen (14) days to the proponents of such initiative. (2) If the proponents of the initiative refuse to incorporate the Tribal Council's recommendations, the Tribal Council may propose a different law upon the same subject. In such event, both proposals shall be submitted to the registered voters of the Band at the same election. (3) If a dispute arises over the legal appropriateness of such initiative, the matter shall be resolved by the Tribal Judiciary. (4) Initiative petitions must be signed by at least twenty-five percent (25%) of the registered voters of the Band. After the signatures have been verified by the Election Board, the initiative and the verified petition shall be presented to the Tribal Council. (5) The election on the initiative shall be held no sooner than ninety (90) days and no later than one hundred eighty (180) days from the date the initiative and the verified petition are filed with the Tribal Council. The date of the initiative election shall be set by the Tribal Council. (6) The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council; provided that at least twenty-five percent (25%) of the registered voters of the Tribe cast ballots in said special election. If less than twenty-five percent (25%) of the registered voters of the Tribe cast ballots in said election, the initiative shall be deemed to be defeated. (7) If an initiative is defeated in an election, the same matter cannot again be the subject of an initiative election for at least two (2) years. (8) There shall not be more than one (1) initiative election per calendar year.

Section 2. Referendum.

(a) The Tribal Council shall upon an affirmative vote of five (5) Council members submit to a vote of registered tribal voters any proposed or previously-enacted ordinance at a referendum election.

(b) The procedure for a referendum election shall be as follows: (1) Referendum elections shall be held no sooner than thirty (30) days and no later than ninety (90) days from the date the proposed or existing ordinance is referred to the voters. The date of the referendum election shall be set by the Tribal Council. (2) The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council; provided that at least twenty percent (20%) of the registered voters of the Tribe cast ballots in the referendum election.

Section 3. Initiative or Referendum Effect. Any initiative or referendum approved pursuant to the provisions of this Article shall take effect ten (10) days after certification of the election. No law adopted by the membership of the Band under the initiative provisions shall be amended or repealed except by a vote of the electors, unless otherwise provided in the initiative proposal.

Little River Band of Ottawa

Article VII

Section 2 - Initiative. Members of the Tribe shall have the power to initiate ordinances or repeal or amend existing ordinances in the following manner: 1. Initiative petitions shall explain the ordinance to be acted upon in language understood by the signatories. 2. Petitions signed by twenty-five percent (25%) of the registered voters and verified by the Election Board shall be presented to the Tribal Council for action. 3. Upon receipt of a verified petition, the Tribal Council may, within thirty (30) days, adopt the initiative measure by a majority vote without alteration. If the Tribal Council fails to adopt the measure, the Election Board shall call a special election for the purpose of allowing the General Membership to vote on the initiative measure. 4. Initiative elections will be held not less than forty-five (45) days after verification and not more than ninety (90) days in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board. 5. The decision of a majority of the voters in such an initiative election vote shall be binding on the Tribal Council, provided that thirty percent (30%) of the registered voters cast ballots. If less than thirty percent (30%) of the registered voters of the Tribe cast ballots in such election, the initiative shall be deemed defeated. 6. The right of initiative does not extend beyond the subject of Tribal ordinances and may not be utilized to abrogate any rights of the Tribal judiciary or abrogate any rights guaranteed to any person under Article III, Section 1 of this Constitution.

Section 3. Limitations on Membership Powers. The General Membership shall not have the power to take any of the following action under this Article: (a) Propose, adopt or amend the Tribal Budget; (b) Appropriate or expend Tribal revenues or funds; (c) Reverse, overturn or otherwise influence any judicial action of the Tribal Court; (d) Take any action which is otherwise in violation of this Constitution or a usurpation of individual rights as defined herein.

