

# An Act

Engrossed  
Legislative Act 13 - 85

A NEW ACT RELATING TO CHEROKEE NATION OF OKLAHOMA GENERAL FISCAL LAWS; REPLACING LA 3-76, LA 7-76, AND LA 1-77 WITH THIS ACT; REPEALING LA 1-80, LA 3-81, LA 1-82, LA 1-83 AND LA 1-84; INCORPORATING CERTAIN PROVISIONS IN RESOLUTIONS 1-76, 5-76, 26-77, 1-78, 3-78, 11-78, 39-78, 40-78, 48-78, 61-78, 100-78, 61-79, 66-79, 26-80, 50-80, 93-80, 20-81, 52-81, 57-81, 59-81, 60-81, 83-81, 5-82, 8-82, 38-82, 58-82, 59-82, 3-83, 74-83, 21-84, 33-84, 55-84, 79-84, 80-84, 82-84, 84-84, 9-85, 21-85, 23-85; AND DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

## Chapter 1. General Provisions.

### Section 101. Fiscal Year.

The fiscal year for the Cherokee Nation shall commence on October 1 of each year and end on September 30 of the following year.

## Chapter 2. Deposit of Funds.

### Section 201. Requirements.

Any funds in the custody of the Cherokee Nation shall be deposited in an approved depository. There shall be one principal depository, provided for by law, and as many subsidiary depositories as may be necessary for the efficient regulation and management of tribal business. Said subsidiary depositories shall be approved in accordance with section 203 of this act.

### Section 202. Principal Depository.

The principal depository for funds under the control of the Cherokee Nation shall be the 1st National Bank of Tahlequah.

### Section 203. Subsidiary Depositories.

(A). Subsidiary depositories used for investment of tribal funds shall be determined by competitive bidding. Said bidding and selection process of investment depositories shall be conducted by the Controller, under review of the Secretary-Treasurer on a regular basis.

(B). Other subsidiary depositories may be designated for the purposes of efficient regulation and management of tribal business in a particular locale. Subsidiary depositories provided for under this subsection shall maintain a checking/general banking relationship with the Cherokee Nation and shall be approved, upon recommendation of the Controller, by resolution from the Council. Said resolution shall contain the name of the financial institution, the purpose of the depository, and the names of those persons authorized to conduct transactions with said depository.

### Section 204. Control of deposited funds.

Any funds deposited by the Cherokee Nation shall be under control of the Secretary-Treasurer who may, at his discretion, delegate fiduciary responsibilities to the Controller of the Cherokee Nation. The Council may from time to time establish laws and regulations governing said funds.

### Section 205. Protection of deposited funds.

(A). No funds under the control of the Cherokee Nation shall be deposited in any financial institution unless said

Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

(B). No funds in excess of \$100,000.00 shall be deposited in a single financial institution unless said funds are collateralized either by bonds with a minimum of a AA rating, or local, state, U.S. Government and Cherokee Nation securities.

### Chapter 3. Appropriations.

#### Section 301. General.

(A). All appropriations of funds shall be provided for by law. Said appropriation bill shall include the source of funds, the amount of funds, and the purpose for which the funds are being appropriated.

(B). Any appropriations law containing tribal trust funds shall, upon the enactment of said law, be transmitted to the Secretary of the Interior or his delegee for approval:

(C). Any funds received by the Cherokee Nation which use is determined by the granting or contracting agency shall be used only for those purposes and under those conditions for which said funds are made available. Said funds shall not be appropriated by the Council, but shall be subject to review by the Council.

#### Section 302. Annual appropriations.

(A). In July of each year the Executive and Finance Committee of the Council, upon direction of the Secretary-Treasurer and with advisement from the Controller, shall formulate an annual appropriations bill. Said bill shall contain the budgeted annual revenue and expenditures from the general fund, enterprise fund, and trust fund for the Executive, Legislative, and Judicial branches of government. Said bill shall identify the individual sources of revenue for each branch of government. Said sources of revenue may be based upon estimates. The budgeted expenditures formulated as provided for in this subsection shall not exceed total estimated revenues.

(B). Upon completion of the annual appropriations bill, the Secretary-Treasurer, or his delegee, shall present said bill to the full Council for consideration and passage.

