

LUMBEE TRIBE OF NORTH CAROLINA

CLLR-2006-0615-04

DATE: JUNE 15, 2006

CONSTITUTIONAL AMENDMENT #4: IMPEACHMENT

WHEREAS, The Lumbee Tribe of North Carolina ("Lumbee Tribe") is a recognized American Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina ("Tribal Constitution") and its inherent powers of self-government;

WHEREAS, Article VII, Section 1 of the Tribal Constitution delegates all legislative authority to the Tribal Council of the Lumbee Tribe of North Carolina ("Tribal Council"); and

WHEREAS, Article XIII of the Tribal Constitution outlines the process for amending the Tribal Constitution. Article XIII, Section 1 states, "An amendment to the Constitution can be proposed by either two-thirds (2/3) vote of the Tribal Council or by a petition bearing the signatures of five (5) percent of tribal members eighteen years of age or older."; and

THEREFORE, Be it resolved by the Tribal Council of the Lumbee Tribe of North Carolina this resolution that shall be cited as "*CONSTITUTIONAL AMENDMENT #4: IMPEACHMENT.*"

THEREFORE, Be it further resolved, the Tribal Council proposes the following amendment to the Tribal Constitution. The amendment, to be added after Article X, will become Article XI and be titled "Impeachment of Appointed and/or Confirmed Officials." Subsequent articles shall be renumbered accordingly.

Article XI: Impeachment of Appointed and/or Confirmed Officials

1. This article shall apply to, but not be limited to,
 - a. The Judicial Branch;
 - b. the Tribal Elections Board; and
 - c. all other appointed and/or confirmed officials of the Lumbee Tribe of North Carolina.
2. These forenamed officials in the tribal government must perform their responsibilities and duties in accordance with this Constitution and tribal ordinances.
3. Appointed and confirmed officials in this tribal government shall be impeached if guilty of one or more of the causes in Article XI, section 4 (a), below, of this article.
4. Due process shall be available to anyone subject to this article. The causes and process of impeachment shall be:
 - a. any appointed and/or confirmed official shall be impeached for failure to perform his or her duty, corruption in office, becoming incapable of performing his or her duties, any offense involving moral turpitude, or violating his or her oath of office or the Tribal Constitution;
 - b. upon submission to the Tribal Council of a petition, signed by three (3) tribal members, stating the cause of action for impeachment, it shall be the duty of the Tribal Council, within ten (10) business days, to appoint a commission, by some means of chance, consisting of seven (7) council members to investigate and determine the validity of the charges
 - c. the commission shall, within 30 days, submit their findings to the Tribal Council. At such time, if the findings show that there is just cause for impeachment (one or

- more of the causes identified in Article XI, section 4 (a), above,) the Tribal Council shall serve formal impeachment charges upon the official;
- d. the Tribal Council shall conduct impeachment hearings no sooner than ten (10) and no later than fifteen (15) business days from the date of said notice to the official. The Tribal Council shall sit as a court in all cases of impeachment and its decision shall be final;
 - e. the official against whom articles of impeachment have been served shall be suspended from the exercise of the duties of his or her office during the impeachment proceedings
 - i. The suspension shall begin when the Tribal Council files impeachment charges.
 - f. the Tribal Council shall appoint a prosecutor, who shall not be employed or hold office in the tribal government, to present the charges before the Tribal Council at the impeachment trial;
 - g. the official against whom charges have been filed and/or his or her designee shall be entitled to present evidence at said trial;
 - h. a two-thirds (2/3) vote of the seated Tribal Council shall be required to impeach the official;
 - i. the Tribal Council shall have authority to enact a tribal ordinance governing disqualification as an official from future elected, appointed, and/or confirmed tribal offices due to impeachment; and
 - j. the Tribal Council shall prescribe rules and procedures that are necessary to promulgate the impeachment provisions of this article.

CERTIFICATION

THIS "CONSTITUTIONAL AMENDMENT #4: IMPEACHMENT," CLLR-2006-0615-04, ADOPTED AT A MEETING OF THE 21-MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 18 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 15TH DAY OF JUNE, 2006 BY A VOTE OF 17 FOR, 1 AGAINST, 0 ABSTENTION(S).

Lawrence T. Locklear 06/15/06
 ATTEST: Lawrence T. Locklear Date
 Speaker, Tribal Council of the Lumbee Tribe of North Carolina

Wendy Moore-Graham 06/15/06
 ATTEST: Wendy Moore-Graham Date
 Secretary, Tribal Council of the Lumbee Tribe of North Carolina