



**HO-CHUNK NATION CODE (HCC)  
TITLE 2 – GOVERNMENT CODE  
SECTION 4 – APPROPRIATIONS AND BUDGET PROCESS ACT**

**ENACTED BY LEGISLATURE: JUNE 22, 2000**

**LAST AMENDED AND RESTATED: MAY 4, 2004**

**CITE AS: 2 HCC § 4**

*This Act supersedes HCC 96-002, Appropriations and Budget Process Act as amended by Ho-Chunk Nation Legislative Resolutions 6/6/00B and 4/11/00E.*

**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 V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct and imposing penalties upon all persons within the jurisdiction of the Nation.

**2. Purpose.** This Act provides the Ho-Chunk Nation branches of government policy and guidance in preparing budgets to ensure fiscal responsibility and integrity within the Nation.

**3. Declaration of Policy.**

- a. The President is charged with the responsibility to submit proposed budgets to the Legislature according to law in order for the Executive Branch to receive uninterrupted funding.
- b. The Legislature may not fund programs if it determines that such funding would result in duplication of existing programs and services to the Ho-Chunk Nation members.
- c. Funds appropriated under this Act may only be used for the specific purpose for which they have been appropriated.

d. It shall be unlawful for any person to violate any provision of this Act.

e. It shall be unlawful for any person to order, coerce, command, or attempt to persuade any other person to violate any provision of the Act.

f. An officer or employee of the Nation may not:

(1) Make or authorize an expenditure or obligation exceeding an amount available in an appropriation or to fund such expenditures or obligations.

(2) Involve the Nation in a contract of obligation for the payment of money before an appropriation is made for such contract or obligation unless authorized by law.

g. To the extent that this Act may conflict with the Nation's *Finance Manual* or any other law of the Nation, this Act shall supersede such procedures or law.

h. Department and program budgets shall be prepared to provide for the first use and expenditure of grant funds prior to the use and expenditure of appropriated NPD funds.

4. **Definitions.** As used in this Act, the following shall have the meaning provided here.

a. "Budget" means any detailed budget proposal or budget, including accompanying narratives and line-item appropriations, or any amendments thereof approved by a majority of the Legislature acting at a duly called meeting at which a quorum is present.

b. "Department of Justice" means the Ho-Chunk Department of Justice.

c. "Enterprise" means any business entity or enterprise owned or operated by the Nation, including gaming facilities and any other operations of which the Nation is a majority stockholder.

d. "Executive Branch" means those programs and departments, including the Office of the President, which are designated under the Executive Branch as defined in Article VI of the Constitution of the Ho-Chunk Nation.

e. "Fiscal Year" means the period beginning on July 1 of any particular calendar year to June 30 of the following calendar year unless a different period is designated by the Legislature.

f. "Judiciary Branch" means those programs and departments, including the Trial Court and the Supreme Court, which are designated pursuant to Article VII of the Constitution of the Ho-Chunk Nation.

g. "Finance Committee" means the Finance Committee of the Ho-Chunk Nation Legislature with jurisdiction over fiscal issues addressed by the Legislature.

h. "Legislature" means the Ho-Chunk Nation Legislature.

i. "Major Budget Modification" means any replacement, alteration, or change to a specific line item that exceeds \$80,000.

j. "Minor Budget Modification" means an obligation of funds from a specific line item in order to compensate for a line item(s) that has been overspent or is identified as a financial need prior to overspending, with the following exclusions, which are specifically prohibited:

(1) The modification does not reduce any revenue line item.

(2) The modification does not reduce any cost of goods sold line item.

(3) The modification does not reduce any program expense line item within Account Code 670, as defined by the Treasury and promulgated in the Finance Manual.

(4) The modification does not affect any capital expense line item.

(5) The modification does not reduce depreciation or indirect cost expense line item.

(6) The executive department or enterprise's total budget does not increase as a result of the modification.

k. "Nation" means the Ho-Chunk Nation.

l. "President" means the President of the Ho-Chunk Nation.

m. "Treasury" means the Ho-Chunk Nation Department of Treasury.

## **5. Appropriations.**

a. Budget Submissions.

(1) Executive Branch.

