

# **Mille Lacs Band of Ojibwe**

## **Revisor's Drafting Manual**



*2024 Edition*

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## FOREWORD

This 2024 edition of the Drafting Manual is the first of its kind for the Mille Lacs Band of Ojibwe. The Drafting Manual is a document required for publication by Title 25 of Mille Lacs Band Statutes. The Office of the Revisor of Statutes was signed and codified into Title 25 in 2020, which came to fruition under Speaker of the Assembly Sheldon Boyd, District I Representative Virgil Wind, District II Representative Marvin Bruneau, and District III Representative Wally St. John.

We hope this Manual will serve as a valuable resource in the important task of drafting legislation. We encourage users of this Manual to provide comments, criticisms, and suggestions for improvements to later editions.

A handwritten signature in blue ink that reads "Hanna Valento". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Hanna Valento  
Revisor of Statutes

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# CHAPTER 1

## INTRODUCTION

1. **Authority.** This Manual is prepared by the Office of the Revisor of Statutes in accordance with 25 MLBS § 5(d). This statute mandates that the Revisor of Statutes shall “prepare and issue a drafting manual containing styles and forms for drafting bills, resolutions, and amendments.”
2. **Organization and Use of the Manual.** This Manual is designed to serve two functions. First, it is meant to be a primer on legislative drafting. Inexperienced drafters should carefully work their way through the entire Manual to get a better understanding of the task at hand. Second, the Manual is also designed to be a reference Manual for more experienced drafters who need quick answers to drafting questions. Chapters 2 and 3 provide sample bills and resolutions that highlight the various components of the documents. These samples will aid a drafter to quickly find answers to the most common drafting and style questions.

## CHAPTER 2 BILL DRAFTING

1. **General Drafting Principles.** A drafter working through the details in this Manual may find it useful to refer to general principles that serve as the foundation for legislative drafting. These principles are summarized as follows.
  - a. **Understand the problem.** A drafter should understand the problem to be addressed before drafting a legislative solution. This may involve gathering background information from the legislation’s sponsor and other sources so that a drafter understands the legislative intent, as well as the facts and circumstances which gave rise to the request.
  - b. **Identify possible constitutional issues.** A drafter should draft a bill or amendment so that its substance and form are constitutional. A drafter should therefore have a general knowledge of the Constitution of the Minnesota Chippewa Tribe and corresponding Band laws.
  - c. **Comply with legislative rule and custom.** A drafter should draft a bill or amendment so that its substance and form satisfy legislative rules and customs. A drafter should have a general understanding of the Rules of Procedure for the Band Assembly. Acquiring knowledge of applicable legislative customs and practice is more difficult because there is no comprehensive source that can be consulted on such matters. This institutional knowledge is acquired over time as a drafter gains knowledge and experience working through specific drafting issues and consulting with the Speaker of the Assembly, District Representatives, and legislative staff.
  - d. **Examine the legal context.** A drafter should draft a bill or amendment with knowledge of its legal context and the probable relationship of the old law with the new law. While it becomes easier to follow this principle as a drafter gains subject matter expertise and drafting experience, there are some useful tools to assist a drafter in acquiring this knowledge. Each section of Band Statutes, contains “Historical and Statutory Notes,” which lists where the section came from. If a source is labeled with “MLC,” which means Mille Lacs Code, then it is what has been considered to be the old code. The old code was drafted and approved in the 1980s and 1990s. In the late 1990s, the Band started to approve amendments through ordinances. In 2022, the Band made another move to approve amendments through acts. By researching the different sources listed underneath a section, a drafter can better understand the legal context behind the section.

- e. **Consider construction.** A drafter should draft a bill or amendment with knowledge of the constitutional, statutory, and common law principles on the construction of statutes. These principles are discussed in the context of specific drafting considerations presented throughout the Manual, as well as in general terms in Chapter 4.
  - f. **Preserve the legal fabric.** A drafter should select all appropriate provisions of law to amend or repeal and place new provisions in their proper place. If the provisions are general and permanent, a drafter should also properly code them within Band Statutes in order to preserve the fabric of statutory law.
  - g. **Seek out peer review.** When appropriate, a drafter should ask a colleague to review and comment on the bill or amendment. This peer review is an important quality control measure for legislative drafters. Peer review often helps a drafter determine if the draft is clear, consistent, and complete.
2. **Applying Certain Drafting Standards and Recommendations.**
- a. The standards in this Manual represent the best advice of the Revisor’s Office. But that does not mean they should be followed subserviently. Apart from the standards on legal defects, such as ambiguity and title defects, a drafter should consider whether there are reasons, times, and situations that call for deviating from a standard. This is especially true for some of the style and readability advice in Chapter 5 and some of the usage advice in Chapter 6. When drafting new language, a drafter should incorporate the relevant standards and recommendations in the Manual, unless there is a specific reason to deviate from them. Regardless, when amending, the question arises whether it is necessary to make additional changes to existing provisions of law that a drafter intends to be non-substantive in nature and to conform the language to the standards and recommendations contained in this Manual. In these situations, a drafter should proceed cautiously.
  - b. If a drafter decides that it is appropriate to amend the bill to add these style and form changes, it is strongly recommended that the title of the bill also be amended with language indicating that no substantive change to the law is intended. A phrase such as “making various non-substantive style and form changes” or “making certain conforming technical changes” could be used to express this intent. The second title phrase is especially appropriate when new law is being added and similar non-substantive changes are being proposed to existing law.

3. **Bill Form Examples.** Below is an example of a bill.

Version 1.0 ← Version number

Bill number

1 ← Line number      Band Assembly Bill XX-XX-XX-22      Title

2

3 A bill for an act amending Title 25 to cleanup language, add a definition, remove the

4 requirement to print the Official Acts, and give the Revisor signatory authority to form and

5 numbering for orders and opinions. This bill also amends Title 3 definitions and removes the

6 Solicitor's signatory authority to form and numbering for legislative orders.

7

8 The Band Assembly conducted a formal public hearing on April 13, 2022, during a live-

9 streamed Band Assembly meeting. The bill was then posted for ten calendar days on the Tribal

10 Register.

11

12 The District 1 Representative introduced the following Bill on the 27th day of April, 2022. ← Sponsor and date of introduction

13

14

15 **BE IT ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE**

16 **LACS BAND OF OJIBWE:** ← Enacting Clause

17

18 ← Section number of the bill and heading

19 **Section 1. Amending Title 25.**

20

21 ← Section number of the Code and headnote

22 **§ 2. Definitions.**

23

24 (a) "Act" means an ordinance pursuant to 3 MLBS § 1.

25

26 (a)(b) "Agency" or "Department" means any division or section of the executive or

27 legislative branches established by statute to carry out the functions of Band

28 government, to include the departments of Administration, Athletic Regulation,

29 Community Development, Education, Health and Human Services, Natural

30 Resources, Gaming and Regulatory Authority, Mille Lacs Corporate Ventures, and

31 the Office of Management and Budget.

32

33 (b)(c) "Band" means the Non-Removable Mille Lacs Band of Ojibwe.

34

35 (e)(d) "Band Assembly" means the Band's legislative branch, established pursuant to

36 3 MLBS § 42, and comprised of the duly elected Speaker of the Assembly and three

37 District Representatives.

38

39 (d)(e) "Chief Executive" means the elected official who leads the Band's executive branch

40 pursuant to 4 MLBS § 6.

41

42 (e)(f) "Court" means the Band's Court of Central Jurisdiction established pursuant to

43 5 MLBS § 1.

44

45 (f)(g) "Legislative Session" means the period of time, occurring twice per calendar year

46 pursuant to 3 MLBS § 18, in which the Band Assembly is convened for the purpose

47 of lawmaking.

1

Adding language with an underline, deleting language with a strikethrough

4. **Bill Basics.**

a. **Purpose.** A bill is the most commonly used document by which the Band Assembly takes formal action. It is the only form that carries the words “an act” or “code” in its title and uses the enacting clause. The exact form of a bill varies according to its purpose. A bill’s purpose may be:

- i. to create new law;
- ii. to amend existing law;
- iii. to repeal existing law; or
- iv. any combination of these.

b. **Standard bill composition.**

i. **Bill order.** The standard order for a bill is described below. A bill does not need to contain all these elements. Each bill is a custom document, and a drafter may modify the framework if necessary to draft a bill that best achieves the legislative intent. The order proceeds as follows:

- A. Title;
- B. Enacting Clause;
- C. Appropriation Description and Summary by Fund;
- D. Coded Sections (amended and proposed);
- E. Repealers;
- F. Effective Dates.

c. **Page and line numbers.** Page numbers are on all legislative documents. Line numbers are part of all bills. Both are useful for directing readers to a precise location within a document, and they serve as important reference points for drafters and others. Page numbers are located at the bottom on each page and are centered. Line numbers run down the left-hand margin of each page for each line of text on the page.

d. **Legal Considerations.**

i. **Constitution.** A drafter must be aware of constitutional requirements set forth by the Constitution of the Minnesota Chippewa Tribe. But a



drafter must also be mindful of historical interpretations of these requirements and how they have traditionally been implemented by the Band.

- A. **Use of resolution.** Article VI of the Constitution states that “[a]ll expenditures of Reservations funds under the control of the Reservation Business Committee shall be in accordance with a budget, duly approved by resolution in legal session, and the amounts so expended shall be a matter of public record at all reasonable times.”
  - B. **Use of ordinance.** Article VI also states that “[t]he Reservation Business Committee may by ordinance, subject to review of the Secretary of the Interior, levy licenses or fees on non-member or non-tribal organizations doing business solely within their respective Reservations.”
- ii. **Title 3.** Title 3 of Band Statutes also includes a few requirements for what a bill must or may contain.
- A. A bill may contain multiple subjects.
  - B. The style of laws of the Non-Removable Mille Lacs Band of Ojibwe shall be: "Be it enacted by the Band Assembly of the Non-Removable Mille Lacs Band of Ojibwe."
  - C. If a bill does not have an effective date, the effective date shall be immediately upon a majority vote of the Band Assembly and either the signature of the Chief Executive or the absence of inaction by the Chief Executive as prescribed in 3 MLBS § 17(c).

5. **Title.**

- a. **Generally.** The title of a bill:
  - i. must express the subject of the bill;
  - ii. must express, in general terms, the purpose of the bill;
  - iii. should include certain phrases required by legislative custom;
  - iv. must list the provisions that are being added, amended, or repealed in the bill;

- v. should state if the bill developed from a compromise between the Chief Executive and the Band Assembly;
  - vi. should state whether a public hearing was held, if applicable;
  - vii. should state if a public comment period was held; and
  - viii. should be clear and brief.
- b. **Form.** The format of a bill’s title has several parts divided by layout or punctuation.

Version 4.1

**Band Assembly Bill XX-XX-XX-24**

1  
2  
3 A bill for an act enacting a Cannabis Code as a new chapter within Title 15 – Independent  
4 Agencies. This bill will create a Department of Cannabis Regulation, an independent entity,  
5 which will be administered by a five-person board. The Department will oversee issuance of  
6 cannabis licenses for cultivation, manufacturing, wholesale, retail, and testing within the Band’s  
7 sovereign territory. The board will hear license appeals and also approve contracts and create  
8 regulations consistent with the Code. The Department will have an executive director and staff  
9 to carry out the necessary duties to effectuate the purpose of this Code. The Code also allows for  
10 home cultivation of up to eight cannabis plants. This bill also amends Title 23 to update  
11 outdated citations to Minnesota law and update possession of cannabis within a vehicle to  
12 mirror Minnesota law.

