

**Tribal Governments and Business Entities**  
Final Take-Home Exam  
January 2018 Intersession  
Leeds

Instructions:

This is a take-home examination. Exam answers are limited to 7 double-spaced pages at a minimum 12-point font.

This is not intended to be a research exercise and you are forbidden from accessing outside sources. You may consult your notes and the content provided on the course website only.

To ensure anonymous grading, please make sure that your exam number (and not your name) appears on each page of the exam.

The deadline for submission is 5 pm on Tuesday, January 16<sup>th</sup>.  
Email exam answers to Collin Hesse: [chesse@uark.edu](mailto:chesse@uark.edu)

**Part 1 – Short Answers (30 points)**

- (a) In what instance(s) will a tribal regulation (such as environmental, land-use, or taxation) be upheld where the regulation is applied to a non-Indian person or business?
- (b) In what instance(s) will a state regulations (such as environmental, land-use, or taxation) be upheld where the regulation is applied to a citizen of a tribe or a tribally-owned business?
- (c) When a tribe purchases land, what are the pros and cons for the tribe in petitioning the Secretary of Interior to place those lands into trust status?
- (d) Can lands be placed into trust if the tribal business intends to use the land to enter into a joint agricultural venture with a non-Indian corporation and would the land-into-trust pros and cons change from your answer in item (c) above?

**Part 2 – Essays (70 points)**

1. Congress is considering a bill that would waive tribal sovereignty for lawsuits in federal courts where the cause of action arises from a tribe engaging in a business function.

(a) If the bill was enacted, how could the tribes challenge this new federal law and what is the likelihood that the tribes would prevail?

(b) If the bill was enacted, how would you advise the tribe to proceed in deciding what companies to hire to build a new hospital the tribe has planned on tribal lands within their territory? Specifically, what type of contractual relationships would you advise the tribe to pursue?

(c) How would your answer change if a similar bill was enacted by the state legislature waiving tribal sovereign immunity for lawsuits in state courts? To what extent would the state law be enforceable as to businesses activities inside Indian Country?

2. The tribal legislative branch is considering passing a law that sets a cap of 15% on interest rates that could be charged on home mortgages and on car loans to tribal members by local banks.

(a) What is the likelihood that tribal law would be enforceable?

(b) If you conclude that the tribal law would be enforceable, in what circumstances?

(c) If you conclude that the tribal law would not be enforceable, why is it unenforceable?