Section 4. Referendum. (a) The Tribal Council shall, upon an affirmative vote of seven (7) Council Members, schedule a referendum election on any proposed or previously enacted ordinance by the membership. (b) The referendum election shall be held no sooner than thirty (30) days and no later than ninety (90) days from the date the proposed or existing ordinance is referred to the voters in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board. The date of the referendum election shall be set by the Tribal Council. (c) The vote of a majority of those actually voting shall be binding upon the Tribal Council, provided at least thirty percent (30%) of the registered voters of the Tribe cast ballots in the referendum election. Section 5 - Time of Effect or Repeal. (a) Any action taken under this Article VII shall take effect ten (10) days after certification of election or vote by the Election Board. (b) Actions taken by the General Membership under this Article VII may only be repealed by subsequent action of the General Membership and may not

be repealed by action of the Tribal Council.

Cheyenne-Arapaho

Article X

Section 1. Referendum shall be required as follows: a. To approve the sale, exchange, or mortgage of tribal lands. b. To approve the expenditure of tribal monies, the incurrence of tribal indebtedness, or the encumbrance or obligation of tribal assets for any single transaction or purpose amounting to more than \$15,000.00. c. Shall a valid petition bearing the signatures of at least 250 council members be submitted to the business committee, the committee shall direct the election board to call and hold, within no less than sixty-five (65) days from the date of receiving the petition, a referendum as directed by the petitioners. Until such referendum is held, action on the issue in questions shall be suspended.

Section 2. The majority of votes in any referendum shall be final and conclusive providing one-third (1/3) of the ballots mailed out are returned for counting; and no issue may be subjected again to a referendum for a period of at least six (6) months.

Crow Tribe

Article IX

Section 1. Referendum. The Tribal Secretary of the Executive Branch shall, upon receipt of a petition signed by not less than twenty-five percent (25%) of the qualified voters, submit any enacted or proposed tribal legislation to a referendum of the Crow Tribal General Council. The Tribal Secretary also shall submit any legislation vetoed by the Chairman of the Tribe that has been overridden by the Legislature to a referendum of the Crow Tribal General Council only upon the Chairman's request. The decision of a two-thirds (2/3) majority of the voters voting in the referendum shall be final and binding, provided that at least twenty-five percent (25%) of the total number of members of the Crow Tribal General Council have voted in such election. The Tribal Secretary shall call the referendum within thirty (30) days from the date of receipt of a valid petition. The vote shall be by secret ballot.

Section 2. Initiative. Members of the Crow Tribal General Council reserve the power to inadequately propose tribal legislation. Any proposed initiative measure shall be presented to the Secretary of the Executive Branch accompanied by petition signed by not less than twenty-five percent (25%) of the total number of members of the Crow Tribal General Council. Upon receipt of such a petition, the Secretary of the Executive Branch shall call a special election for the purpose of allowing the Crow Tribal General Council to vote on the initiative measure. The election shall be

held within thirty (30) days from the date of receipt of a valid petition. The decision of a two-thirds (2/3) majority of the voters voting in the initiative shall be final and binding, provided that at least twenty-five percent (25%) of the total number of members of the Crow Tribal General Council have voted in such election.

Cherokee Nation of Oklahoma

Article XV

Section 1. Notwithstanding the provisions of Article V, the people of the Cherokee Nation reserve to themselves the power to propose laws and amendments to this Constitution and to enact or reject the same at the polls independent of the Council, and also reserve power at their own option to approve or reject at the polls any act of the Council.

Section 2. Any amendment or amendments to this Constitution may be proposed by the Council, and if the same shall be agreed to by a majority of all the members of the Council, such proposed amendment or amendments shall, with the yeas, and nays thereon, be entered into the Journal and referred by the Secretary-Treasurer to the people for their approval or rejection, at the next regular general election, except when the Council, by a two-thirds (2/3) vote, shall order a special election for that purpose. If a majority of all the registered voters voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution.