13  
14 In the creation and drafting of this bill, the legislative branch held several workshops and two  
15 public comment periods. The first public comment period, the draft bill was posted for 22 days,  
16 and the bill was discussed in every community. The legislative branch received over 50  
17 comments with a majority of comments being positive. The second public comment period, the  
18 draft bill was posted for 13 days. The legislative branch received two comments. This bill is  
19 intended to encourage not only business opportunities for Mille Lacs Corporate Ventures but  
20 also Band members, to encourage responsible use of cannabis within the communities, to  
21 support drug abuse prevention efforts through education, prevention, and treatment for the  
22 community, to provide smoke-free and clean air places for the community, and to continue  
23 providing a drug-free workplace for government-owned and government-operated buildings.

24  
25 This bill reflects the compromise between the Chief Executive and the Band Assembly on  
26 vetoed Act 03-24.

27  
28  
29  
30  
31

Opening phrase with general subject

Legislative custom to note a compromise

Legislative custom to note public comment periods

- i. **Opening phrase.** The opening five words of a bill are always “A bill for an act.” If the bill is passed by the Band Assembly, the Clerk of the Band Assembly will change the phrase to “An Act” prior to it being sent to the Chief Executive for signature.

- ii. **The general subject.** The general subject of the bill begins with the words “amending,” “enacting,” or “repealing.” The general subject is usually broad.
- iii. **The objects or parts of the subject.** The parts of the subject follow the statement of the general subject of the bill. The primary purpose of these phrases is for the bill to “briefly state its purpose.” The following words are examples of some of the more common words that begin these phrases:

“adding”	“limiting”
“amending”	“modifying”
“authorizing”	“prohibiting”
“changing”	“providing”
“clarifying”	“recodifying”
“creating”	“regulating”
“creating”	“repealing”

The remainder of the phrase should give the general focus of one or more provisions in the bill

- iv. **Specific language required by legislative custom.** In some instances, legislative custom requires that additional specific purpose language be added to the bill title. When the bill contains an appropriation, the phrase “A bill for an act authorizing a supplemental appropriation” should be inserted in the title as another purpose of the bill.
- v. **The list of sections amended, added, and repealed.** The list of sections being amended or repealed provides notice to those interested in particular parts of the statutes that provisions in those parts are affected by the bill. The recitations are also used as an index of statutory sections affected by bills.

A. **Sections amended.** When a section of Band Statutes or laws is amended, that section must be recited in the title. The format for amending Band law is:

- I. **Codified law:** “amending Title 3, section .... subsection ...”
- II. **Uncodified law:** “amending laws ..., section ... subsection ...”

- B. **Sections added.** If a new statutory section is included in the bill, the title and chapter of Band Statutes in which the section is proposed to be coded is recited in the title of the bill and later in the section heading. The format is “amending Title 3 to add a new section . . .” or “amending Title 15 to add a new chapter . . .”
- C. **Sections repealed.** Repealed sections or subsections are listed as “repealing section 304 of Title 3 . . .”

d. **Drafting Advice.**

- i. **Generally.** To avoid difficulties, a drafter should ensure that the title fairly indicates the subject and contents of the bill. In order to accomplish this objective, it is usually better to draft the title once the bill is complete.
- ii. **Clarity and brevity.**
  - A. When a bill is large and contains several subjects, a drafter may decide to describe the purpose of each section of the bill in the title, so that the title becomes a complete index to the bill. This is perhaps the most common error legislative drafters make in drafting bill titles. It should be avoided because there is a strong practical reason not to describe every section. If the title of the bill as introduced is a complete index of its provisions, each time the bill is amended prior to it going on the workshop or during the Band Assembly meeting, the title must be corrected to reflect this chain of events. Failure to do so may result in a title that is defective because it is overly restrictive or misleading.
  - B. Instead, a drafter should write a bill title that is clear, brief and—most importantly—accurate. The goal is to find a middle ground between a single brief generality and a summary of the entire bill.

6. **Enacting Clause.**

- a. **Generally.** The enacting clause is the phrase in the bill that expresses the legislative authority by which the bill is enacted.
- b. **Legal considerations.** Title 3 of Band Statutes specifies that “[t]he style of laws of the Non-Removable Mille Lacs Band of Ojibwe shall be: ‘Be it

enacted by the Band Assembly of the Non-Removable Mille Lacs Band of Ojibwe.’ And no laws shall be enacted except by bill.”

- c. **Form.** The enacting clause begins on a new line immediately after the title and before the sections of the bill. The enacting clause must not deviate from the statutorily required language.

**7. Bill Organization.**

- a. **Sections within a bill.** A bill will consist of multiple sections if there are multiple titles, chapters, subchapters, or sections that are being added, amended, or repealed.
- b. **Bill section numbering.** The first section of a bill is designated as “Section 1.” Each successive section is “Section 2.,” “Section 3.,” etc. If a bill consists of only one section, the section is still designated as “Section 1.” Many bill drafts consist both of amendments to existing sections of Band Statutes and new sections with proposed coding. When this occurs, the sections of new law with their proposed coding are inserted into the draft in statutory order with the amended sections. The result is that a section enacting new law may be followed by a section amending existing law, which is followed by another section enacting new law. This method of drafting allows all changes in the statutes to be shown in the order in which they will be published both on the Tribal Register and within Band statute books.
- c. **Introductory heading.** The introductory heading is language which indicates what law is being amended, enacted, or repealed, and where the law will be coded within Band Statutes.

**Section 1. Bill section numbering** (insert introductory heading).

§ 1. **Section** (insert section headnote).

(a) **Subsection.**

(1) **Paragraph.**

(i) **Clause.**

(A) **Item.**

(I) **Subitem.**

- d. **Organization.** The following is an example of the organization of the drafting order.

i. **Multilevel list alignment and text indentation.**

A. Subsections should be:

- I. aligned at: 0.25;
- II. text indent at: 0.75.

B. Paragraphs should be:

- I. aligned at: 0.75;
- II. text indent at: 1.25.

C. Clauses should be:

- I. aligned at: 1.25;
- II. text indent at: 1.75.

D. Items should be:

- I. aligned at: 1.75;
- II. text indent at: 2.25.

E. Subitems should be:

- I. aligned at: 2.25;
- II. text indent at: 2.75.

e. **Drafting advice.** A drafter should adhere to general principles for dividing bill text into sections, subsections, paragraphs, and other divisions.

- i. If new text may logically be divided into subtopics, a drafter should use two or more divisions of the text instead of one lengthy section, subsection, or paragraph.
- ii. If both subsections and paragraphs can be used effectively, a drafter should opt to use paragraphs if the text is complex, lengthy, or contains logically distinct parts.
- iii. If a section or subsection contains paragraphs, clauses, or other divisions, all other divisions should be similarly lettered or numbered

to avoid having unmarked, indented text in the midst of marked, indented text.

- iv. A drafter should try to limit the use of items and subitems as necessary to avoid any ambiguity. *See* Chapter 5.

## 8. **Proposed Section Coding.**

- a. **Generally.** Laws of a general and permanent nature are published in Band Statutes. If a proposed law is of a general and permanent nature, a drafter should propose a suggested section number or numbers for the law as it most reasonably fits within codified statutes. The assignment of section numbers and the numbers themselves are commonly referred to as “coding,” and sections that will be published in the statutes are called coded sections. Appropriations are examples of law that are temporary in nature, and they are not coded for compilation in Band Statutes.
- b. **Legal considerations.** The Revisor is authorized by 25 MLBS § 11 to rearrange or renumber sections and subsections, as well as parts of sections and subsections.
- c. **Form.** Coding is the number that appears in bold before the section headnote.
- d. **Drafting advice.** The proposed coding chosen by a drafter can have important implications beyond mere convenience. Namely, the decision to code a new provision of law or recode existing law in a particular chapter may invoke the application of new definitions, civil and criminal penalty provisions, and other administrative or regulatory provisions that apply to the chapter in general. By including new provisions within such a chapter, the pre-existing definitions may cause the provisions to be interpreted differently, or other unforeseen consequences may emerge. Therefore, the gravity of this potentiality cannot be overstated.

## 9. **Headnotes.**

- a. **Headnotes generally.** A headnote is a brief description of a statute or part of a statute. Title 25, section 9(b) states that the “headnotes of the sections of any edition of the Laws of the Non-Removable Mille Lacs Band of Ojibwe printed in boldface type are mere catchwords to indicate the contents of the section and are not any part of the statute.” Instead, headnotes are used to simply label sections, subdivisions, paragraphs, clauses, items, and subitems.
- b. **Section headnotes.** Headnotes should be included for each section, written in bold text, with each word capitalized and ending with a period. Entirely new headnotes appear on the same line as the bill section number and any

proposed coding and are underlined. If changes are being made to existing headnotes, strikethroughs are made to show a deletion.

- c. **Subsection, paragraph, item, and subitem headnotes.** Subsection, paragraph, item, and subitem headnotes are written in the same format as section headnotes. Not every subsection, paragraph, item, or subitem will have headnotes. To catch the reader’s attention, a drafter should use headnotes to distinguish various subtopics.
  - d. **Legal considerations.** Headnotes are not law, but rather help the reader to navigate the statutes and various subtopics within.
  - e. **Drafting advice.**
    - i. **Purpose.** Headnotes are finding aids. A drafter should keep them short and accurate.
    - ii. **Semicolons.** A drafter should use semicolons sparingly within headnotes to separate distinct subjects, as in “Suspending Licenses; Hearing; Relicensing.” A drafter should not use semicolons to replace prepositions. Instead of writing, “Officers, Teachers; Neglect of Duty; Penalty,” a drafter should write, “Penalty for Officers’ or Teachers’ Neglect of Duty.”
10. **Displaying New and Amended Law.**
- a. **Range references.** Wherever in the Band Statutes, resolutions, legislative order, or any other legislative act a reference is made to several sections and the section numbers given in the reference are connected by the word ‘to,’ the reference includes both the sections whose numbers are given and all intervening sections.
  - b. **Referring to other subsection or section.**
    - i. **Subsections, paragraphs, clauses.** Wherever in the Band Statutes or any legislative act a reference is made to a subsection without stating the section of which the subsection referred to, the reference is to the subsection of the section in which the reference is made. Wherever in Band Statutes or any legislative act a reference is made to a paragraph without stating the section and subsection of which the paragraph referred to, the reference is to the paragraph of the subsection in which the reference is made. It is the custom of the Band Assembly to treat clauses, items, and subitems in the same manner.



- ii. **Sections, statutes, or laws.** When drafting bills, a drafter should refer to Band Statutes as: “Band Statutes . . . , section . . .” When drafting within a section, it is proper to refer to another section of Band Statutes as merely “section 101.”
- c. **Displaying changes.** The words and characters constituting the amending matter shall be inserted in the proper place in the text and underlined. The words and characters to be eliminated by the amendment shall be stricken by the addition of a strikethrough. The text of a new section or subsection shall also be underlined when a bill amends an existing chapter or section by the addition of a new section or subsection. In appropriation bills, sections that either make an appropriation or transfer and do not amend a statute need not underline new material.
- d. **Displaying text.**
  - i. A bill for the amendment of a statute shall contain the full text of the section or subsection to be amended as it appears in the latest edition of Band Statutes. If the statute has previously been amended, the bill adopting a new amendment shall still contain the full text, as previously amended. On account of this practice, the subsection is the smallest unit of a statute that may be amended. When many, but not all, of the subsections of a section are being amended, a drafter may find it more advantageous to amend the entire statutory section, showing the entire text (including the unaltered subsections), in a single section of the bill.
  - ii. All numbers in titles shall be expressed in figures. All numbers in a heading shall be in figures. In the body of a bill, numbers from one to ten shall be written out and followed by the figure in parentheses. Numbers in excess of ten shall be in figures.