(a) The President shall submit a proposed annual fiscal year budget, including detailed narratives for each executive department and/ or program to the Finance Committee not later than February 15 of each year for the succeeding fiscal year. The proposed budgets shall include an explanation detailing in which matter the proposed funding is vital for the services to the Ho-Chunk Nation members and contain a listing of goals and objectives and a brief summary of the differences between the proposed and current budget. The proposed budgets shall also identify other funding sources that any governmental branch, department, or program of the nation is receiving, anticipates

receiving, has applied for, or will apply for from any other source, i.e., federal, state, foundation grants, etc.

(b) The President shall submit his proposed annual budget for the Nation's enterprises to the Finance Committee not later than January 15 of each year for the succeeding fiscal year.

(2) Legislative Branch. The Vice-President shall submit the proposed annual budget for the Legislature to the Finance Committee not later than February 15 of each year for the succeeding fiscal year.

(3) Judicial Branch. The Chief Trial Judge shall submit the proposed annual budget for the Judicial Branch to the Finance Committee not later than February 15 of each year for the succeeding fiscal year.

(4) The President, Vice President, or the Chief Trial Judge may request an extension of time beyond February 15 to submit a proposed annual fiscal year budget provided such request is submitted in writing to the Chairperson of the Finance Committee prior to February 1. An extension may be granted by the Legislature if it finds there is good cause to grant an extension. Any extension beyond February 15 shall be authorized by Legislative Resolution.

b. The Finance Committee may hold and conduct either regular or special committee hearings to determine whether the proposed budgets are in accordance with program goals as stated in the budgets. The Finance Committee may require any person to appear before the committee members to explain and answer and questions that the committee members may have regarding the proposed budget.

c. The Finance Committee shall have until May 15 of each year to submit final budget recommendations to the full Legislature for consideration and final review. If the Finance Committee cannot have their recommendations submitted by May 15 due to failure of any person(s) to comply with the timely submission of proposed budgets pursuant to this section, the Finance Committee shall refer to the full Legislature a Continuing Resolution, which would fund a branch, department, or program budget for a period of not to exceed sixty (60) days into the following fiscal year at or below the budget in effect for the current fiscal year. Depending on the circumstances, the Legislature may alter the deadlines identified in this section. However, any changes to the deadlines must be identified and accomplished by written resolution.

d. The full Legislature shall adopt or modify the annual budget(s) for the Nation not later than fifteen (15) days following a recommendation. If the Legislature does not meet within the fifteen (15) days following a recommendation, the Legislature may adopt a Continuing Resolution for funding, which may not exceed sixty (60) days. Once adopted by the Legislature, no budget shall be modified except in accordance with paragraph 6 of this Act.

e. The Legislature reserves the power to review action taken by the Executive Branch during implementation of the fiscal year budget approved by the Legislature. The Legislature or its standing committees shall conduct periodic review of all budgets to determine whether funds are being expended according to the annual budget adopted by the Legislature. Such review may include random reviews of enterprise or departmental budgets.

f. The Finance Committee shall, not later than the last business day in November, provide notification of budget projections for the succeeding fiscal year. Such projections shall identify spending limits on each and every branch of the Nation government in order to assist the development of timely and responsible budgetary outlays.

## **6. Budget Modifications.**

### a. Executive Branch.

(1) Minor Budget Modification. A minor budget modification may be made whenever required. Each proposed minor budget modification shall contain full documentation and written justification for the modifications

(a) Any proposed minor budget modification of less than \$15,000 for an Executive Branch department, program, or enterprise must be submitted for review and approval through the respective Executive Director to the President.

(b) Any proposed minor budget modification of more than \$15,000 for an Executive Branch department, program, or enterprise must be submitted by the respective Executive Director through the Treasurer to the President for review and approval.

(2) Major Budget Modification. Any proposed major budget modification, for an Executive Branch department, program, or enterprise must be submitted by the President to the Chair of the Finance Committee for review and recommendation. Each proposed budget modification shall contain full documentation and written justification for the modification.

### b. Judiciary Branch.

(1) Minor Budget Modification. A minor budget modification may be made whenever required. Each proposed minor budget modification shall contain full documentation and written justification for the modifications.