(C). The Executive and Finance Committee, upon direction of the Secretary-Treasurer and with advisement from the Controller, shall be responsible for proposing amendments to the annual appropriations law based upon material changes in real or estimated revenues and expenditures that affect the total amounts budgeted. Any amendments provided for in this subsection shall be presented to the full Council for consideration and passage.

### Chapter 4. Office of Controller.

#### Section 401. Establishment; purpose.

There is established the Office of the Controller within the Executive Branch of the Cherokee Nation.

The principal purpose of the Office of the Controller shall be to manage the accounting and finance functions of the Cherokee Nation and to assure that all funds are properly accounted for in accordance with generally accepted or legally required accounting principles and methods.

Section 402. Responsibilities and authority of Controller. Specifically, the Controller shall be responsible for:

- a. Providing an accounting and reporting system that will accumulate and report appropriate revenues, expenses, assets, liabilities, and related quantitative information;
- b. Assuring the integrity of financial information concerning the Cherokee Nation's activities and resources;

- c. Preparing financial reports based on generally accepted accounting principles, or other appropriate bases;
- d. Quantifying and interpreting the effects on the Cherokee Nation of planned transactions and other economic transactions;
- e. Assuring protection of the assets of the Cherokee Nation through internal control, internal auditing, and proper insurance coverage;
- f. Supervising and coordinating the preparation and issuance of required reports for government agencies;
- g. Maintaining banking arrangements, under direction of or by delegation from the Secretary/Treasurer, to receive and disburse the funds of the Cherokee Nation and its programs;
- h. Recommending the appointment of independent public accountants and the extent and scope of their audit work;
- i. Establishing and supervising a sound program of cash management involving both receipts and disbursement of funds;
- j. Forecasting fund and cash positions at future dates as a guide to their availability and need;
- k. Overseeing the budgeting functions of the Cherokee Nation and providing assistance as necessary with various program budgets;
- l. Informing program managers and department heads of the status of program funds and budgets;
- m. Acting as advisor to the Executive and Finance Committee of the Council;
- n. Supervising the preparation and issuance of employee payrolls;
- o. Establishing and implementing a sound plan of organization for assigned functions;
- p. Determining the necessary manpower for performing assigned functions;
- q. Selecting and maintaining qualified personnel in subordinate positions and recommending compensation for the same;
- r. Establishing and issuing plans, policies and procedures governing the performance of assigned activities;
- s. Performing all functions at the lowest cost, consistent with effective performance, and;
- t. Performing any additional functions as delegated by the Secretary/Treasurer and the Principal Chief;

#### Chapter 5. Investments.

##### Section 501. Investment of judgement funds.

Any investment of judgement funds shall be pursuant to 25 U.S.C. 162a. The use or distribution of said funds shall be in accordance with 25 CFR 87.1 et. seq.

##### Section 502. Specific rights reserved.

The Council of the Cherokee Nation reserves the right, within statutory authority and limitations, to recommend to the Secretary of the Interior preferred financial institutions for the investment of judgement funds.

##### Section 503. Investment of non-restricted tribal funds.

Surplus funds from tribal operations may be invested by the Controller, upon direction and with the consent of the Executive and Finance Committee of the Council, in accordance with sections 203a, 505 and 506 of this act.

##### Section 504. Term of investments of tribal funds.

Tribal funds invested pursuant to section 503 of this act shall be for a period not to exceed 120 days, provided that funds may be invested for a longer term upon approval of the Executive and Finance Committee of the Council.

Section 505. Selection of investment institution. The Controller shall, upon determination of the amount of surplus funds, solicit bids from financial institutions for the purpose of investing said funds. The Controller shall use the following criteria in the determination of the successful bidding institution:

1. The institution offering the highest interest rate on the funds, and;
2. In the event that one or more institutions offer the same highest rate of interest, the funds shall be equitably distributed among those institutions, provided that if the amount of funds are not sufficient to distribute among several institutions, those institutions offering the highest rate of interest shall be selected by the earlier postmark.

Section 506. Protection of invested tribal funds. In the event that the invested funds in a single institution amount to more than \$100,000.00, said funds shall be collateralized as provided for in section 205b of this act, and provided further that the institution where said funds are invested shall secure and pledge to the Cherokee Nation joint custody receipts for the full amount of said funds.