Section 3. The first power reserved by the people of the Cherokee Nation is the initiative and ten percent of the registered voters shall have the right to propose any legislative measure by petition and fifteen percent of the registered voters shall have the right to propose amendments to the constitution by petition, and every such petition shall include the full text of the measure so proposed. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by petition signed by five percent of the registered voters or by the Council as other enactments are effectuated. The ratio and percent of registered voters hereinbefore stated shall be based upon the total number of votes cast at the last general election for the officer receiving the highest number of votes at such election.

Section 4. Referendum petitions shall be filed with the Secretary-Treasurer not more than ninety days after the final adjournment of the session or meeting of the Council which passed the bill on which the referendum is demanded. The veto power of the Principal Chief shall not extend to measures voted on by the people. All elections on measures referred to the people of the Cherokee Nation shall be had at the next regular general election except when the Council or the Principal Chief shall order a special election for the express purpose of making such reference. Any measure referred to the people by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast in such election. Any measure

referred to the people by the referendum shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and provided that no measure which is required to be approved by the President of the United States or his authorized representative shall be effective until approved.

Section 5. Petitions and orders for the initiative and for the referendum shall be filed with the Secretary-Treasurer and addressed to the Principal Chief of the Cherokee Nation, who shall submit the same to the people. The Council shall make suitable provisions for carrying into effect the provisions of this Article.

Section 6. The referendum may be demanded by the people against one or more items, sections or parts of any enactment of the Council in the same manner in which such power may be exercised against a complete enactment. The filing of a referendum petition against one or more items, sections or parts of an enactment shall not delay the remainder of such act from becoming operative.

Section 7. If two or more amendments are proposed they shall be submitted in such manner that electors may vote for or against them separately.

Section 8. No proposal for the amendment of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition.

Section 9. No convention shall be called by the Council to propose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular or special election. Any amendments, alterations, revisions or new Constitution, proposed by such convention, shall be submitted to the electors of the Cherokee Nation at a general or special election and be approved by a majority of the electors voting thereon, before the same shall become effective. The question of such proposed convention shall be submitted to the members of the Cherokee Nation at least once in every twenty (20) years.

Section 10. No amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative.

Nez Perce Tribe

Article VIII

Section 6. A petition for a referendum on any ordinance or resolution of NPTEC shall be in writing, shall be signed by at least 175 of the persons eligible and registered to vote at either the preceding May or September meeting of the General Council, shall set forth the ordinance or resolution with respect to which referendum

is requested, and shall be filed with the Chairman of the General Council and the Election Judges. If the petition is in accordance with the requirements of this Section 6, the NPTEC shall call a referendum upon the ordinance or resolution specified in the petition to be held not less than 30 days, nor more than 60 days from the date of such call, and shall declare the ordinance or resolution suspended until the date of the referendum. The election shall be held at polling places established at Lapwai, Kamiah, and Orofino, Idaho. At such election the persons eligible and registered to vote at either the preceding May or September meetings of the General Council shall vote upon the ordinance or resolution by secret ballot. The Election Judges shall certify the results of the election to the Chairman of the General Council and to the NPTEC. If at least two hundred sixty votes are cast and at least two-thirds of the votes cast are against the ordinance or resolution, the ordinance or resolution shall be null and void.

Section 7. A petition for an initiative shall be signed by at least 175 of the persons eligible and registered to vote at either the preceding May or September meetings of the General Council, shall set out the full text of the proposal to be submitted to the legal voters of the Nez Perce Tribe, and shall be filed with the Chairman of the General Council and the Election Judges. If the petition is in accordance with the requirements of this Section, the NPTEC shall call an election to be held upon the proposal not less than thirty days from the date of such call. The election shall be held at polling places established at Lapwai, Kamiah, and Orofino, Idaho. At such election the persons eligible and registered to vote at either the preceding May or September meeting of the General Council shall vote upon the ordinance or resolution by secret-ballot. The Election Judges shall certify the result of the election to the Chairman of the General Council and to the NPTEC. If at least two hundred sixty votes are cast at least two-thirds of the votes cast are in favor of the proposal the initiative shall be declared adopted and shall become effective immediately.