(a) Any proposed minor budget modification of less than \$15,000 for the Judiciary Branch may be approved by the Chief Trial Judge.

(b) Any proposed minor budget modification of more than \$15,000 for the Judiciary Branch must be submitted through the Treasurer to the Chief Justice for

approval.

(2) Major Budget Modification. Any proposed major budget modification for the Judiciary Branch must be submitted by the Chief Trial Judge to the Chair of the Finance Committee for its review and recommendation. Each budget modification shall contain full documentation and written justification for the modifications.

c. Legislature.

(1) Minor Budget Modification. Any proposed minor budget modification, defined as a modification of less than \$15,000, for the Legislative Branch may be approved by the Vice President as required. Each proposed minor budget modification shall contain full documentation and written justification for the modifications.

(2) Major Budget Modification. Any proposed major budget modification for the Legislative Branch must be submitted by the Vice President to the Chair of the Finance Committee for its review and recommendation. Each budget modification shall contain full documentation and written justification for the modifications.

d. Major Budget Modification Deadlines.

(1) All proposed major budget modifications shall be submitted to the Finance Committee and due not later than first day of September, November, February, and April. The budget modifications then will be reviewed at the next Finance Committee meeting.

(2) Notwithstanding the foregoing, the Finance Committee may accept and act on a major budget modification at any time if, by motion duly made and adopted, the Finance Committee Members determine that consideration and action on one or more modifications out of the normal procedural sequence is in the best interest of the Nation under the circumstances.

e. Upon receipt of the budget modification request, the Finance Committee shall have thirty (30) days to review the request and to conduct hearings to assist in its recommendation to the Legislature.

f. The Legislature shall vote on the major budget modification request not later than the fifteenth (15) day of the following month; i.e., respectively October, December, March, and May. If no vote is taken by that date the major budget modification will be deemed approved and will take effect without further legislation.

g. Once the major budget modification(s) are approved by the Legislature or the minor budget modification approved by the respective official in accordance with paragraphs a, b, and c, above, the modified budget(s) shall be submitted to the Treasury for final processing. Within fifteen (15) days of the receipt of the modified budget, the Treasury shall submit a copy of the modified budget to the Chair of the Finance Committee with a copy to the department or program affected by the modification.

## **7. Fiscal Accounting.**

### **a. Unexpended Funds.**

(1) Notwithstanding any provision of this or any other Act or law, it shall be the duty of the Treasurer to:

(a) Identify and isolate any unused (unexpended) funds from the previous fiscal year into a special restricted use account

(b) Determine any unused (unexpended) funds remaining from any prior fiscal year.

(2) Within ninety (90) days following the fiscal year, the Treasurer shall submit an Unexpended Funds and Deficits Report to the Legislature which identifies unexpended funds and deficits identified in this section.

(3) Within one hundred twenty (120) days following the end of the fiscal year, the Legislature shall appropriate any funds identified under this section.

b. Capital Projects. The Legislature shall designate Capital Projects that are to be budgeted on a project basis. These Capital Projects shall be tracked in distinct capital project funds, separate from the General Fund, and budgeted based on the life of the project. Unexpended Capital Project budgets at the end of the fiscal year will be carried into the next fiscal year until the project is completed or terminated by Legislative action. Capital Project budgets can be modified for true increases or decreases to the project.

c. Home Ownership Program. Monies budgeted for Home Ownership Program expense commitments shall be carried over into the next fiscal year. The expense commitments are approved contracts for Elder grants, down payments, new construction, existing home purchase, refinancing, land, site development/improvements, utility extensions, and architect and engineering fees. This budgeting process will carryover committed budget monies to the next fiscal year to enable completion/purchase of homes for tribal members.

d. Memorial Relief Burial Fund. Notwithstanding any provision of this or any other Act, disbursements properly payable out of the line item for the Nation's Memorial Relief Fund may be paid even if the appropriated funds for that line item have been previously exhausted during the fiscal year due to usage beyond the budgeted estimate. Any payments in excess of the budgeted amount of the Memorial Relief Burial Fund shall be funded from the General Fund pending the year-end adjustment described in the following sentence. The Treasury will offset any such deficit against the amount of unused funds identified in its report for a fiscal year prepared in accordance with paragraphs a(1) and a(2), above, and restore such deficits to the General Fund.

e. Monthly Financial Report. Department of Treasury shall prepare monthly financial reports for review by the Legislature. The Monthly Financial Report shall be provided to the Legislature not later than the 15<sup>th</sup> of the month following the close of the previous month. The Treasurer or designee shall attend all Finance Committee meetings to explain the Monthly Financial Report, answer questions concerning the monthly financial report, and provide supplemental information as required.