11. **Amending Law Enacted, or Proposed to Be Enacted, Within the Same Session.**

- a. **Existence of other amendments.** A drafter should always check to see if other amendments to the same provisions of law have been made in the current session. If the amendments are being made to general and permanent law to be compiled in Band Statutes, one way for a drafter to check to see if there have been other amendments to the same provisions is to use the Tribal Register or check with the Revisor of Statutes.
- b. **Reconciliation of other amendments.** If other amendments to the same provisions of law are found, a drafter may ask the Revisor of Statutes to update the law to correctly show any previous amendments made. Any grammatical or substantive inconsistencies created by the other amendments

can be resolved by a drafter at this time, and no subsequent interpretation of the effects of the various amendments is necessary.

12. **Removing Previously Enacted Amendments.**

- a. If a drafter intends to remove or repeal amendments made to a provision of law in order to “restore” or “reinstate” a prior version of the law, it is not appropriate to merely repeal the act containing the amendments. In fact, it may be argued that in doing so the original law and all subsequent amendments to it are repealed.
- b. Instead, the preferred approach is to amend the law containing the amendments by removing the language of the amendments by striking and adding language by underlining to return the text of the law to what it was prior to the amendments. If the law is also amended by other law, a drafter can reconcile all these actions within the amendment. If the unwanted amendments are published in Band Statutes, a drafter should amend the latest published version of the law, as amended. If the amendments are contained in an uncodified law, a drafter should amend the original law as amended.

13. **Statement of Purpose or Findings.**

- a. **Generally.** A statement of purpose or findings—sometimes termed “legislative intent”—expresses “the design or plan that the enacting legislature is posited to have had for the application of a statute to specific situations that might arise.” Black’s Law Dictionary (11th ed. 2019).
- b. **Form.** When used in a bill with more than one section, the statement of purpose or findings should be in a separate section immediately following the enacting clause. When written as part of a single section, the statement of purpose or findings should be the first section.
- c. **Examples.**

i. **Title 25 – Purpose:**

<p>§ 1. Purpose.</p> <p>The purposes of this statute are to:</p> <ul style="list-style-type: none"><li>(a) establish an independent Revisor’s Office to ensure the annual compilation, updating, and publication of Band laws and official acts;</li><li>(b) provide confidential drafting services of proposed legislation and policy revisions to District Representatives; and</li><li>(c) establish a Tribal Register for the publication of Band statutes and policies, Executive Orders, Secretarial Orders, Commissioner’s Orders, Legislative Orders, Chief Justice Orders, and other official notices.</li></ul>
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ii. **Title 27 – Findings:**

**§ 1. Findings.**

The Band Assembly finds it necessary to:

- (a) Confer upon the Chief Executive all emergency management powers;
- (b) Establish an emergency operations plan for the protection of public health, life, property, and general well-being adequate to cope with disasters resulting from natural and man-made causes; and
- (c) Provide for the coordination of all emergency management functions with comparable functions of the federal, state, and local units of government and of private agencies.

**d. Drafting advice.**

- i. A statement of purpose or findings should be used only when essential. If the bill is otherwise clear, as should be the case, a recitation of what the Band Assembly intended serves no purpose. Also, the danger exists that the text of the law may conflict with some or all of this statement. However, courts sometimes use policy statements to interpret law, and a statement may be appropriate if litigation about intent is expected.
- ii. When a statement of purpose or findings is included in a bill, a drafter should be careful not to include a substantive provision within it. The substantive provision may be lost in the verbiage.

**14. Interpretation Clause.**

- a. **Generally.** An interpretation clause is a legislative provision that explains how one or more provisions of law are to be construed.
- b. **Form.**
  - i. When used in a bill with more than one section, the interpretation clause should be in a separate section immediately following the enacting clause or near the end of the bill immediately preceding the repealer section and effective date section, if any.
  - ii. When written as part of a single section, the interpretation clause should be the first or last subdivision.
- c. **Example.**
  - i. **Title 7:**

**§ 37. Construction and Severability.**

The provisions of this title shall be liberally construed so as to effectuate the purposes thereof. The provisions of this title shall be several and if any phrase, clause, sentence, or provision is held invalid by a court of competent jurisdiction, the validity of the remainder of this title and the applicability thereof shall not be affected thereby.

15. **Definitions.**

a. **Generally.** A definition section is used:

- i. to define unfamiliar words or phrases;
- ii. to indicate that, for the purpose of the bill, a term has a different or more limited meaning than the meaning by which the term is usually understood;
- iii. to reduce the length of a bill by eliminating repetition of a long title of, for example, a board, commission, or agency; or
- iv. to eliminate the need to provide a definition in every provision in which the term appears, which reduces the length of the bill and ensures consistency in how the term is applied and understood throughout the bill.

b. **Form.**

i. **Break definition sections into subsections.**

- A. If more than one term is defined, the definition section should be broken into subsections with each term set out in its own subsection.
- B. The section should define the scope of the definitions in the section with language similar to “The definitions in this section apply to sections. . . . to . . . .” or “The definitions in this section apply to this Title.”
- C. Each additional subsection begins with the subsection letter followed by the term being defined as a headnote. The defining sentence begins with the term being defined, in quotation marks. The next word will usually be “means,” “includes,” or “refers to,” depending on what follows. These words are singular, even when defining a plural term. They are only plural when defining two words at once.
- D. The figure below is one variation for the standard opening for a definition section that has several definitions that pertain to the entire title.

#### § 1. Definitions.

The definitions in this section shall apply to this Title.

(a) **"Band"** means the Non-Removable Mille Lacs Band of Ojibwe.

(b) **"Band Assembly"** means the Band's legislative branch, established pursuant to 3 MLBS § 2, and comprised of the duly elected Speaker of the Assembly and three (3) District Representatives.

(c) **"Bill"** means proposed legislation under consideration by the Band Assembly.

#### c. **Alphabetize definitions.**

- i. Within the section, definitions should usually appear in alphabetical order when drafting new language. Occasionally, for the sake of comprehension, it may be appropriate to arrange definitions in a different order. It is better not to use abbreviations or initialisms. However, if initialisms are necessary, a drafter should make their meanings easy to find by alphabetizing under the spelled-out word first and then the abbreviated form.
- ii. The figure below is a standard arrangement when dealing with a common abbreviation when defining a word.

(ii) **"Indian Gaming Regulatory Act"** or **"IGRA"** means the Act of October 17, 1988, Public Law 100-497, 25 U.S.C. § 2701 as amended, and all regulations promulgated pursuant thereto.

#### d. **Drafting Advice.**

- i. **What to define.**
  - A. A drafter should develop definitions after, not before, the body of the bill is written. As the draft is reviewed to see which terms need defining, a drafter should make sure to avoid varied terms or needless jargon.
  - B. Words used in their ordinary senses do not need definitions. "Temporary sign," for example, does not need the explanation that it is a sign intended to be displayed for a short time.
  - C. Drafters sometimes need to ask whether a word is really being used in its ordinary sense, or whether all parties agree on a word's meaning.
  - D. If a definition in Band Statutes is acceptable for use in the new law, a drafter should either incorporate the definition by reference or repeat the entire definition. If a definition is incorporated by reference and that definition is modified in the future, the modified definition will most likely apply to the law that incorporated the definition by reference. Consequently, if

the special definition is connected in some way to the law being amended or proposed, incorporating the definition would seem to be appropriate. Conversely, if the special definition is not connected to the law, it is preferable to repeat the entire definition so that future amendments to the special definition are not applied to the term in law being proposed or amended unless they are specifically amended into the term by law.

- E. A short form of a longer term can often be used without definition. For example, if a bill or section begins with a reference to “the Commissioner of Administration,” the word “Commissioner” can usually be used throughout the rest of the bill or section to refer to that Commissioner, without causing confusion or requiring formal definition.

ii. **Writing clear definitions.**

- A. **Use same part of speech.** The definition should be the same part of speech as the word being defined. The definition of a verb should be in the same verb form; the definition of an adjective should be an adjective or a participle. For example, do not write, “‘Reasonable access’ means no more than 12 miles distant from the transportation system.” Instead, write: “‘Reasonable access’ (noun) means a location (noun) less than 12 miles from the transportation system. Or write, “‘To have reasonable access’ means to be less than 12 miles from the transportation system.”
- B. **Using “refers to” instead of “means.”** When it is not possible to use a grammatical equivalent in a definition, use refers to instead of means. Example: “‘Settle’ and ‘settlement’ refer to the consideration, adjustment, determination, and disposition of a claim . . . .”
- C. **Avoid using “means and includes.”** Do not use “means and includes” together when defining a term. Choose one or the other depending on intent. Bear in mind that “includes” is potentially ambiguous.
- D. **Watch the category.** In addition to part of speech, watch the category. For example, do not write: “‘Senility’ means an individual with a physical disability and mental weakness brought on by old age.” Senility is a condition, not a person. Write “‘Senility’ means a physical disability and mental weakness associated with old age.”

E. **Defining words in terms of others.** Try not to define words in terms of other words also being defined. This rule is sometimes difficult to keep, as it may call for too much repetition.

F. **Avoid substantive requirements.**

I. Do not write substantive requirements into definitions. Here is an example of a definition that is too substantive: “‘Lockup facility’ means a secure adult detention facility used to confine prisoners waiting to appear in court and sentenced prisoners not more than 90 days. In addition to the cell, a lockup facility must include space for moderate exercise and activity, such as weight lifting, ping-pong, table games, reading, television, and cards.”

II. This definition should end at “90 days.” The rest of the material should appear in the body of the bill.

iii. **Reorganizing definitions.**

A. **Check cross-references.** If a drafter reorganizes the definitions by adding or repealing subsections, the revisor must search Band Statutes and change any cross-references to the renumbered subsection that might be referenced elsewhere.

16. **Severability or Nonseverability Clause.**

a. **Generally.** A severability clause is a provision that keeps the remaining provisions of a statute in force if any portion of that statute is declared void or unconstitutional by a court.

b. **Form.**

i. When used in a bill with more than one section, the severability or nonseverability clause should be in a separate section near the end of the bill immediately preceding the repealer section and effective date section, if any.

ii. When written as part of a single section, the severability or nonseverability clause should be the last subsection.

c. **Example.**

i. **Title 7:**

**§ 37. Construction and Severability.**

The provisions of this title shall be liberally construed so as to effectuate the purposes thereof. The provisions of this title shall be several and if any phrase, clause, sentence, or provision is held invalid by a court of competent jurisdiction, the validity of the remainder of this title and the applicability thereof shall not be affected thereby.

d. **Drafting advice.**

- i. If it is intended that the provisions of a bill not be severable, a drafter should specify that they are not.
- ii. On the issue of whether or not the Band Assembly would have enacted the valid provisions without the void ones, a drafter can clarify the issue for the court by including an explicit severability or nonseverability provision that clearly expresses the intent. However, an explicit severability clause may not prevent a court from finding that the remaining provisions are incomplete and incapable of being executed in accordance with Band Assembly intent.

