

Committee: Health

Date: 8-12-08 Committee Date: 8-12-08

Author: Todd Hembree

Sponsor: Councilors Jordan, Hoskin, Fishingshawk,

Crittenden, Frailey

**VETO**

PRINCIPAL CHIEF

9-22-08

DATE

An Act

DATE

PRINCIPAL CHIEF

**VETO**

Legislative Act 17-08

Override Failed 94 8N

**AN ACT ESTABLISHING ADDITIONAL CHEROKEE NATION HEALTH CLINICS,  
IDENTIFYING FUNDING AND ESTABLISHING TIME FRAMES FOR  
CONSTRUCTION**

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

**Section 1. Title and Codification**

This act shall be known as the "Comprehensive Health Facility Act of 2008" and codified under (Title) \_\_\_\_\_ of the Cherokee Nation Code Annotated (CNCA).

**Section 2. Purpose**

The purpose of this Act is to establish and provide for, the creation and funding for four (4) additional health clinics within the Cherokee Nation and establish timelines for the construction thereof.

**Section 3. Legislative History**

Article VI Section 7 states: The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be: "Be It Enacted By The Cherokee Nation". The style of all resolutions shall be "Be It Resolved By the Cherokee Nation".

**Section 4. Definitions**

- A. Indian Health Service Program: Health programs delivered by the Indian Health Service of the United States.
- B. W.W. Hastings Hospital: Full service hospital, located at Tahlequah, Oklahoma.
- C. Intra-Governmental Personnel Agreements: Agreement with employees of W.W. Hastings that allow continued employment with the United States Government.

**Section 5. Substantive Provisions**

- A. The Cherokee Nation shall establish the following health clinics:
  - 1) New medical clinic located at Tahlequah, Oklahoma.

- 2) New medical clinic at Jay, Oklahoma.
- 3) Dental clinic at Salina, Oklahoma.
- 4) New medical clinic at Vinita, Oklahoma.

**VETO**

- B. That within six (6) months from effective date of this Act, the Cherokee Nation shall identify the source of the appropriate funding level for the construction of the medical and dental clinics listed in Subsection A of this Act. ~~The source of funds may include, but not be limited to, tribal discretionary funds, issuance of bonds, loans or other general obligations.~~
- C. The Cherokee Nation shall, in conformance to a master capital improvement plan adopted by the Cherokee Nation Government, construct the medical and dental clinics listed in Subsection A of this Act
- D. That the Cherokee Nation shall not object to the continuance of the Intra-Governmental Personnel Agreements established between current employees of W.W. Hastings Hospital, having the result that employees who currently choose to remain Federal Employees will continue to have that option. Notwithstanding the foregoing, the Cherokee Nation reserves the right to not renew any Intra-Governmental Personnel Agreements due to disciplinary or work performance reasons.

**Section 6. 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 7. Effective Date**

This act shall become effective upon date of execution in accordance with the Cherokee Nation Constitution.

Enacted by the Council of the Cherokee Nation on the 15th day of September, 2008.

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Meredith A. Frailey, Speaker  
Council of the Cherokee Nation

**ATTEST:**

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Don Garvin, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

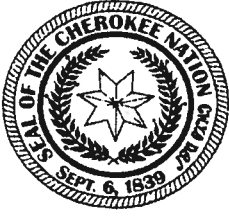
**VETO**  
\_\_\_\_\_  
Chadwick Smith, Principal Chief  
Cherokee Nation  
\_\_\_\_\_  
**PRINCIPAL CHIEF**

**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>Yea</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>Yea</u>	Jack D. Baker	<u>Yea</u>
Curtis G. Snell	<u>Yea</u>		



# CHEROKEE NATION®

**Principal Chief**  
Chad "Cornassel" Smith  
Principal Chief

**Deputy Principal Chief**  
Joe Grayson, Jr.  
Deputy Principal Chief

September 22, 2008

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

09-22-08 10:43:35

Dear Speaker Frailey and Council Members:

I am returning the enactments passed by the Tribal Council at the regular meeting held on September 15, 2008 as required by our Constitution. The Cherokee Constitution (Article V, Section 11) 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 as follows, with the exception of one (1) vetoed legislative act.

## APPROVED RESOLUTIONS

1. Resolution No. 76-08, A Resolution Authorizing the Department of Children, Youth and Family Services to Submit an Application for Transitional Living Services for Youth to the U.S. Family and Youth Services Bureau, Runaway and Homeless Youth Program.
2. Resolution No. 77-08, A Resolution Proclaiming the Month of September as National Native American Wellbriety Month Within the Cherokee Nation.
3. Resolution No. 78-08, A Resolution Authorizing the Placement of Land in Trust – Three Rivers Health Center, Muskogee.
4. Resolution No. 79-08, A Resolution Authorizing a Grant of Easement for Right-of-Way Over, Across, In and Upon USA In Trust Land for the Cherokee Nation Located in Adair County Oklahoma Being Part of CMS Tribal Unit 69.
5. Resolution No. 80-08, A Resolution Proposing an Amendment to Article VI Section 13 of the Cherokee Nation Constitution, Amending the Procedure for Replacement of Council Members Due to Removal, Death, Resignation or Disability.
6. Resolution No. 81-08, A Resolution Confirming the Nomination of Ima Jean McCollum as a Board Member of the Cherokee Nation Comprehensive Care Agency Board of Directors.

## APPROVED LEGISLATIVE ACTS

1. Legislative Act No. 18-08, An Act Amending Legislative Act #37-07 Authorizing the Comprehensive Budget for Fiscal Year 2008 – Mod. 11; and Declaring an Emergency.