Other Tribes (Recall)

Absentee Shawnee

Article IX

Section 102: Commencement. Removal action shall be commenced by any member or members of the elected body of government presenting a Petition For Removal in an open meeting of the body. Such Petition may be presented without advance notice and need not be upon the meeting agenda.

Section 103: Removal Petitions. The Removal Petition shall contain the name of the person sought to be removed, the beginning and expiration date of the term of office for such person, and a written statement of each of the charges which individually or collectively are justifiable cause for removal. The Petition shall also contain a signed statement by the member or members of the body filing the Petition for Removal

that verifies that such allegations are true and correct.

Section 104: Notice. Delivery to the subject of a copy of the Petition For Removal in any open meeting of the body is service upon the subject member. Service may also be obtained by actual service upon the subject accomplished by any member of the body of government concerned, by tribal police or by any process server licensed by any tribal, state or federal government. If personal service cannot reasonably be accomplished, service may be had by publication as provided in the Tribal Code for civil actions.

Section 105: Setting a Hearing on Removal. Upon presentation of a Petition For Removal, the elected body of government shall immediately call a special meeting for the purpose of allowing the defendant to address the plaintiff in answer to the written charges that allege justifiable cause for removal. Written Notice of such special meeting and a copy of the Petition For Removal shall be delivered to the subject not less than fifteen (15) days prior to the removal hearing and not more than thirty (30) days from presentation of the Petition For Removal unless service cannot be had upon the subject. Notice of such meeting shall further comply with any requirements outlined in ARTICLE XVI of the Constitution.

Section 106: Special Meeting on Removal. The Special Meeting on Removal shall be chaired by the highest ranking member of the elected body of government who is present and not the subject of the Petition For Removal. (A) The meeting shall be called to order at the appointed time. (B) A roll call shall be used to establish a quorum. Should no quorum be established, the Petition For Removal shall be considered dismissed. (C) A declaration of quorum shall be announced. (D) The subject of the Petition For Removal shall be given the floor to confront the plaintiff(s) charges under oath. (E) The subject of the Petition For Removal may inquire, as in a court proceeding, of the plaintiff concerning the charges. (F) The subject may call witnesses under oath who volunteer to testify on behalf of the plaintiff concerning the charges. (G) Any member of the government involved may question the defendant or their witnesses concerning the charges. (H) Legal counsel may be used by the subject, defendant and the governmental body. (I) The chair may limit testimony that does not pertain to charges against the defendant. (J) The chair may recess the special meeting as time requires, but in no event shall the meeting be extended more than five (5) days. (K) At the conclusion of answer by the subject, defendant, the plaintiff may present reasonable rebuttal by sworn testimony of himself and others who volunteer to testify under oath if plaintiff deems rebuttal necessary. Such persons testifying may be questioned by defendant. (L) The chair shall, after answer and rebuttal, if any, declare an Executive Session to discuss whether justifiable cause for removal exists. (M) After Executive Session, the governmental body shall return to open session and determine whether justifiable cause exists to remove the subject, defendant. A roll call vote shall be required and unless an affirmative vote is cast by a minimum three (3) members, the Petition For Removal shall be considered defeated. (N) After vote is announced, the Special Meeting shall be deemed adjourned.

Section 107: Finality. Should the vote for removal fail, the substance of the charges stated shall not be used in any future Petition For Removal against the subject, defendant. The judgment of the governmental body in regard to removal shall be final as to the matters considered. Should the vote for removal be successful, the same shall be immediately effective and final.