17. **Appropriations.**

a. **Generally.**

- i. Band government operates on a biennial budget, enacted in an appropriation bill each odd-numbered year and intended to last until September 30 in the next odd-numbered year. Adjustments to the budget are enacted in the regular session in the even-numbered year and in special sessions as necessary. Most of the money appropriated by the Band Assembly is contained in the appropriation bill, such as those for operation of Band government, buildings and capital improvements, and education.
- ii. There are, however, numerous requests for the appropriation of money for special projects or programs not included in the appropriation bill. Many other bills have appropriation provisions that will, in the legislative process, be finally passed as part of an appropriation bill. All of these must be drawn so they will work if passed separately, as often happens. In most instances, the appropriation will be only one section of a longer bill establishing, for example, a new program, agency, or grant. It is placed at the beginning of the bill and followed by explanations for the appropriations.



- iii. There are also some instances in which appropriations may be made in statute. Statutory appropriations, also called “standing” or “open” appropriations, create an ongoing appropriation not bound by the two-year appropriation cycle generally used by the Band Assembly. Because it operates against the typical budget process, this style of appropriation is reserved for specific instances. While legislative policy disfavors both dedicated receipts and statutory appropriations, it may sometimes be desirable to appropriate the proceeds of a fee to the agency administering the program in order to pay program costs.
- b. **Form.** To construct an appropriation provision, a drafter must answer the questions: How Much? When? From Where? To Whom? and For What?
- c. **Examples.**
  - i. **Biennial budget.**

<b>Section 1: Governmental operations.</b> The Band Assembly hereby appropriates and authorizes expenditures for Governmental Operations for the Fiscal Years ending September 30, 2022, and September 30, 2023.		
<b>Section 1.01: Appropriation and authorizations of expenditures.</b> The Band Assembly hereby appropriates and authorizes the expenditures for the following:		
	<u><b>FY 2022</b></u>	<u><b>FY 2023</b></u>
Chief Executive	\$ 2,437,338	\$2,559,855
Legislative	\$ 7,198,648	\$7,124,334
Judicial	\$ 1,439,525	\$1,708,539
Administration & Aanjibimaadizing	\$16,747,234	\$16,925,216
Education	\$14,280,128	\$14,626,245
Natural Resources	\$ 5,829,644	\$5,927,230
Department of Justice	\$ 7,179,106	\$7,509,194
Community Development & Housing	\$13,035,059	\$13,258,395
Health and Human Services	<u>\$29,152,765</u>	<u>\$29,238,853</u>
Subtotal	<u><b>\$97,299,447</b></u>	<u><b>\$98,877,859</b></u>
Circle of Health	\$6,190,845	\$6,310,750
Gaming Regulatory Authority	\$5,497,322	\$5,660,104
Department of Athletic Regulations	\$267,168	\$268,809
	1	
Supplemental Income Program for Elders	\$2,866,053	\$2,954,769
Tribal Employment Rights Office	\$249,000	\$249,000
Band Member Legal Services	<u>\$1,206,140</u>	<u>\$1,233,617</u>
Total	<u><b>\$113,575,976</b></u>	<u><b>\$115,554,908</b></u>

ii. **Typical appropriation.**

<b>Section 1: Governmental operations.</b> The Band Assembly hereby appropriates and authorizes expenditures for the Executive Branch for the Fiscal Year ending September 30, 2022.		
<b>Section 1.01: Appropriation and authorizations of expenditures.</b> The Band Assembly hereby appropriates and authorizes the expenditures of supplemental programmatic funds for the following:		
<b>Tribal Operations Fiscal Year 2022</b>	<b>Supplemental</b>	<b>Cross-Reference</b>
<b>Executive Branch</b>		Administration Policy Board Minutes (June 9, 2022)
<b>Health &amp; Human Services</b>		
Title IV-B, Subpart 1 224-4860-1 Of FY2022 Grant Funds	\$15,129.00	Attachment # 2
Hunger Solutions 223-NEW-2 Of FY2022 Grant Funds	\$294,700.00	Attachment # 3
Food/Transportation 223-4445-2 Of FY2022 Grant Funds	\$12,000.00	Attachment # 4
<b>Natural Resources</b>		
AIR 251-5410-1 Of FY2022 Grant Funds	\$50,000.00	Attachment # 5
THPO 251-5460-1 Of FY2022 Grant Funds	\$82,373.00	Attachment # 6
<b>Administration</b>		
Aanjibimaadizing 281-6250-2 Of FY2022 Grant Funds	\$151,732.74	Attachment # 7

18. **Repealers.**

- a. **Generally.** When drafting a bill, a drafter often finds it necessary to remove sections, subsections, paragraphs, clauses, items, or subitems of statute. A drafter should check existing law for provisions inconsistent with the bill being drafted. Conflicting or superseded laws should be repealed or amended as necessary to make them consistent.
- b. **Form.**
  - i. **Location.** If there are multiple subjects within a bill, when repealing language, a repealer is contained in a separate section of the bill near the beginning of the bill or at the end of the bill.

- ii. **Reference.** If a series of sections is being repealed, each must be listed rather than using a reference like “sections 51 to 58.”
- c. **Drafting advice.**
  - i. **Check cross-references.** When a bill contains a repealer, a drafter should check each reference to the repealed sections or subsections elsewhere in the statutes and make appropriate changes in them by amending those sections and striking references to a repealed cite.
  - ii. **Avoid general repealers.** A general repealer providing that “all laws in conflict with section 1 are repealed” or similar words usually has either no legal effect or, at best, very obscure legal effect. Such repealers should be avoided.
  - iii. **Repeal versus amendment.** Removing an entire subsection may be done in two ways. A drafter may simply repeal the subsection in a repealer section, or amend the statutory section by striking the entire subsection. The choice of method has consequences a drafter should keep in mind when choosing the method appropriate for the circumstances.
  - iv. **Prospective or delayed repealers.** Repealers with an effective date can be problematic if the provision of law being repealed is amended during any intervening legislative sessions. A drafter must be aware of the prospective repeal at the time any intervening amendments are proposed, so that unintended consequences may be avoided.

## 19. **Effective Dates.**

- a. **Generally.** Effective date provisions allow for the orderly implementation and administration of the law being enacted. Specific effective dates are added to bills to clearly indicate the Band Assembly’s intent regarding the timing of the law being added, amended, or repealed, or to alter the default effective date rules. These provisions often are limited to establishing the specific date that a particular section or sections of the bill go into effect.
- b. **Legal considerations.**
  - i. **No effective date clause.** As mentioned above, if a bill does not have an effective date, the effective date shall be immediately upon a majority vote of the Band Assembly and either the signature of the Chief Executive or the absence of inaction by the Chief Executive pursuant to 3 MLBS § 17(c).

- ii. **Retroactive effective dates.** It is rare for a drafter to use retroactive effective dates. A drafter should try to avoid using them at all costs. But if the elected officials insist on the bill being retroactive, then a drafter should be aware of the unintended and intended consequences. Moreover, a drafter should advise the elected officials accordingly.
- c. **Form.** There are two general forms of effective dates: one that is drafted as an uncoded section at the end of the bill or article, which is the most common, and one that is placed immediately after the section.

d. **Examples.**

- i. **Effective immediately.** The following language is the most common language used in a bill, and in particular, a bill that contains language that will be codified.

**EFFECTIVE DATE.** This bill shall take effect immediately upon signature by the Chief Executive, or lack of a veto, as provided in 3 MLBS § 17.

- ii. **Date specific.** The following is language typically used when having a specific date for the effective date.

**Effective Date.** This bill shall become effective on June 2, 2023.

- iii. **Federal government approval.** The following language is used when a bill needs to be approved by the federal government in order for it to officially be effective. There are a few tribal codes that need federal approval, whether it's enacting language, amending current language, or repealing language. A couple examples of codes that need federal government approval are Gaming Regulatory Authority (Title 15, Chapter 1) and Child Support (Title 8, Chapter 12).

**Section 2. Approval by National Indian Gaming Commission Chairperson.**

This bill shall not be effective unless approved by the National Indian Gaming Commission Chairperson in accordance with 25 U.S.C. § 2710.

## CHAPTER 3 RESOLUTIONS

### 1. **Generally.**

a. **What they are.** A resolution expresses the will or intent of the Band Assembly or Joint Session of the Band Assembly. Unlike the express policy in a bill, resolutions do not usually result in a legal obligation, but instead express policy in a nonbinding way.

i. The Band Assembly uses three types of resolutions:

A. Resolutions of the Band Assembly;

B. Resolutions of the Joint Session of the Band Assembly; and

C. Special Revenue Resolutions.

b. **Choosing the resolution.** Prior to drafting a resolution, a drafter must decide which resolution to use.

i. **Resolutions of the Band Assembly.** Resolutions of the Band Assembly are governed by Title 3 of Band Statutes. These are the most common types of resolutions. They are used by the legislative branch for various purposes, such as to issue formal statements to other branches of government, to establish agreements with the State of Minnesota or other jurisdictions, to continue governmental operations for the Band's government, to continue business operations for Mille Lacs Corporate Ventures, and other reasons.

ii. **Resolutions of the Joint Session of the Band Assembly.** Resolutions of the Joint Session of the Band Assembly are governed by Title 3 of Band Statutes. Overall, these are the second-most-common types of resolution. Unlike Resolutions of the Band Assembly, which are promulgated by the four-member Band Assembly, a Resolution of the Joint Session of the Band Assembly is promulgated by the five-member Joint Session. The Joint Session typically meets quarterly, but more often as needed (especially during election years, when the Joint Session possesses the responsibility of establishing the Band's election infrastructure). When the Joint Session meets quarterly, a Resolution of the Joint Session of the Band Assembly is used for approving or denying enrollments. During election years, a Resolution of the Joint Session of the Band Assembly is used to make various decisions

pertaining to election administration, including the appointment of election contest judges, authorization for use of automated ballots, definitions of voting districts, candidate certifications, and more.

- iii. **Special Revenue Resolutions.** Special Revenue Resolutions are governed by Title 22 of Band Statutes, and are specifically used to direct actions taken by the Commissioner of Finance. Although the Band Assembly issues this resolution, it must also be endorsed by the Chief Execution. This type of resolution is rarely used.

2. **Form.** Regardless of what type of resolution a drafter uses, the format is largely the same.

a. **Title.**

- i. **Resolutions of the Band Assembly.** The title will be “Resolution” followed by the Resolution’s number.
- ii. **Resolutions of the Joint Session of the Band Assembly.** The title will be “Joint Session of the Band Assembly Resolution” followed by the Resolution’s number.
- iii. **Special Revenue Resolutions.** The title will be “Special Revenue Resolution” followed by the Resolution’s number.

b. **Numbering.** The numbering sequence for all resolutions is four numbers with hyphens inserted between. For example, “21-01-02-24.”

- i. The first number indicates the Band Assembly in which the resolution was approved.
- ii. The second number indicates the legislative session in which the resolution was approved.
- iii. The third number indicates the numerical order in which the resolutions were created and added to the Band Assembly or Joint Session agenda, as appropriate, within a calendar year.
- iv. The fourth number indicates the last two numbers of the calendar year in which the resolution was approved.

c. **Whereas clauses.** All resolutions contain “whereas clauses” which cite to Band Statutes for legal authority, describe the reasons why the body has decided to advance the resolution, and provide historical context for the actions being taken.