2. Legislative Act No. 19-08, An Act Authorizing and Approving the Fiscal Year 2009 Budget; and Declaring an Emergency.

## VETOED LEGISLATION

### 1. **Legislative Act No. 17-08, "An Act Establishing Additional Cherokee Nation Health Clinics, Identifying Funding and Establishing Time Frames for Construction"**.

I am vetoing Legislative Act No. 17-08 for several reasons. The Legislative Act has two issues:

- 1) construction of four specific health facilities
- 2) Assurance to W.W. Hastings Hospital federal employees that the Cherokee Nation will continue its policy to renew Inter-governmental personnel agreements (IPA).

Since I proposed the construction of each of the facilities, and since my staff and I have already completed the transition process of employees at W.W. Hastings Hospital with the assurance of renewing IPAs, it's clear that the real intention of this legislation by the council is to try to take political credit for work that has already been done by hard working Cherokee Nation employees and former tribal councils.

The federal employees at Hastings have already had written assurances, in the form of job offers, that their employment is to be continued through the transition to tribal operations. Since the Executive Branch has the authority to execute employment agreements, I am issuing an Executive Order that will memorialize our long-standing policy and practice to assure the employees of W.W. Hastings Hospital that they will continue to have the option of maintaining their employment status as federal employees on an Inter-governmental personnel agreement.

As to the provisions of the Legislative Act regarding building four specific health facilities, the first reason for veto is the Legislative Act is political showmanship by some council members. I fully support the expansion of health care services; indeed the only health facility on the list not already in process of being built is a clinic at Hastings. In 2001, the Cherokee Nation adopted a master health care plan. Hundreds of health care providers, employees, citizens, and council members participated. It is because of that sound planning and deliberation, we were able to build new health facilities in Nowata and Muskogee and expand clinics at Salina and Sallisaw. Part of that plan being implemented now is expansion of dental services at Salina, and new clinics at Vinita and Jay. I find it telling that several of the authors of the bill, including Tina Glory-Jordan and Bill John Baker, voted against assumption of W.W. Hastings Hospital that included a master plan to separate in-patient and out-patient services, to separate emergency room and urgent care, to move storage and administrative functions out of the hospital, the construction of an outpatient surgery center, and building offices for specialty practices. But now they want to mandate a clinic. Without any planning, no idea of size or how much money it will cost, no thought to design. Do they not want the entire medical center proposed in the Hastings assumption? Do they not want the most and best medical services at Hastings? This proposed law was brought up at the last minute, and was not supported by even one briefing, one conference with staff and not even one piece of paper or proposal. A clinic at Hastings was simply, capricious and arbitrary without one considered discussion. It was just a political sound bite.

This brings me to the most critical reason I am vetoing the law: it was not based on reason or sound judgment. I have visited with the medical staff at W.W. Hastings Hospital and it was designed as a hospital anticipating 80% of the patients would be inpatient. Now with the advance of medical technology only 20% of the patients are inpatient and the entire surgery wing should be redesigned. Should we not even consider building a new hospital and remodeling the current facility into an outpatient clinic? By closing the door to all but a very few options, the sponsors of this bill only limit the kind of health care the Cherokee Nation can provide in the future. The law does not consider what is the best for the Indian patient as recommended by experienced medical staff who work there every day. This law was not proposed to promote a strategy to make a better health care system for the Cherokee Nation --- that system has been in place and has built those four new facilities in the past year. Instead, this law was simply political grandstanding so that some council members could proclaim they did something for their district. . A notable exception was David Thornton, because when Tina Glory Jordan was going around the room in committee asking council members if they wanted to add pet projects for their districts he declined, acknowledging there was a long term health care plan and it was good for the Cherokee Nation.

In conclusion, let me re-emphasize that this legislation serves only to limit the healthcare options of the Cherokee Nation in the interest of self-serving politics. This act has no place in the law books of the Cherokee Nation.

I join several members of the tribal council in opposing this legislation, which only narrows the scope of health care facility options for the Cherokee Nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Chadwick Smith", written over a large, faint, circular watermark or stamp.

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



# CHEROKEE NATION

Chad "Comtassel" Smith  
Principal Chief

Joe Grayson, Jr.  
Deputy Principal Chief

**COPY**

## Executive Order No. 10-08-CS

1. **AUTHORITY:** The Constitution and laws of the Cherokee Nation.
2. **POLICY:** The executive power to conduct the business of the Nation is authorized by law in accordance with the terms of the Constitution. The Principal Chief has the fundamental responsibility to cause the laws of the Nation to be faithfully executed and to conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation. (Cherokee Constitution, Article VII Section 9).
3. **PURPOSE:** The purpose of this order is to ensure the continuance of the Intra-Governmental Personnel Agreement established between current employees of W. W. Hastings Hospital, in regard to the Cherokee Nation's assumption of the W. W. Hastings Hospital from the United States Department of Health and Human Services, Indian Health Service on October 1, 2008.
4. **ORDER:** It is hereby ordered that the Cherokee Nation shall not object to the continuance of the Intra-Governmental Personnel Agreements established between current employees of W. W. Hastings Hospital, having the result that employees who currently choose to remain Federal Employees will continue to have that option. Notwithstanding the foregoing, the Cherokee Nation reserves the right to not renew any Intra-Government Personnel Agreements due to disciplinary or work performance reasons.
5. **RECISSION OF PRIOR ORDERS AND DIRECTIVES:**  
  
Precedence is to the Constitution and laws of the Cherokee Nation; nothing contained herein is intended to be in conflict. This order supercedes and rescinds any prior order or administrative directive to the contrary.
6. **EFFECTIVE DATE:** This order is effective immediately.

**IT IS SO ORDERED ON SEPTEMBER 22, 2008.**

Chad Smith  
Principal Chief