Little River Band of Ottawa

Article XII

Section 3. Removal. The Tribal Ogema or any member of the Tribal Council may be subject to removal by a resolution in favor of removal supported by seven (7) of the nine (9) members of the Tribal Council for any of the following reasons:(a) Gross misconduct or malfeasance in office. (b) Conviction, while in office, of a felony under Federal, Tribal, or State law, or conviction of any other crime involving dishonesty or moral turpitude.(c) Inability to fulfill the duties of the office due to mental or physical disability, to the extent that he/she is incapable of exercising judgment about or attending to the business of his/her office. (d) At least ten (10) days before the meeting of the Tribal Council at which the vote for removal will be taken, the Tribal Ogema or Tribal Council member, shall be provided with a written notice of Tribal Council's intent to vote to remove, which notice shall set forth, with specificity, the alleged grounds for removal. Before any vote for removal is taken, the Tribal Ogema or Tribal Council member, shall be provided with a reasonable opportunity to answer the charges at the public meeting of the Tribal Council, held for that purpose. The decision of the Tribal Council shall be final.

Fort Belkamp Indian Community

Article VIII

Section 1. Forfeiture or Resignation of office. If a Chairman or Vice-Chairman or any member of the Council resigns, fails or refuses to attend two regular meetings in succession unless excused due to illness or other causes for which he or she cannot be held responsible, or shall be convicted of a felony or of a misdemeanor involving moral integrity, or has been found guilty of public intoxication, or is guilty of consuming any alcoholic beverages while attending a meeting of the Council in session, or during any daytime recess period, the Council shall declare his or her position vacant.

Section 2. Vacancies. Any vacancies on the Council or any vacancy in the office of Vice-Chairman resulting from the application of the section immediately preceding shall be filled at once by a majority vote of the Council. A vacancy in the office of Chairman shall be filled by the Vice-Chairman. Persons so appointed shall serve the

unexpired term of the office or member.

Confederated Tribe of Salish and Kootenai

Article XIV

Section 1. If a councilman or official shall die, resign, permanently leave the reservation, or be removed from office, the Council shall declare the position vacant and appoint a successor to fill the unexpired term, provided that the person chosen to fill such vacancy shall be from the district in which such vacancy occurs.

Section 2. Any councilman who is proven guilty of improper conduct or gross neglect of duty may be expelled from the Council by a two-thirds vote of the membership of the Council voting in favor of such expulsion, and provided further, that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him at least five days before the meeting at which he is to appear.

St. Regis Mohawk

Article XII

Section 1. Elected Officials. An elected or appointed official of the Saint Regis Mohawk Tribe may be removed from office by a majority vote of the Tribal Council for any of the following offenses:

(a) Conviction by a Tribal, State or Federal Court of competent jurisdiction for the commission of a felony or serious misdemeanor; (b) Conviction of any sex-related felony or misdemeanor; (c) Three (3) misdemeanor convictions, excluding traffic offenses, while serving on the Tribal Council. (d) Conviction in the Tribal Court for any offense in violation of the tribal ethics code where the penalty for such violation is removal from office.

Section 2. Due Process Consideration. Elected officials may not be suspended or removed from office unless the actions in question take place during the elected official's term of office. All actions to suspend or remove an appointed or elected official of the Tribe shall be in accordance with the Saint Regis Mohawk laws which shall afford due process of law.

Grand Traverse Band of Ottawa and Chippewa

Article XIII

Section 2. Removal: Dismissal From Office Initiated by the Tribal Council.

(a) The Tribal Council may, by an affirmative vote of five (5) members of the Council, refer to the Tribal Judiciary for removal from office any member of the Tribal Council for any of the following reasons: (1) Failure to attend three (3) consecutive meetings without a valid excuse; (2) Gross misconduct;(3) Misconduct in office; (4) Incapacity from physical or mental disability, to the extent that he/she is incapable of exercising judgment about or attending to the transactions of the Tribal Council; (5) Cessation of membership in the Grand Traverse Band;(6) Failure of the Council member to maintain residence in the six-county primary service area of the Tribe; or (7) Conviction of any felony by a court of competent jurisdiction.

(b) The official sought to be removed shall be notified in person or by registered mail, restricted delivery to the individual involved, at least ten (10) days before any meeting at which the tribal official's referral for removal from office is to be considered.