- d. **Resolving clauses.** Similar to “whereas clauses,” all types of Band resolutions contain “resolving clauses.” These clauses serve the purpose of offering a conclusion or issuing a direction, depending on the purpose and legal scope of the resolution. A resolution contains one or more “resolving clauses,” and they should be implemented in the appropriate order. The following is the order of “resolving clauses”:
- i. “NOW, THEREFORE, BE IT RESOLVED, . . .”
  - ii. “BE IT FURTHER RESOLVED, . . .”
  - iii. “BE IT FURTHER AND FINALLY RESOLVED, . . .”
- e. **Certification clause.** The certification clause identifies the legislative session, the date of the meeting, and the vote.
- i. **Resolution of Band Assembly and Special Revenue Resolution.** The following is what is used for a Resolution of the Band Assembly and a Special Revenue Resolution of the Band Assembly.
 

“WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a regular session of the Band Assembly in Legislative Chambers, a quorum of legislators being present, held on the 14<sup>th</sup> day of July, 2024, at Nayahshing, Minnesota, by a vote of \_\_\_ FOR, \_\_\_ AGAINST, \_\_\_ SILENT.”
  - ii. **Resolution of the Joint Session of the Band Assembly.** The following is what is used for a Resolution of the Joint Session of the Band Assembly.
 

“WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a Joint Session of the Band Assembly in Legislative Chambers, a quorum of elected officials being present, held on the 14<sup>th</sup> day of July, 2024, at Nayahshing, Minnesota, by a vote of \_\_\_ FOR, \_\_\_ AGAINST, \_\_\_ SILENT.”
- f. **Witness clause.** The final clause of all resolutions is a “witness clause,” which states whose signature is to be affixed to the resolution.
- i. **Resolution of the Band Assembly.** The following is what is used for a Resolution of the Band Assembly.

“IN WITNESS WHEREOF, we, the Band Assembly, hereunto cause to have set the signature of the Speaker of the Assembly to be affixed to this resolution.”

- ii. **Resolution of the Joint Session of the Band Assembly.** The following is what is used for a Resolution of the Joint Session of the Band Assembly.

“IN WITNESS WHEREOF, we, the Joint Session of the Band Assembly, hereunto cause to have set the signature of the Speaker of the Assembly to be affixed to this resolution.”

- i. **Special Revenue Resolution.** The Special Revenue Resolution differs from the other two resolutions because, as stated above, the Chief Executive is also a signatory. The Band Assembly elected officials all sign after the witness clause, and the Chief Executive signs after the “IN CONCURRENCE” section. The following is therefore what is used for a Special Revenue Resolution of the Band Assembly.

“IN WITNESS WHEREOF, we, the Band Assembly, hereunto cause to have set the signatures to this Special Revenue Resolution in accordance with 22 MLBS § 102.”

“IN CONCURRENCE, with the action of the Band Assembly, I hereby set my hand to this Special Revenue Resolution in accordance with 22 MLBS § 102.”

- g. **Sponsor.** Only resolutions approved by the Band Assembly—which include Resolutions and Special Revenue Resolutions—require a sponsor. Resolutions of the Joint Session of the Band Assembly do not require a sponsor. The Rules of Procedures for the Band Assembly govern the process of measures being adopted by the Band Assembly. As of the date of this publication, the Joint Session of the Band Assembly has not adopted any such rules of procedure.

- 3. **Examples.** Below are examples of the three different types of resolutions.

- a. **Resolution of the Band Assembly.** Below is an example of a Resolution of the Band Assembly (2 pages).





THE MILLE LACS BAND OF  
**OJIBWE INDIANS**  
*Legislative Branch of Tribal Government*

**RESOLUTION 21-01-10-24**

**A RESOLUTION REQUESTING THAT THE CHIEF EXECUTIVE  
NOMINATE REVOLVING LOAN FUND COMMITTEE MEMBERS**

- WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly elected legislative body for the Non-Removable Mille Lacs Band of Ojibwe (“Band”), a federally recognized Indian Tribe; and
- WHEREAS, pursuant to 3 MLBS § 3(d), the Band Assembly has the authority to adopt resolutions; and
- WHEREAS, pursuant to 3 MLBS § 1(m), a “resolution” is defined as “a formal expression of the opinion, will, or intention” of the Band Assembly; and
- WHEREAS, Band member employees need access to financial resources on reasonable terms; and
- WHEREAS, pursuant to 17 MLBS, Chapter 1, the Band government created a Revolving Loan program to meet this need, and the program is currently inactive; and
- WHEREAS, the Band Assembly wishes to reinstitute the program to support and improve the lives of Band member employees and their families; and
- WHEREAS, pursuant to 4 MLBS § 7, the Executive Branch has a duty to “faithfully and impartially execute the laws of the Band;”
- WHEREAS, pursuant to 17 MLBS § 4(c), the Band Assembly shall submit to the Chief Executive the names of at least seven people capable of serving on the Revolving Loan Fund Committee; and
- WHEREAS, pursuant to 17 MLBS § 4(c), the Chief Executive shall nominate six of them to serve on the Revolving Loan Fund Committee; and
- WHEREAS, on November 30, 2023, the Band Assembly submitted a list of eight Loan Committee candidates to the Chief Executive and requested nominees; and
- WHEREAS, on January 4, 2024, the Band Assembly submitted a letter to the Chief Executive asking her to expedite the nominations; and

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**DISTRICT IIA**  
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**DISTRICT III**  
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WHEREAS, more than three months after the Assembly's first request, the Chief Executive still has not delivered a list of nominees, a violation of Band statute; and

WHEREAS, the Chief Executive's refusal to follow statute is blocking Band employees' access to a critical financial resource for which they may qualify under Band law.

NOW, THEREFORE, BE IT RESOLVED, that the Band Assembly of the Mille Lacs Band of Ojibwe hereby requests that the Chief Executive comply with the law and submit the six nominees to the Assembly for ratification.

WE DO HEREBY CERTIFY, that the foregoing resolution was duly concurred with and adopted at a regular session of the Band Assembly, in Legislative Council assembled, a quorum of legislators being present, held on the 20<sup>th</sup> day of March, 2024, at Nayahshing, Minnesota, by a vote of 8 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly hereunto cause to have set the signature of the Speaker of the Assembly.


**OFFICIAL SEAL OF THE BAND**



  
Sheldon Boyd, Speaker of the Assembly

**Sponsor: District 1 Representative**

- b. **Resolution of the Joint Session of the Band Assembly.** Below is an example of a Resolution of the Joint Session of the Band Assembly (1 page).



**THE MILLE LACS BAND OF  
OJIBWE INDIANS**  
*Legislative Branch of Tribal Government*

**JOINT SESSION OF THE BAND ASSEMBLY  
RESOLUTION 21-01-05-24**

**A RESOLUTION APPOINTING AN ELECTION COURT OF APPEALS  
JUDGE FOR THE 2024 MINNESOTA CHIPPEWA TRIBE ELECTION  
ON THE MILLE LACS RESERVATION**

WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly elected legislative body of the Non-Removable Mille Lacs Band of Ojibwe (“Band”), a federally recognized Indian Tribe; and

WHEREAS, pursuant to 3 MLBS § 3(d), the Band Assembly is empowered to adopt resolutions; and

WHEREAS, pursuant to 4 MLBS § 6, the Chief Executive has the power to exercise the executive powers of Band government; and

WHEREAS, the Tribal Executive Committee of the Minnesota Chippewa Tribe (“MCT”) adopted a revised Election Ordinance on December 11, 2023; and

WHEREAS, Section 3.4(A) of the Election Ordinance establishes an “MCT Tribal Election Court of Appeals (“Court”) which is “comprised of a person named by each of the six Bands (“Judge”), chosen as determined by the Band. The Judge representing the Band from which the appeal is taken must be recused from sitting on that matter. In all cases, there shall be five (5) members of the Court[;]” and

NOW, THEREFORE, BE IT RESOLVED, that Ryan Simafranca is hereby appointed as an MCT Election Court of Appeals Judge to perform all lawful duties as expressed by the Election Ordinance.

WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a Joint Session of the Band Assembly, a quorum of elected officials being present, held on the 22nd day of January, 2024, at Nayahshing, Minnesota, by a vote of 5 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Joint Session of the Band Assembly, hereunto cause to have set the signature of the Speaker of the Assembly.

**OFFICIAL SEAL OF THE**





Sheldon Boyd, Speaker of the Assembly

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**URBAN OFFICE**

- c. **Special Revenue Resolution.** Below is an example of a Special Revenue Resolution (2 pages).



**THE MILLE LACS BAND OF  
OJIBWE INDIANS**

*Legislative Branch of Tribal Government*

**SPECIAL REVENUE  
RESOLUTION 20-04-03-23**

**A SPECIAL REVENUE RESOLUTION AUTHORIZING THE  
COMMISSIONER OF FINANCE TO EXECUTE, DELIVER, AND CAUSE  
THE PERFORMANCE OF A LEASE SUBORDINATION, NON-  
DISTURBANCE, AND ATTORNMENT (SDNA) AGREEMENT  
BETWEEN THE MILLE LACS BAND OF OJIBWE, HINCKLEY  
MEDICAL, LLC, AND PINE MEDICAL CENTER**

WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly elected legislative body of the Non-Removable Mille Lacs Band of Ojibwe (“Band”), a federally recognized Indian tribe;

WHEREAS, according to 3 MLBS §§ 3(d) and 3(f), the Band Assembly is empowered to “adopt resolutions” and “ratify agreements, contracts, cooperative and reciprocity agreements and memoranda of understanding;”

WHEREAS, according to 3 MLBS § 1(m), a resolution is defined as “a formal expression of opinion, will, or intention voted on by the Band Assembly;”;

WHEREAS, The Band approved a loan to Mille Lacs Corporate Ventures (“MLCV”) to fund the construction, equipping, operation and leasing of the Hinckley Medical Building (the “Property”) located at 45 Lady Luck Dr, Hinckley, MN 55037 and a mortgage was executed between the Band and Hinckley Medical LLC, a subsidiary of MLCV, with the Band as mortgage holder for the Property;

WHEREAS, MLCV, through its subsidiary, Hinckley Medical, LLC, has negotiated a new Master Lease agreement with Pine Medical Center, a Minnesota nonprofit corporation, to lease the Property, which will improve rental income and provides Pine Medical Center a right of first refusal to purchase the Property within two years;

WHEREAS, Hinckley Medical, LLC and Pine Medical Center have executed and a signed lease agreement with Pine Medical Center taking occupancy as early as December 2023;

WHEREAS, as part of the negotiated terms, Pine Medical Center requested a Lease Subordination, Non-Disturbance, and Attornment (SDNA) Agreement be executed and signed by Hinckley Medical, LLC, Pine Medical Center, and the Band, as mortgagee of the existing mortgage for the Property;

WHEREAS, the Band Assembly has determined that it is in the best interest of the Band to execute the SDNA Agreement to accommodate the terms of the new Master Lease.

**DISTRICT I**  
43408 Odena Drive • Onamia, MN 56359  
(320) 532-4181 • Fax (320) 532-4209

**DISTRICT II**  
36666 State Highway 65 • McGregor, MN 55760  
(218) 768-3311 • Fax (218) 768-3903

**DISTRICT IIA**  
2605 Chimnissing Drive • Isle, MN 56342  
(320) 676-1102 • Fax (320) 676-3432

**DISTRICT III**  
45749 Grace Lake Road • Sandstone, MN 55072  
(320) 384-6240 • Fax (320) 384-6190

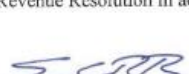
**URBAN OFFICE**  
1404 E. Franklin Avenue • Minneapolis, MN 55404  
(612) 872-1424 • Fax (612) 872-1257

NOW, THEREFORE, BE IT RESOLVED, that the Band Assembly and Chief Executive do hereby authorize and direct the Commissioner of Finance, on behalf of the Band, to execute, deliver, and cause the performance of the SNDA agreement and any additional documents related thereto that the Commissioner of Finance may determine to be required for the execution of the SDNA Agreement and in furtherance of the Band's interests in the new Master Lease;

WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a special session of the Band Assembly, in Legislative Council assembled, a quorum of legislators being present, held on the 27<sup>th</sup> day of November, 2023, at Nayahshing, Minnesota, by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly, hereby affix our signatures to this Special Revenue Resolution in accordance with 22 MLBS § 102.