(1) The Monthly Financial Report shall consist of the following monthly financial statements:

(a) Monthly Financial Statements and Schedules.

(b) Monthly Comparative Statements.

(2) Upon release of this financial information to the Legislature, members of the Legislature may release the Monthly Financial Report to Tribal members.

**8. Release of Financial Data.** Financial information of the Nation shall be considered confidential and privileged. Financial data/information provided to Tribal members at District/Area Meetings shall be clearly marked For Tribal Use Only and not for further release. Only financial data as explicitly provided for by this Act, e.g., paragraph 7e(2), or those financial reports expressly approved for release as a matter of law or contract shall be released.

a. Treasurer. The Treasurer, from time to time, may be requested to produce a fiscal analysis or provide fiscal reports, which contain such information that the Legislature desires to limit and control access. Exceptions to this policy may only be authorized by written directive from the Legislature or the President.

b. Officials and Employees of the Nation. Financial information of the Nation shall not be divulged to anyone other than persons who have a right to know, or are authorized to receive such information. The safeguarding and protection of this confidential information shall be considered a condition of employment with the Nation and applicable employment law shall apply.

**9. Enforcement and Penalties.** The penalties assigned the violations herein are mandatory and in addition to discipline administered under the Nation's employment law.

a. Enforcement and Imposition of Penalties.

(1) Executive Branch and Enterprises.

(a) Violations of this Act by the President shall be deemed a violation of fiduciary responsibility and subject that official to sanctions under the Nation's *Code of Ethics Act* (2 HCC § 1).

(b) The President shall enforce the provisions of this Act within the Executive Branch and enterprises and impose the penalties provided by paragraph b, below.

(2) Judiciary Branch.

(a) Violations of this Act by the Chief Justice or an Associate Justice of the Supreme Court or the Chief Judge or an Associate Judge of the Trial Court shall be deemed a violation of fiduciary responsibility and subject that official to sanctions under the Nation's *Code of Ethics Act* (2 HCC § 1).

(b) The Chief Justice for Supreme Court employees and the Chief Trial Judge for Trial Court employees shall enforce the provisions of this Act and impose the penalties provided by paragraph b, below.

(3) Legislative Branch.

(a) Violations of this Act by a Legislator shall be deemed a violation of fiduciary responsibility and subject that official to sanctions under the Nation's *Code of Ethics Act* (2 HCC § 1).

(b) The Vice President shall enforce the provisions of this Act for employees within the Legislative Branch and impose the penalties provided by paragraph b, below.

b. Penalties.

(1) Executive Directors and Enterprise General Managers and their subordinate supervisors having responsibility for formulation and execution of a budget shall be subject to the following penalties for violations of this Act.

(a) For a first violation of this Act the individual shall be placed on probation and shall for procedural violations be required to take correction action within thirty (30) days of the notice of the violation and probation.

(b) If the violation has not been corrected within thirty (30) days or if there is a subsequent violation of this Act within ninety (90) days, the individual shall be terminated from that position.

(2) Employees of the government and enterprises other than those identified in paragraph (1), above, shall be subject to discipline, to include termination, as provided by the Nation's employment law.

c. Prosecution by the Attorney General.

(1) As legal counsel for the Nation, the Department of Justice shall prosecute all violations of this Act promptly whenever:

(a) On the basis of any information available to him or her, including receipt of information from any person, the Attorney General has reason to believe that any person is in violation of any provision of this Act and the appropriate official has not the required disciplinary action; or

(b) The Chair of the Finance Committee requests prosecution after the Committee has conducted a preliminary inquiry and has reason to believe a violation of this Act has occurred and the required disciplinary action has not been taken.