(c) The notice of intent to refer for removal shall set forth, with specificity, the alleged grounds for removal and inform the official that he/she may appear to defend against such referral.

(d) If the Tribal Council votes to refer to the Tribal Judiciary a tribal official for removal

(e) Before the Tribal Judiciary rules on any referral for removal from office, it shall afford the accused a hearing upon due notice at which he/she may answer the charges.

(f) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council exist, the Tribal Judiciary shall remove the tribal official from office.

(g) If the Tribal Judiciary finds that grounds for removal as stated by the Tribal Council do not exist, the suspended Council member shall be fully reinstated to the Council.

Fort McDowell Yavapai

Article X

Section 6. Removal.

a. Any member of the Tribal Council who, during the term for which she/he is elected or appointed, is convicted of a felony or crime involving dishonesty, in any court of competent jurisdiction, shall automatically forfeit her/his office effective the date of his/her conviction in court.

b. Any member of the Tribal Council found guilty of a misdemeanor involving moral turpitude, gross neglect of duty, malfeasance in office or misconduct reflecting on the dignity and integrity of the tribal government shall be removed from office by majority vote of the Tribal Council. Before any vote for removal is taken, the Tribal Council member subject to removal shall be given a written statement of the charges against him or her at least seven (7) days before the meeting of the Tribal Council called to consider the removal action. The accused member shall be given an opportunity to answer any and all charges at the designated Tribal Council meeting. No Tribal Council member shall preside over the meeting at which his or her removal is being considered. The final decision of the Tribal Council may be appealed to the Tribal Court.

Red Cliff Band of Lake Superior Chippewa

Article V

Section 1. Upon receipt of a petition signed by one-third (1/3) of the eligible voters calling for the recall of any member of the Council, it shall be the duty of the Council to call an election on such recall petition. No member may be recalled in any such election unless at least thirty percent (30%) of the legal voters shall vote at such election.

Section 2. The Tribal Council may by an affirmative vote of six (6) members expel any member for neglect of duty or gross misconduct PROVIDED that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him at least five (5) days before the meeting at which he is to appear. Impeachment shall result in disqualifying a member of the Council from holding any office of trust in the Red Cliff Band.

Ely Shoshone

Article V

Section 2. The tribal council may, by three (3) affirmative votes, remove from office any tribal council member convicted of a misdemeanor involving moral turpitude, or for gross neglect of duty, malfeasance in office, misconduct reflecting on the dignity and integrity of the tribal government. or failure to attend any three (3) consecutive tribal council meetings without permission of the tribal council, except for illness, or disqualification to serve as a tribal council member. Before any vote for removal from office is taken, the member shall be given a written statement of charges against him/her at least fifteen (15) days before the meeting of the tribal council at which he/she is to appear, and he/she shall be given an opportunity to answer any

and all charges at the tribal council meeting. If the member refuses to appear before the tribal council, the tribal council shall proceed with the vote as scheduled. The chairperson shall have the right to vote in all removal proceedings except his own.

Blackfeet Tribe

Article V

Section 2. The Blackfeet Tribal Business Council may expel a member for cause by two-thirds (2/3) or more members of the entire Blackfeet Tribal Business Council voting for expulsion. Before any vote for expulsion is taken on the matter, such member shall be given an opportunity to answer any and all charges at a designated council meeting, and the decision of the Blackfeet Tribal Business Council shall be final.

Section 3. Any member of the Blackfeet Tribe who has ever been convicted of a felony in any court for which he has not received a pardon or a restoration of civil rights shall be ineligible for office and any tribal council member or other tribal officer found guilty by the Blackfeet Tribal Business Council of gross neglect of duty, misconduct reflecting on the dignity of the tribe or Blackfeet Tribal Business Council, habitual drunkenness, or repeated unexcused absences from official functions shall be expelled from office and shall be barred from holding any tribal office for the next succeeding term.