IN WITNESS WHEREOF, we, the Band Assembly, hereby affix our signatures to this Special Revenue Resolution in accordance with 22 MLBS § 102.

  
Sheldon Boyd, Speaker of the Assembly

  
Virgil Wind, District I Representative

  
Wendy Merrill, District II Representative

  
Harry Davis, District III Representative

IN CONCURRENCE, with the action of the Band Assembly, I hereby set my hand to this Special Revenue Resolution in accordance with 22 MLBS § 102.

  
Melanie Benjamin, Chief Executive

**OFFICIAL SEAL OF THE BAND**



**Sponsor: District I Representative**

## CHAPTER 4

# INTERPRETATION OF STATUTES, WHAT DRAFTERS NEED TO KNOW

1. **The Purpose of this Chapter.** Knowledge of statutory interpretation helps a drafter to draft bills that, upon enactment, will be easily understood by tribal members, the tribal court, and those government employees and officials who will be carrying out the bill's requirements. This chapter is a basic discussion of how the words of a bill or statute might be interpreted, and what may guide the tribal court or Solicitor General in making that interpretation.
  
2. **The Basics.**
  - a. **Canons of Construction.** In drafting bills, a drafter should be cognizant of the following canons of interpretation:
    - i. words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined throughout a bill or statute, are construed according to such special meaning or their definition;
    - ii. the singular includes the plural; and the plural, the singular; words of one gender include the other genders; words used in the past or present tense include the future;
    - iii. general words are construed to be restricted in their meaning by preceding particular words;
    - iv. words in a law conferring a joint authority upon three or more public officers or other persons are construed to confer authority upon a majority of such officers or persons; and
    - v. a majority of the qualified members of any board or commission constitutes a quorum.
  
  - b. **Construction of severable provisions.** Unless there is a provision in the law that the provisions shall not be severable, the provisions of all laws shall be severable. If any provision of a law is found to be unconstitutional and void, the remaining provisions of the law shall remain valid, unless the tribal court finds the valid provisions of the law are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the Band Assembly would have enacted the remaining valid

provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

- c. **Presumption against retroactive effect.** No law shall be construed to be retroactive unless clearly and manifestly so intended by the Band Assembly.
- d. **Irreconcilable provisions.**
  - i. **Particular controls general.** When a general provision in a law is in conflict with a special provision in the same or another law, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions proves irreconcilable, the special provision shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be enacted at a later session and it shall be the manifest intention of the Band Assembly that such general provision shall prevail.
  - ii. **Clauses in same law.** When, in the same law, several clauses are irreconcilable, the clause last in order of date or position shall prevail.
  - iii. **Laws passed at same session.** When the provisions of two or more laws passed during the same session of the Band Assembly are irreconcilable, the law latest in date of final enactment, irrespective of its effective date, shall prevail from the time it becomes effective.
  - iv. **Laws passed at different sessions.** When the provisions of two or more laws passed at different sessions of the Band Assembly are irreconcilable, the law latest in date of final enactment shall prevail.
- e. **Existing Laws; Effect of Revision or Code.** Laws in force at the time of the adoption of any revision or code are not repealed by the revision or code unless expressly repealed therein.
- f. **Adoption by Reference.** When an act adopts the provisions of another law by reference, it also adopts by reference any subsequent amendments of such other law, except where there is clear legislative intention to the contrary.
- g. **Repeal of amendatory and original laws subsequently amended.** The repeal of an amendatory law does not revive the corresponding provision or section of the original law or of any prior amendment. Except as otherwise provided in Chapter 4, section 2, (Laws passed at the same time), the repeal of the original law, or section or provision of the original law, repeals all subsequent amendments to the original law, or to the original section or provision, as the case may be.

3. **Determining Legislative Intent.** An understanding of the legislative intent helps a drafter appreciate the importance of drafting language that avoids unintended consequences. If the intent of the Band Assembly is not clear from the language, the tribal court or Solicitor General may then need to determine this intent by applying one or more of the rules of statutory interpretation.
  - a. **Legislative intent.** The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the Band Assembly. Every law shall be construed, if possible, to give effect to all its provisions. When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit. When the words of a law are not explicit, the intention of the Band Assembly may be ascertained by considering, among other matters:
    - i. the occasion and necessity for the law;
    - ii. the circumstances under which it was enacted;
    - iii. the mischief to be remedied;
    - iv. the object to be attained;
    - v. the former law, if any, including other laws upon the same or similar subjects;
    - vi. the consequences of a particular interpretation;
    - vii. the contemporaneous legislative history; and
    - viii. legislative and administrative interpretations of the statute, if any.
  - b. **Presumption in ascertaining legislative intent.** In ascertaining the intention of the Band Assembly, the tribal court or Solicitor General may be guided by the following presumptions:
    - i. the Band Assembly does not intend a result that is absurd, impossible of execution, or unreasonable;
    - ii. the Band Assembly intends the entire statute to be effective and certain;
    - iii. the Band Assembly does not intend to violate the Constitution of the Minnesota Chippewa Tribe;



- iv. when a court of last resort has construed the language of a law, the Band Assembly in subsequent laws on the same subject matter intends the same construction to be placed upon such language; and
  - v. the Band Assembly intends to favor the public interest as against any private interest.
- c. **Plain meaning rule.** In determining legislative intent, courts will typically follow the plain meaning rule.
4. **Conclusion.** A drafter's goal should always be to produce law that does not need to be interpreted. Writing clearly and simply and avoiding ambiguity will help a drafter reach this goal.

## CHAPTER 5

# CLARITY IN DRAFTING

1. **The Purpose of this Chapter.** This chapter discusses legal clarity and readability or “plain language” in bills. Furthermore, this chapter provides general advice to advance consistency in drafting.
2. **The Question of Audience.**
  - a. **General audience.** Bills are not all aimed at the same readers. Rather, the primary audience of bills varies with the bill and the purpose of the bill. For example, if a bill amends Title 9 (Education) of Band Statutes, then the school board, teachers, parents of children who attend Band schools, and anyone else affiliated with the schools will serve as the bill’s audience. On the other hand, if the bill is amending Title 17 (Banks and Banking) of Band Statutes—in particular, Chapter 3 (Institutional Investment Committee)—then investors, the Secretary-Treasurer, and the Commissioner of Finance will likely serve as the primary reading audience. But regardless of the likely audience and their knowledge of bills, a drafter must work hard at crafting shorter sentences, eliminating the usage of uncommon words, and ensuring clarity.
  - b. **Judicial audience.** Inevitably, judges may ultimately serve as the audience of any bill. And they will do so in the capacity of interpreting the bill’s legal meaning. In addition to those canons of construction described in Chapter 4, drafters should be aware of some canons that relate particularly to legal terms of art.
    - i. *Noscitur a sociis* (associated words). The meaning of doubtful words may be determined by their reference to associated words.
    - ii. *Ejusdem generis*. General words following a listing of specific words are interpreted to be limited to the same sort of words specifically listed.
    - iii. *Last antecedent*. When a series of words of general meaning is followed by words of limitation—grammatically, a relative clause or phrase—their limitation will apply to the last antecedent on the list. For instance, in a statute providing “Licensees may hunt moose, deer, geese, and ducks which are not on the endangered species list,” the words “which are not on the endangered species list” will apply only to ducks, the last antecedent on the list.

- iv. *Expressio unius est exclusion alterius.* The expression of one thing is the exclusion of another.
3. **Order and Organization.** The preferred arrangement of provisions within a bill varies with each bill. But, regardless of the type of bill, a drafter should arrange provisions in a logical manner. If a drafter elects to use a “Purpose,” section, then this section should come first. Definitions should come second. For everything else, a drafter is free to draft how he or she sees fit. Consistency with the current organization of Band Statutes is also paramount.
4. **Headnotes.** Headnotes for sections, subsections, paragraphs, clauses, items, and subitems are not part of the law. But they remain extremely valuable to readers because they help readers find the material they need.
5. **Section, Subsection, Paragraph, Clause, Item, and Subitem Length.** The more material written in a single block, the more difficult for readers to find the particular provisions they are seeking. Long, solid blocks of text also complicate a reader’s ability to navigate through the passage. To make reading easier, a drafter should try to limit the length of unbroken passages.
6. **Person.** Drafters need to compromise between the needs of statutory drafting and the use of plain English. Most plain-English contract laws call for the use of the second and first person—addressing the consumer as “you” and calling the provider “we.” Using “we” and “you” is impractical in bills, which must address several groups of people and their duties all at once. Instead, a drafter of bills should use such terms as “the Commissioner,” “the department,” and so on.
7. **Number.** Even though Chapter 4 provides that “the singular includes the plural, and the plural, the singular,” drafters should use the singular form of a noun rather than the plural. This custom is based on the practical difficulty of using plurals consistently.
8. **Voice.**
  - a. *What are active voice and passive voice?* A sentence is in the active voice when the subject “does” the verb. “The Revisor of Statutes publishes statutes on the Tribal Register,” is in the active voice. “Statutes are published on the Tribal Register by the Revisor of Statutes” is in the passive voice because the subject *statutes* is not the doer of the verb *are published*. The doer shows up in *by the Revisor of Statutes*. “Statutes are published on the Tribal Register” is still in the passive voice, although the doer of the action does not show up at all. Another way to recognize passive voice is to look for the verbs *be, is, are, was, were, has been, have been, and had been* followed by words that end in *-ed, -t, or -en*.

- b. *Why is passive voice a problem?* In laws and rules, passive sentences without phrases containing “by” are dangerous because they do not say what duties are assigned to whom. If rules and laws exist to explain people's responsibilities, then a drafter must avoid sentences that fail to assign responsibilities clearly.
  - c. *When is the passive voice needed?* Voice lets a writer put old or repeated information at the beginning of the sentence, where it demands less attention, and new information at the end of the sentence where it stands out. Passive voice also allows a drafter to put a long string of nouns at the end of a sentence so the reader will not have to work through the series before coming to the verb.
  - d. *When is the passive voice unnecessary?* When the passive voice does not solve these specific problems, it is probably unnecessary. When a sentence contains a phrase beginning with by (e.g. “by the commissioner”) and that phrase is not at the end of the sentence, a drafter can safely change the sentence to active voice.
9. **Shall, Must, and Other Verbs of Command.**
- a. **Duties.**
    - i. *Active voice:* To impose a duty to act, a drafter has a choice between two auxiliary verbs: *shall* or *must*. Both *shall* and *must* are used in mandatory situations.
    - ii. *Passive voice:* No matter which verb is used, imposing duties with the passive voice is risky because the sentence might not make clear who has the duty to act. But if the context makes clear who is responsible to act, a drafter can impose a duty in the passive voice with *must*. Drafters should avoid using *shall* in the passive voice.
  - b. **Prohibitions.**
    - i. *Shall not* or *must not:* To impose a duty not to act—a prohibition—a drafter has the same two choices: *shall* or *must*, combined with *not*.
    - ii. *Passive voice:* A drafter should avoid using *shall not* in the passive voice.
    - iii. If context makes it clear who has the duty not to act, or who is subject to the prohibition, drafters can impose prohibitions in the passive voice with *must*.

