

Committee: Executive & Finance  
Date: 01-12-10 Committee Date: 01-28-10

Author: Todd Hembree  
Sponsor: Councilors Bill John Baker & C. Hoskin Jr.

5/10/2010  
Veto Sustained

## An Act

**VETO**

02-23-2010

DATE

PRINCIPAL CHIEF

### Legislative Act 08-10

### AN ACT RELATING TO CONSTRUCTION OF AND IMPROVING ACCESS TO CHEROKEE OWNED HOMES FROM PUBLIC ROADS OR RIGHT-OF-WAYS AND DECLARING AN EMERGENCY

#### BE IT ENACTED BY THE CHEROKEE NATION:

#### Section 1. Title and Codification

This act shall be known as the "Cherokee Home Access Act of 2010" and codified as \_\_\_\_\_ (Title) \_\_\_\_\_ (Section) \_\_\_\_\_ of the Cherokee Nation Code Annotated.

#### Section 2. Purpose

The purpose of this Act is to allow funds to be utilized from existing self-help housing rehab funds and bridge/access funds of the Cherokee Nation to construct or repair driveways, sidewalks or other means of access from public right-of-ways to private homes owned by Cherokee citizens that qualify for such assistance.

#### Section 3. Legislative History

Article X, Section 7 of the Cherokee Nation Constitution states: "The credit of the Cherokee Nation shall not be given, pledged, or loaned to any individual, firm, company, corporation, or association without the approval of the Council. The Cherokee Nation shall not make any donations by gift, bonus, or otherwise, to any individual, firm, company, corporation, or association without the approval of the Council.

#### Section 4. Definitions

None.

#### Section 5. Substantive Provisions of Law

- A. Funds appropriated by the Cherokee Nation in its annual budgetary Act, for self-help housing rehabilitation program may be utilized by qualified Cherokee applicants, to construct, improve and/or maintain access to their homes on private property from public roads or rights-of-way.

**VETO**

02-23-10  
DATE

PRINCIPAL CHIEF

- B. In addition, or in the alternative to, the funds described in Section 5(A), funds appropriated by the Cherokee Nation, in its annual budgetary Act, for bridge and access construction or maintenance, may be utilized by county or municipal governments to connect private driveways of qualified Cherokee applicants, to public roads.
1. Citizens awarded funds under Section 5(B) shall be limited to one (1) award every four (4) years.
  2. Grants under section 5(B) shall not exceed one thousand dollars (\$1,000.00).
- C. To be eligible for grants under this Act the property must be within the fourteen (14) county jurisdiction of the Cherokee Nation and the applicants must meet the income guidelines established by the Cherokee Nation administration.
- D. Nothing in this Act shall diminish the equal distribution of bridge/access funds by Council districts provided under existing laws.

**Section 6. Provisions as cumulative**

The provisions of this act shall be cumulative to existing law.

**Section 7. Severability**

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

**Section 8. Effective Date: Emergency Declared**

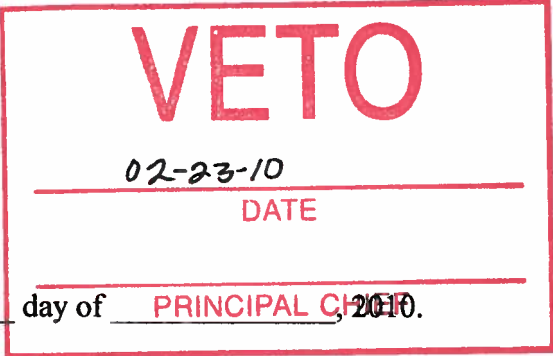
It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect immediately upon its approval and signatures.

Enacted by the Council of the Cherokee Nation on the 16th day of February, 2010.

\_\_\_\_\_  
Meredith A. Frailey, Speaker  
Council of the Cherokee Nation

**ATTEST:**

\_\_\_\_\_  
Don Garvin, Secretary  
Council of the Cherokee Nation



Approved and signed by the Principal Chief this \_\_\_\_\_ day of PRINCIPAL CHIEF, 2010.