Nez Perce

Article VII

Section 2. Nez Perce Tribal Executive Committee (NPTEC) shall, by majority vote, expel any member of the NPTEC found guilty by it of (a) having absented himself from three successive meetings of the Committee without sufficient reason acceptable to the Committee; (b) other neglect of duty; or (c) gross misconduct. Before any vote for expulsion is taken in the matter, such member shall be given a written statement of the charges against him at least ten days before the meeting of the NPTEC at which he is to appear. He shall be given a reasonable opportunity to answer charges at the designated Committee meeting. Failure of the accused to appear at the scheduled time shall be deemed a waiver of his right to a hearing, unless a satisfactory excuse for such failure to appear is furnished within a reasonable time thereafter. The decision of the NPTEC shall be final.

Section 3. The NPTEC shall formulate and adopt a set of rules defining other neglect of duty and gross misconduct as applied to members of the Committee.

Section 4.

(A) No person who has been convicted of a felony by a court of competent jurisdiction may serve as a member of the NPTEC until ten years following his release from confinement. (B) No person who has been convicted by a court of competent jurisdiction of a criminal offense other than a felony or a minor traffic, hunting or fishing violation for which he was sentenced to imprisonment or payment of a fine in lieu thereof may serve as a member of the NPTEC until three years following his conviction. (C) No person who has been removed from NPTEC under Section 2 of this Article may serve on it again until three years following his removal.

Minnesota Chippewa Tribe

Article X

Section 2. The Reservation Business Committee by two-thirds (2/3) vote of its members shall remove any officer or member of the Committee for the following causes: (1) Malfeasance in the handling of tribal affairs. (2) Dereliction or neglect of duty. (3) Unexcused failure to attend two regular meetings in succession. (4) Conviction of a felony in any county, State or Federal court while serving on the Reservation Business Committee. Refusal to comply with any provisions of the Constitution and Bylaws of the Tribe. The removal shall be in accordance with the procedures set forth in Section 3 of this Article.

Section 3. Any member of the Reservation from which the Reservation Business Committee member is elected may prefer charges by written notice supported by the signatures of no less than 20 percent of the resident eligible voters of said Reservation, stating any of the causes for removal set forth in Section 2 of this Article, against any member or members of the respective Reservation Business Committee. The notice must be submitted to the Business Committee. The Reservation Business Committee shall consider such notice and take the following action:

The Reservation Business Committee within fifteen (15) days after receipt of the notice or charges shall in writing notify the accused of the charges brought against him and set a date for a hearing. If the Reservation Business Committee deems the accused has failed to answer charges to its satisfaction or fails to appear at the appointed time, the Reservation Business Committee may remove as provided in Section 2 or it may schedule a recall election which shall be held within thirty (30) days after the date set for the hearing. In either event, the action of the Reservation Business Committee or the outcome of the recall election shall be final.

All such hearings of the Reservation Business Committee shall be held in

accordance with the provisions of this Article and shall be open to the members of the Reservation. Notices of such hearings shall be duly posted at least five (5) days prior to the hearing. The accused shall be given opportunity to call witnesses and present evidence in his behalf.

Section 4. When the Tribal Executive Committee finds any of its members guilty of any of the causes for removal from office as listed in Section 2 of this Article, it shall in writing censor the Tribal Executive Committee member. The Tribal Executive Committee shall present its written censure to the Reservation Business Committee from which the Tribal Executive Committee member is elected. The Reservation Business Committee shall thereupon consider such censure in the manner prescribed in Section 3 of this Article.

Section 5. In the event the Reservation Business Committee fails to act as provided in Sections 3 and 4 of this Article, the Reservation membership may, by petition supported by the signatures of no less than 20 percent of the eligible resident voters, appeal to the Secretary of the Interior. If the Secretary deems the charges substantial, he shall call an election for the purpose of placing the matter before the Reservation electorate for their final decision.

Please contact me if there are any questions.