- iv. *May not*: Prohibitions can also be drafted with *may not*, but passive *may not* needs special care.

d. **Permissions.**

- i. *May*: To permit an action, or to give someone discretionary authority, a drafter should use *may*. *May* is used in a permissive situation. A drafter should refrain from using longer forms such *is authorized to*.
- ii. To test whether *may* is the best verb to use, a drafter should ask the question: Do I really intend to give this person the *discretion* to perform or not perform the action? In sentences that provide alternatives, *may* feels natural but can be ambiguous.
- iii. Like *shall* and *must*, *may* in the passive voice is risky. To make clear who has the permission or authority, it is better to write in the active voice and to say that some person may seize the property than to say that the property “may be seized.”
- iv. *May not*: To say an action is not permitted, a drafter has at least two options. A drafter can either express a negative permission by using *may not*, or a drafter can express a prohibition by using *shall not* or *must not*.
- v. A drafter knows that in laws or rules the only appropriate uses of verbs are to require or prohibit acts, grant or deny permissions, or establish standards or requirements. A drafter also knows that mere statements of possibility have no place in law. But not all readers know these limitations.
- vi. To avoid any misreading that involves the *may* of possibility, a drafter should refrain entirely from using *may not*, either in the passive or the active voice, and substitute a prohibition with *shall not* or *must not*.

e. **Statements of the law.**

- i. To say what the law is—that is, to make a statement that is true by operation of law—a drafter should use *is* or *are*, not *shall be*. For example, a drafter should write that a person *is eligible* for a grant under certain conditions, not that the person *shall be eligible*. Negative statements work the same way: a drafter should write that a person *is not eligible* for a grant under certain conditions, not that the person *shall not be eligible*.

- ii. *Shall be* and *shall not be* in any context are potentially ambiguous. Consider the following sentence: “A member of the investment board shall be a member of the guaranty association.” Does *shall be* in this sentence mean *is* or does it mean *must be*? In other words, does this sentence constitute a requirement that a member of the investment board first be a member of the guaranty association, or is it a declaration that a board member automatically becomes a guaranty association member?
- iii. Because *shall* with *be* can be read two ways, and because the passive voice always involves the use of a form of *be*, a drafter should avoid using *shall*, or *shall not*, in the passive voice.

f. **Requirements or conditions.**

- i. *Must*: To create requirements or conditions—statements about what people or things must be rather than what they must do—a drafter should use *must*, not *shall*:
  - A. To be eligible for nomination, a person must be at least 21 years old.
  - B. A motor vehicle must be equipped with a horn.
- ii. *Must* is preferred because requirements or conditions usually need a form of *be*, and *shall* combined with *be* is often ambiguous.
- iii. *Must not*: A requirement or condition can also be stated negatively, and in that case a drafter should write *must not*:

g. **Definitions.**

- i. To define a term, a drafter should use *means*, not *shall mean*.
- ii. In the introduction to a series of definitions, a drafter should say, “The following terms are defined for the purposes of this chapter.”

h. **Other verbs.** A drafter is often tempted to use other verbs, such as *can*, *should*, or *will*. The best advice is to avoid alternatives and instead adhere to the models provided above. It is not certain how readers will understand the alternative verbs or how the tribal court will construe them.

10. **Ambiguity: An Overview.** English has many ways of being vague, over-general, ambiguous, or even all three at once.

- a. *Ambiguity* exists when words can be interpreted in more than one way. For example, is a “light truck” light in weight or light in color?
- b. *Vagueness* exists when there is doubt about where a word's boundaries are. If a law applies to the blind, who exactly is blind? What degree of impairment counts?
- c. *Over-generality* exists when the term chosen covers more than intended. If a law applies to “communicable diseases,” is it really meant to cover the common cold? Legislatures sometimes choose to be vague or general and to let administrative agencies supply the specifics.

11. **Ranges of Numbers, Days, Dates, and Ages.**

- a. Some other small words that cause trouble are the words English speakers use to specify ranges of numbers, ages, and dates: *to*, *through*, *between*, and *from*.
- b. When specifying a set that begins at A and ends at B, a drafter should clarify whether the named end points are included.
- c. For ranges of sections in bills, statutes, or rules, it is acceptable and traditional to use a form such as “sections 1 to 20.” In ranges of sections, the form “sections x to x” includes the first and last numbers and all sections between them.
- d. For ranges of days, a drafter should avoid the use of *to* altogether. The phrase “Monday through Friday” includes all of Friday, but the phrase “Monday to Friday” includes all of Thursday and is ambiguous as to whether Friday is included. To be certain that Friday is included, a drafter should say “Monday through Friday.” To exclude Friday, a drafter should write “Monday through Thursday.”

12. **That and Which.** A possible source of ambiguity is the word *which* used without commas. The general rule is that *that* should be used to introduce restrictive clauses (those that are necessary for meaning), and *which*, with commas, should be used to introduce nonrestrictive clauses (those not necessary for meaning). If a drafter uses *which* without commas, a reader may be unable to discern whether the clause is necessary for meaning. A drafter will need to decide whether to change *which* to *that* or add commas. Often the best solution is to redraft the sentence entirely.

- a. For example, in the sentence—
  - i. A report which is required to be available for inspection must be in a form convenient for photocopying.

- b. —which of the following is meant?
    - i. A report, which is required to be available for inspection, must be in a form convenient for photocopying.
  - c. (In other words, all the reports have to be made available and all have to be in a certain form. This could be redrafted as *The office must make the report available for inspection and must preserve it in a form convenient for photocopying.*)
    - i. A report that is required to be available for inspection must be in a form convenient for photocopying.
  - d. (In other words, the reports that have to be made available are the only ones that have to be preserved in a certain form; others do not. This could be redrafted as *If a report is required to be available for inspection, it must be in a form convenient for photocopying.*)
13. **Sentence Length.** Sentences in the law are often long, and they seem to grow longer every time they are amended. The longer the sentence, the more likely the reader will have to ask: *What parts go together? What does this modifier modify? Which of these clauses and phrases are parallel?* To avoid confusion, a drafter should write short sentences when possible, and apply clear structure to long sentences.
14. **Conditions and Exceptions.** Often a statute sets forth a simple, general proposition, subject to certain conditions and exceptions. Conditions and exceptions are often added by amendment during the legislative process. The more conditions and exceptions apply, the longer and more complex the statute becomes. One of the challenges to a drafter is to organize the statute so that the general proposition remains clear while conditions and exceptions are added.
- a. Sometimes more than one condition introduces a sentence. When this happens, a drafter should keep the main clause as short as possible.
  - b. If a drafter cannot keep the main clause short, or if there are more than two conditions, a drafter should put the conditions after the main clause.
  - c. When conditions have several components—and especially when they include both *and* and *or*—a drafter should use numbers and white space to make clear how the pieces relate to one another.
  - d. A drafter can resolve ambiguity by using the list form. An ambiguous sentence might be rewritten in two different ways:



This section does not apply if the client:

- (1) is receiving either alimony or child support; and
- (2) has been divorced for more than one year.

This section does not apply if the client:

- (1) is receiving alimony; or
- (2) is receiving child support and has been divorced for more than one year.

15. **Parallel Form.** When writing a series or list, a drafter should be careful to keep similar ideas in similar, or "parallel," form. Sentences with parallel structure are easier to read and remember. To be parallel, the items in a list must be grammatically the same.
16. **Familiar Words.** A drafter should use speaking vocabulary, not writing vocabulary, as much as possible. Familiar words make it easier to understand and read. While writing law may seem like a drafter should use formal words, it is more important to use words that are familiar without using slang words.
17. **Gender-Neutral Language.**
  - a. It is common practice to use both male and feminine pronouns when drafting because avoiding *he* or *she* or *her* or *him* is very hard. Normal English word order begs for a pronoun in the main clause of a sentence like this: "The parliamentarian shall not accept any agenda items that he or she has not received two (2) complete calendar days in advance of the upcoming special session."
  - b. It is also important to be gender-neutral where, historically, it has been common practice to use a masculine term, such as, workman, man-hours, and more.

## CHAPTER 6

# PUNCTUATION, MECHANICS, AND STYLE

### 1. Introduction.

- a. This chapter is organized as a glossary. It sets out preferences in matters such as choosing between two possible correct spellings of a word, deciding whether to hyphenate, and knowing which words to capitalize. In some cases, this chapter refers a drafter to other parts of the Manual or to more extensive reference works.
- b. For guidance about questions of word usage not covered in this Manual, drafters may consult works such as *Fowler's Modern English Usage*, *Merriam-Webster's Dictionary of English Usage*, *Black's Law Dictionary*, and other specialized reference works.

### 2. Abbreviations.

- a. When in doubt about whether to abbreviate a word, a drafter should spell the word out. In particular, a drafter should avoid using initials as a substitute for an official name.
- b. The following are exceptions to the general rules:
  - i. An abbreviation may be used if it is part of a proper name.
  - ii. The abbreviations *a.m.* and *p.m.* may be used to express time.
  - iii. Abbreviations may be used in tables, illustrations, and similar material.
  - iv. A drafter should abbreviate the names of the compass points after a street name as in "821 Fifth Avenue SE." The names of the compass points are written without periods.
  - v. In legal land descriptions, names of the compass points should remain exactly as they are in the legal instrument a drafter is working from. Whether the points of the compass are abbreviated with periods, abbreviated without periods, or written out, they should not be changed. If the original reads "Within the S.W. 1/4 of section 19, township 105N, range 32W," a drafter should leave the compass points in the form.

- vi. State names may be abbreviated in addresses. A drafter should use the abbreviations approved by the postal service, such as “MN” for Minnesota.
  - vii. In technical material, units of measurement may be abbreviated.
  - viii. The symbols for the chemical elements, such as H and Au, may be used in text as well as in equations, formulas, and tabular matter.
  - ix. Abbreviations may be used when they make reading easier, not harder, for the document’s most likely audiences. Examples of abbreviations that make reading easier are those that are familiar to the general public from use in newspapers, such as “AIDS” rather than “acquired immune deficiency syndrome” and “DNA” rather than “deoxyribonucleic acid.”
3. **Capitalization.** The rules set out here apply to bills. For resolutions, see the example pages in Chapter 3.
- a. **Capitalized words.**
    - i. Headnotes for sections have the first letter of each important word capitalized.
    - ii. Headnotes for subsections, paragraphs, clauses, items, and subitems have the first word capitalized, with the rest of the headnote not being capitalized, if there is more than one word contained in the headnote.
    - iii. In references, a drafter should capitalize only the words “Band Statutes,” “Band Statutes, Title #” “Acts,” and names of other publications.
      - A. Examples:
        - I. Band Statutes, Title 3, section 4.
        - II. Band Statutes, Title 15, chapter 5, section 8.
        - III. Act 19-24.
        - IV. Act 63-22.
    - iv. A drafter should capitalize the important words in titles of books, government documents, periodicals, or serials and in the titles of chapters or sections of these publications.