(2) The Attorney General or his/her designee shall not exercise prosecutorial discretion.

(3) The Attorney General shall make an initial determination as to whether a conflict of interests exists in his or her prosecution of violations of this Act, in writing to the Legislature, within ten (10) days after receiving information on an alleged violation as provided in paragraph c(1), above.

(4) Should the Legislature agree with the Attorney General that a conflict of interests exists, it may appoint special counsel for the purpose of prosecuting any violation of this Act. Any funds appropriated for special counsel shall be paid out of the Department of Justice annual budget.

d. Additional Sanctions by the Trial Court.

(1) Any person found guilty of violating any provision of this Act or failing to take appropriate disciplinary action for a subordinate's violation of this Act may be fined up to \$300.00 for each violation.

(2) Notwithstanding any other provision of this Act, the Trial Court is hereby granted authority to order injunctive or declaratory relief against any person who violates any provision of this Act.

(3) It shall be a criminal offense, which may be punishable by up to ninety (90) days in jail for any person who fails to comply with any order of the Trial Court issued pursuant to this Act.

(4) All Court proceedings commenced under this Act shall occur on an expedited basis.

**10. Sovereign Immunity.**

a. In accordance with Article XII of the Constitution of the Ho-Chunk Nation, the Legislature hereby expressly waives the sovereign immunity of the Nation for the purposes of securing any right or punishing any offense under this Act.

**Ho-Chunk Nation Legislature**  
**Appropriations and Budget Process Act**  
**Page 11 of 11**

b. In accordance with paragraph a, above, the Legislature hereby declares that any person violating any provision of this Act is acting beyond the scope of their duties or authority and is therefore to be held personally liable for violations of this Act.

**11. Severability.** If any provision or provisions of this Act 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:

7/2/96 Introduced by Rep. T. Thundercloud to Legislature and tabled  
7/16/96 Tabled by Legislature  
7/23/96 Adopted by Legislature  
12/5/96 Amendment to Section 301 referred to Legislature  
12/17/96 Amendment to Section 301 adopted by Legislature  
2/15/97 Amendments to Sections 305, 306, and 309 adopted by Legislature  
11/13/97 Amendment to Section 309 adopted by Legislature  
6/10/98 Legislature adopts Resolution 6/23/98A to add Section 504, Capital Projects Budget Fiscal Year Carryover  
6/23/98 Legislature adopts Resolution 6/23/98C to add Section 505, Home Ownership Program Budget Fiscal Year Carryover  
5/4/99 Legislature adopts Resolution 5/4/99A to add Section 409 setting limits for the submission of requests to modify the budget  
4/11/00 Legislature adopts Resolution 4/11/00E to add Section 410, Memorial Relief Burial Fund  
6/6/00 Legislature adopts Resolution 6/6/00B amending Section 409  
6/22/00 HCC 96-002 restated and superseded by 2 HCC § 4 (2000) (Appropriations and Budget Process Act) enacted Legislative Resolution 6/22/00F  
9/26/00 Amended and Restated by Legislative Resolution 9/26/00E  
1/9/01 Amended and Restated by Legislative Resolution 1/9/01A amending paragraph 7.e.  
1/16/01 Amended and Restated by Legislative Resolution 1/16/01C amending paragraph 7.a.  
2/13/01 Amended by Legislative Resolution 2/13/01F amending Sections 301-303.  
2/20/01 Amended and Restated by Legislative Resolution 2/20/01B deleting paragraph 6.d.  
3/6/01 Amended and Restated by Legislative Resolution 3/6/01F amending paragraphs 6.d and 6.f.  
3/20/01 Amended and Restated by Legislative Resolution 3/20/01A amending paragraphs 5.a and 5.b. and correcting Legislative Resolution 2/13/01F.  
12/18/01 Amended and Restated by Legislative Resolution 12/18/01A amending paragraphs 5a(1)(b), deleting paragraph 5b, amending paragraph 5c, amending paragraph 7e, and adding a new paragraph 8 (Release of Financial Data).  
3/3/04 Legislature places amending draft out for 45-Day Public Review.  
5/4/04 Amended and Restated by Legislative Resolution 5/4/04D adding procedures for minor budget modification and amending enforcement and penalties.