#### Chapter 6. Bonds.

Section 601. General bonding requirements. All officers, elected or appointed, who are authorized to a position of trust over any land, property, accounts or monies, shall execute an official surety bond. Said bonds shall inure to the benefit of and be paid for by the Cherokee Nation.

Section 602. Bonding company. The bonding of officers as required in section 601 of this act shall be by a licensed insurance company, authorized to do business in the State of Oklahoma.

Section 603. Officers to be bonded; amounts. The following officers of the Cherokee Nation shall be bonded in the following amounts:

|                        |              |
|------------------------|--------------|
| Council Members        | \$10,000.00  |
| Principal Chief        | \$100,000.00 |
| Deputy Principal Chief | \$100,000.00 |
| Secretary-Treasurer    | \$100,000.00 |
| Controller             | \$100,000.00 |
| Registrar              | \$50,000.00  |
| Executive Directors    | \$50,000.00  |

#### Chapter 7. Credit.

Section 701. Credit approval. The credit of the Cherokee Nation may be extended to any individual, company, corporation, or association by resolution of the Council. Said resolution shall contain the name of the entity Tribal credit is being pledged to, the purpose of the credit, the amount of credit being pledged, and the length of time the pledge of credit is to be in effect.

Section 702. Sovereignty; authority to waive. Any pledge of credit that requires the waiving of sovereignty of the Cherokee Nation shall be effected by resolution of the Council and approved by the Principal Chief. Said resolution shall state the time the waiver is to be in effect, and such effective time shall rule past any change in the elected Council. Said resolution must contain the requirements in section 701 of this act.

## Chapter 8. Records and Reports.

### Section 801. Accounting Standards.

Generally accepted accounting principles (GAAP), established by the National Council on Governmental Accounting, The American Institute of CPA's, and the Financial Accounting Standards Board, shall be used in accounting and reporting for the financial activities of the various entities of the Cherokee Nation, unless they conflict with applicable legal requirements.

### Section 802. Annual Audit Report.

Within 120 days after the end of the tribal fiscal year, the Controller shall submit to the Council audited financial statements and related reports developed in accordance with generally accepted auditing standards and applicable legal requirements.

### Section 803. Combined Financial Statement Reports.

At each regular session of the Council, the Controller shall submit a combined financial statement. Said statement shall contain a combined balance sheet showing all fund and account groups, their assets, liabilities, and equity; a general fund statement of revenues and expenditures; a tribal enterprise statement of revenues and expenditures; a non-tribal grant expenditure statement; a statement of the tribal loan fund, showing changes in the fund balance; and a statement of the tribal judgement fund, showing changes in the fund balance.

### Section 804. Retention of records.

The Controller, under direction of the Secretary-Treasurer, shall develop and maintain a fiscal records retention program. Said records retention program shall identify the records to be retained, the length of time the records are to be retained, and the method of record destruction for those records not retained.

## Chapter 9. Claims.

### Section 901. Vendor Claims.

All appropriate claims against the Cherokee Nation and against its funds shall be verified by the claimant and shall be approved by a Cherokee Nation representative who has personal knowledge of receipt of the goods or services before the same are paid.

### Section 902. Policy; claims.

The policies and procedures covering the processing of claims against the Cherokee Nation shall be developed and maintained by the Controller and the Director of Administrative Services.

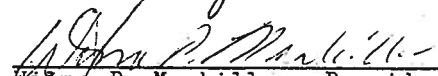
SECTION 903. If any section, sentence, clause or phrase of this act is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this act. The Council hereby declares that it would have passed this act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared unconstitutional.

### SECTION 904. Repealing clause.


Legislative Acts 3-76; 7-76; 1-77; 1-80; 3-81; 1-82; 1-83; and 1-84 are hereby repealed.

SECTION 905. It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

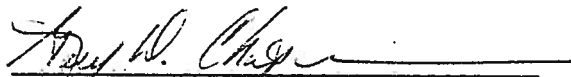
Passed by the Council on this 10<sup>th</sup> day of August, 1985.

  
Wilma P. Mankiller, President  
Cherokee Nation Council

Approved and signed by the Principal Chief this 10<sup>th</sup> day  
of August, 1985.

  
Ross O. Swimmer, Principal Chief  
Cherokee Nation of Oklahoma

ATTEST:

  
Gary D. Chapman, Secretary/Treasurer  
of the Cherokee Nation