\_\_\_\_\_  
Chadwick Smith, Principal Chief  
Cherokee Nation

**ATTEST:**

\_\_\_\_\_  
Melanie Knight, Secretary of State  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

Tina Glory Jordan	<u>Yea</u>	Meredith A. Frailey	<u>Yea</u>
Bill John Baker	<u>Yea</u>	Chris Soap	<u>Nay</u>
Joe Crittenden	<u>Yea</u>	Cara Cowan Watts	<u>Nay</u>
Jodie Fishinghawk	<u>Yea</u>	Buel Anglen	<u>Nay</u>
Janelle Lattimore Fullbright	<u>Yea</u>	Bradley Cobb	<u>Nay</u>
David W. Thornton, Sr.	<u>Yea</u>	Charles Hoskin, Jr.	<u>Yea</u>
Don Garvin	<u>Nay</u>	Julia Coates	<u>Nay</u>
Harley L. Buzzard	<u>Nay</u>	Jack D. Baker	<u>Nay</u>
Curtis G. Snell	<u>Yea</u>		



GWY9 D8P  
**CHEROKEE NATION™**  
P.O. Box 948 • Tahlequah, OK 74465-0948 • (918) 453-5000

O'lgj  
Chad "Cornassel" Smith  
Principal Chief  
Jl'ow J'oh'w  
Joe Grayson, Jr.  
Deputy Principal Chief

February 23, 2010

Meredith A. Frailey, Speaker  
Cara Cowan Watts, Deputy Speaker  
Council of the Cherokee Nation  
Tahlequah, Oklahoma

02-23-10P03:14 RCVU

Dear Speaker Frailey and Council Members:

I am returning the enactments passed by the Tribal Council at the regular meeting held on February 16, 2010 as required by our Constitution. The Cherokee Constitution (Article VI, Section 10) requires that every enactment approved by the majority of the Council be presented to the Principal Chief before it becomes effective. I have carefully considered each enactment and I have approved all of them, with the exception of two (2) legislative acts, LA#08-10, which I have vetoed and LA#09-10, which I have not signed but object to.

#### **APPROVED RESOLUTIONS**

1. Resolution No. 10-10, A Resolution Authorizing the Bureau of Indian Affairs (BIA) to Revise and Update the Cherokee Nation's Inventory of Indian Reservation Roads.
2. Resolution No. 11-10, A Resolution Confirming the Nomination of Casey Ross-Petherick as a Board Member of the Cherokee Nation Education Corporation.
3. Resolution No. 12-10, A Resolution Confirming the Nomination of Foreman Ross as a Board Member of the Cherokee Nation Sequoyah High School Board of Education.
4. Resolution No. 13-10, A Resolution Confirming the Nomination of Harold Ray "Sam" Hart as a Commissioner of the Cherokee Nation Tax Commission.
5. Resolution No. 14-10, A Resolution Authorizing Tribal Officials to Approve Indian Preference Applications.
6. Resolution No. 15-10, A Resolution in Support of the Preservation and Protection of the Ancient Kituwah Mound in North Carolina.
7. Resolution No. 16-10, A Resolution in Support of the Naming of a Building at the University of North Carolina After Prominent Citizen of the Eastern Band of Cherokee Indians Henry Owl.

#### **APPROVED LEGISLATIVE ACTS**

1. Legislative Act No. 06-10, An Act Amending LA#7-97 and LA#39-05; Revising Title 26 ("Elections") of the Cherokee Nation Code Annotated.

2. Legislative Act No. 07-10, A Legislative Act Amending LA#01-01, “The Cherokee Nation Motor Vehicle Licensing and Tax Code”; Amending Allocation of Revenues.