- v. A drafter should capitalize proper names. These include the official names of rivers, lakes, creeks, streams, counties, universities, colleges, streets, highways, community organizations, parks, wildlife refuges, government agencies, school districts, political subdivisions, and laws, as well as the names of people, places, and institutions.
    - A. The official names of entities should always be used even if they are not consistent with this Manual’s style preferences.
    - B. A drafter should capitalize the principal words of all state, uniform, and federal acts.
  - vi. Even though it is not typical, legislative history has proven to capitalize titles of individual civic officers, such as Chief Executive or Commissioner.
- b. Uncapitalized words.**
- i. A drafter should not capitalize words referring to an agency, a political subdivision, or a place if they are not part of a proper name. A drafter should not capitalize words even when they stand for proper nouns.
  - ii. If a drafter is uncertain whether something is a proper name, a drafter should not capitalize it. Names of forms (like “certificate of live birth”) or programs (like “revolving loan fund program”) should not be capitalized. Neither should funds, grants, or other administrative creations. If an act is given a proper name by law, a drafter should capitalize it (e.g., the “Gaming Regulatory Act”).
    - A. Federal programs should be capitalized as they are in the underlying federal law.
    - B. A drafter should not capitalize initial words in numbered clauses unless each is a complete sentence.
      - I. Example: a list of phrases:
 

No later than January 15 of each year, the Revisor shall publish on the private-facing Tribal Register, for the previous two legislative sessions, in a publication called “Official Acts of the Non-Removable Mille Lacs Band of Ojibwe”:

(a) Executive Orders;

- (b) Secretarial Orders;
- (c) Commissioner's Orders;
- (d) Legislative Orders;
- (e) Chief Justice Orders;
- (f) Solicitor's Opinions;
- (g) acts;
- (h) resolutions; and
- (i) any new or revised department policy.

4. **Commas.** Here are the most important rules regarding the use of the comma in drafting:
- a. A drafter should use a comma to set off a nonrestrictive dependent clause that follows or falls within a main clause. A nonrestrictive clause is one that can be omitted without altering the meaning of the main clause.
  - b. A drafter should use a comma to separate words, phrases, or clauses in a simple series. When a conjunction joins the last two elements in a series, a drafter should use a comma before the conjunction.
    - i. **Warning:** If a drafter is making changes to someone else's draft, a drafter should be cautious about inserting serial commas. Adding a comma may resolve an ambiguity that really should be corrected by the original drafter.
  - c. A drafter should use a comma to set off the year following the month and day.
  - d. A drafter should omit the commas around the year when no day is given.
5. **Dates.** A drafter should express complete dates in month-day-year sequence. A drafter should spell out the month of the year. A drafter should not abbreviate the month, and should not use the numerical symbol for it. If only the month and year are used, a drafter should not insert a comma after the month or after the year.

6. **Hyphens.**

- a. **Generally.** A drafter should not hyphenate to divide a word at the end of a line. A drafter should only hyphenate when a word's proper spelling includes a hyphen. In amendments, a drafter should keep hyphenation consistent with existing text.
- i. In new language, to answer questions about hyphenation, a drafter should first consult this Manual, then *Merriam-Webster's Collegiate Dictionary*.
  - ii. Most hyphenation questions concern compounds like "part-time" and "60-day." These compounds are hyphenated when they precede nouns, as in "part-time job" or "60-day license."
  - iii. With four classes of exceptions, words beginning with the following prefixes are spelled without hyphens: ante, anti, co, extra, infra, intra, non, over, post, pre, pro, pseudo, re, semi, sub, super, supra, ultra, un, and under.
- b. **Exceptions.** Here are the exceptions to the general rule:
- i. A drafter should hyphenate if the second element of the word is capitalized or a figure.
    - A. Example: pre-1914.
  - ii. A drafter should hyphenate to distinguish certain homographs.
    - A. Example: re-cover, un-ionized.
  - iii. A drafter should hyphenate if the second element has more than one word.
    - A. Example: pre-Civil war, non-English-speaking people.
  - iv. A drafter should hyphenate some compounds in which the last letter of the prefix is the same letter of the word following.
    - A. Example: semi-independent, non-native.
  - v. Hyphenating numbers.

- A. A drafter should use hyphens in compound numbers (like “thirty-three”), in fractions (like “one-half”), in mixed numbers (like “4-3/4”).
- B. A drafter should use hyphens in dates representing periods extending beyond one year (like “2003-2004”). A drafter should not use a hyphen in any other case as a substitute for the word *to* or *through*.

7. **Numbers.**

a. **Amounts.**

- i. A drafter should write numbers ten and under in words and add the figure in parenthesis. A drafter should write numbers 11 and greater in figures.

A. Examples:

- I. Three (3) calendar days.
- II. At least 24 hours.

- ii. A drafter should write a number that begins a sentence in words.

A. Example: Fifteen calendar days after receiving notice . . .

- b. **Order.** A drafter should write out the ordinal numbers one to ten. A drafter should write ordinal numbers greater than ten in numbers and letters.

- i. Examples:

- A. first, second, fifth.
- B. 11th, 15th, 81st.

c. **Fractions and decimals.**

- i. When the denominator is ten or less, a drafter should write the fraction in words. When it is over ten, a drafter should express the fraction with figures.

A. Examples:

- I. three-tenths, one-half.

II. 5/16, 3/25, 0.04, 0.007.

ii. A drafter should express mixed numbers in figures, except at the beginning of a sentence.

A. Examples:

I. 1-1/2, 9-15/16.

II. "One and one-half" at the beginning of a sentence.

8. **Official Titles.** When referring to a public officer, agency, or organization, a drafter should use the official title of the officer, agency, or organization. The official titles for state officers or agencies are usually found in the constitutional or statutory sections that create them. For rules on capitalization in official titles, a drafter is referred to Capitalization of this Chapter.

9. **Periods.** A drafter should use a period after a headnote.

10. **Quotation Marks.**

a. A drafter should use quotation marks for definitions.

b. Short titles or citations for legislation is discouraged. But if a drafter must use them, they should be placed in quotation marks when first assigned to a group of sections. A drafter should not use quotation marks in later references to the short title.

c. A drafter should use quotation marks to enclose words and phrases following terms such as "marked," "designated," "named," "entitled," or "known as."

d. A drafter should use quotation marks around titles of published and unpublished works.

e. A drafter should not use quotation marks in text to indicate words used in a special sense. If a drafter must use a word in a special sense, a drafter should define it so that it will not need quotation marks.

11. **Semicolons.**

a. A drafter should use a semicolon to separate closely related independent clauses not connected by a conjunction. But a drafter should take caution not to overuse this construction. Separate sentences are better than needlessly connected ones.



- b. A drafter should use a semicolon between independent clauses joined by a transitional connective such as *also, furthermore, moreover, however, nevertheless, namely, that is, for example, hence, therefore, thus, then later, finally,* and *provided that*. Again, a drafter should not overuse this construction.
  - c. A drafter should not use semicolons to separate references when one or more of the references contain internal commas.
  - d. A drafter should not use semicolons after clauses or phrases in a tabulated list, except after the last item in the list. If the listed items are complete sentences, a drafter should use a period.
  - e. A drafter should use semicolons if needed to clarify the limits of items in a series. When elements in a series include internal punctuation, or when they are very long and complex, they may need to be separated by semicolons rather than commas for clarity. If ambiguity seems unlikely, commas may be used. A drafter should move the most complex element to the end of the list as an aid in clarity.
12. **Strikeouts.** In amendments, a drafter should strike out material that is intended to be removed from the text of existing statutes or laws. Example: ~~one year~~.
13. **Tables.** When using tables, a drafter should capitalize every important word in a column heading.
14. **Underlining.** A drafter should underline new material to be inserted or substituted for old material in the text of existing laws. Example: two years.

## **CHAPTER 7 REFERENCES**

1. **Constitution and Bylaws of the Minnesota Chippewa Tribe.** A drafter should cite the Constitution as “the Constitution of the Minnesota Chippewa Tribe.”
2. **Band Statutes.**
  - a. **In bill section introductions.** When a bill amends existing Band Statutes, the introduction should, at a minimum, cite to the specific Title. If a Title has multiple chapters and only one chapter is being amended, then it should specify which chapter is being amended.
  - b. **In text.**
    - i. Generally, when citing Band Statutes, a drafter can use the abbreviation “MLBS.”
      - A. Example: 6 MLBS §1102(a).
    - ii. A reference in the text of a bill to an existing section of Band Statutes should use the statutory section number without the phrase “MLBS” or “Band Statutes” when:
      - A. the section being referenced is within the same Title and chapter, if applicable; and
      - B. a drafter does not intend to tie the reference permanently to any specific edition of statutes.
        - I. Example: “. . . as provided by section 22(a).”
  - c. **Long citation strings.** Where text contains a citation string, such as “section 211(c)(1)(i),” the words subsection, paragraph, clause, item, and subitem can be eliminated. When the reference is made to another item or subitem within the same clause or item, the words should still be used in references such as “item (A)” or “subitem (II),” etc.
3. **Laws of the Band.** Uncoded Band laws are cited in this form:
  - a. Act 19-24.
  - b. Act 19-24, section 1.02.

- c. Act 70-22, section 1.01.
4. **Minnesota Statutes.** Minnesota statutes should be cited as:
- a. Minnesota Statutes, section 14.001.
  - b. Minnesota Statutes, chapter 152.
5. **Federal Laws and Regulations.**
- a. **Forms of citations.** When citation to federal law or regulation is necessary, it should follow a consistent form. If federal law has been compiled in the *United States Code*, the citation should be to it and not to *Statutes at Large*. If the text is not compiled in *United States Code*, the citation may be to *Statutes at Large*. If the text is not yet published in *Statutes at Large*, its Public Law Number may be used.
  - b. **Forms reference.**
    - i. Forms of reference to exclude future amendments are:
      - A. “. . . as provided by U.S.C., title 14, section 1401, as amended through December 31, 2000,” or
      - B. “. . . as provided by Statutes at Large, volume 38, page 730, section 123.”
    - ii. When it comes to public law, a drafter should not use the abbreviation. An example of the proper form of reference is, “. . . as provided by Public Law 89-110.”
  - c. **Popular names and scattered law.** Drafters should generally avoid referring to federal law by its popular name alone (for example: “The Furgeson-Jones Act”) or its short title alone (for example: “The Inland Waterways Improvement Act of 1947”). These references make it difficult to locate the compilation of the law. They also leave it unclear whether the reference is intended to be to the laws as originally enacted or to the law with amendments enacted prior to enactment of the bill referring to the law.
    - i. In some cases, though, the law is codified in many scattered locations so that it is difficult to cite. A drafter should cite these laws by following the approach recommended in *A Uniform System of Citation*, while spelling out the publication names as shown above. A drafter’s goal should be to cite the law in such a way that a reader can

find it easily and that either the tribal court or Solicitor General will know exactly what amendments are included in the reference.

- ii. An exception to the usual rule that reference should not be made to a short title is the *Internal Revenue Code*. The correct form is “. . . as provided by the Internal Revenue Code of . . . . ., as amended through December 31, 20.., . . . .”
  
- d. **Regulations.** When referring to the *Code of Federal Regulations*, an example of the proper form of reference is “. . . as provided by C.F.R., title 22, section 41.30 (20..).” Only when a rule is not yet published in the *Code of Federal Regulations* should reference be made to the *Federal Register*. An example of the correct form is “. . . as provided by Federal Register, volume 46, page 23405 (20..).” References to the *Federal Register* are to its volume and page number, not to any section or paragraph numbers within a document published in it.

## **CHAPTER 8 MISCELLANEOUS**

1. **Ojibwe Words.** Drafters are encouraged to discuss incorporating Ojibwe words into legislation during workshops conducted with the District Representatives.