### **VETOED LEGISLATIVE ACTS**

1. Legislative Act No. 08-10, An Act Relating to Construction of and Improving Access to Cherokee Owned Homes from Public Roads or Right-of-Ways and Declaring an Emergency.

The Cherokee Nation has limited funding and our citizens have many needs. When creating a new program or service for our citizens, it is essential that the program must be fair and available to all citizens in similar circumstances. This proposed program has no limits on eligibility, meaning that every citizen within the borders of the Cherokee Nation would be eligible for \$1000 worth of free driveway material. If every citizen took advantage of the program, it could theoretically be a \$100 million program, but it is legislated to be funded from existing self-help budgets for housing which are already under strain.

Our roads department staff said in the committee debate on this bill that they have already received several phone calls from citizens asking for a free driveway, even before the proposal was formally presented. They say they will be flooded with requests for free driveways if this program is approved and the council has already committed the Cherokee Nation’s resources elsewhere for services to our people.

While a well-paved driveway is a good thing for each of our citizens to have, it is not within the government’s capacity or duty to provide a driveway for each of our citizens. This legislation unfairly creates that expectation without the means of delivering on it, and for that reason, I must veto it.

### **LEGISLATIVE ACTS NOT VETOED BUT OBJECTED TO**

1. Legislative Act No. 09-10, An Act Amending Legislative Act #21-09 Authorizing the Comprehensive Budget for Fiscal Year 2010 – Mod. 4; and Declaring an Emergency.

LA-9-10 is returned, unsigned, with objections. This budget modification includes many items that I have personally championed, including car tag money to be distributed to public schools and funding for the dental clinic in Salina, among many other worthy programs. However, many of the items funded specifically in the Donations and Contributions section of the budget are redundant funding of internal programs or duplicative funding for entities, like the public schools, which we already fund.

If internal Cherokee Nation programs need additional funding, it would be appropriate for that program to submit a budget request through my office rather than apply for contribution and donation money that could be used for community agencies.

Junior Miss Cherokee Contest (program did not request funding)	\$250
Sequoyah High School Art (program did not request funding)	\$300

Cherokee Tribal Youth Council (program did not request funding)	\$1,500
Elm Tree Baptist Church (eligible for individual assistance funding)	\$600
Reaching Our Hulbert Community (receiving COTTA Funding)	\$1,000
Shiloh Christian School (no determination of Cherokee students)	\$1,000

Duplicate Funding

The Cherokee Nation has several programs that distribute tribal money to public schools, including our car tag revenues and the JOM program, among others. In this case, some schools would be given duplicative funding, while the vast majority of schools in our jurisdiction would not be. The sole justification for this duplicative funding is that the council members from District 2 wish to set money aside for those schools, without making it available to all schools for the same activity.

Zion School- Basketball Rings (CN provided \$161,537 to Zion in FY2009)	\$500
Adair County Schools – Duplicate Birth Certificates	\$4,500
Adair County Schools- School Supplies (CN provided \$958,472 to Adair Co. schools in FY 2009)	\$7,500

These requests were lumped into this budget modification to circumvent the Council's own Legislative Act 25-09 governing donations and contributions from this fund.

I support many of the activities outlined in this budget modification. The groups which we already support, such as the schools and internal programs, should look to use the existing resources Cherokee Nation already gives them rather than relying on Council requests. I reviewed the transcript of the Council meeting and found that unfortunately some Council members try to score political points by grandstanding and earmarking funds for pet projects. This sounds a lot more like the mess we have seen coming from Washington D.C. than the dignity and statesmanship the Cherokee people demand of their elected officials. We all support the proper and fair use of funds to support Cherokee communities and I look forward to working with the Council, as outlined in LA 25-09, to expend these funds in non-duplicative ways in the future.

Sincerely,



Chadwick Smith  
Principal Chief

cc: Legal & Legislative Coordinator, Council of the Cherokee Nation  
Councilors (17), Council of the Cherokee Nation  
Melanie Knight, Secretary of State