

Amended See
LA# 28-04

An Act

Legislative Act 5-02

AN ACT AMENDING THE FISCAL YEAR 2002 COMPREHENSIVE BUDGET AND AUTHORIZING AND APPROVING THE FISCAL POLICY AND RESPONSIBILITY REQUIREMENTS FOR THE CHEROKEE NATION

BE IT ENACTED BY THE COUNCIL OF THE CHEROKEE NATION:

SECTION 1. Title And Codification.

This legislative act shall be titled and codified as “**The Fiscal Policy and Responsibility Act of 2002.**”

SECTION 2. Purpose: To set forth sound fiscal public policy in compliance with the Constitution and laws of the Cherokee Nation and to amend the Comprehensive Budget Act for Fiscal Year 2002.

- A. To authorize a reduction of five hundred thousand (\$500,000) in the Fiscal Year 2002 General Fund Budget.
- B. To authorize an equity transfer in the amount of \$2,032,448 to counter-balance identified negative fund balances (debts) in the General Fund.
- C. To authorize the use of available unbudgeted Fund Balances in the General Fund and Ranch Operations to counter-balance identified negative fund balances (debts) in the General Fund of \$2,343,817.
- D. To authorize the establishment of a permanent Cash Reserve Fund to be maintained at 1.75% of total authorized appropriations in the annual comprehensive budget for each and every subsequent year hereafter, such amount to be adjusted annually with the passage of the initial budget adopted by the Cherokee Nation.
- E. To authorize funding of the Cash Reserve Fund for Fiscal Year 2002 in the amount of \$4,004,171 or 1.62% from funds identified in Section 5B.
- F. To assure the maintenance and viability of the Cash Reserve Fund, this Act requires automatic budget reductions or modifications, which may include adjustments, reprogrammings or revisions of the annual comprehensive budget to meet revenue shortfalls or under-funding in the Cash Reserve Fund provided,
 1. If revenue or expense estimates for the Fiscal Year change by ten percent (10%) or, more in any program or fund then,
 2. Immediate budget reductions are automatically required at the source of the shortfall, and
 3. Immediate budget reductions are automatically required in the General Fund to restore the Cash Reserve Fund to the legislated level specified in Section 2D.

SECTION 3. Legislative History.

- A. The Constitution and laws (Title 62 of the Cherokee Nation Code) provides the requirements for appropriations, review and authorization for the use of all funds.
- B. The budget estimates of revenues and expenditures for any Fiscal Year to document funding availability and provide justifications for expenditures are incorporated herein.
- C. All previous resolutions, statutes and relevant Court Decisions as may be applicable are acknowledged.

SECTION 4. Policy of Accountability and Legal Authorities.

- A. Any official who intentionally and willfully misuses, misapplies, diverts or embezzles the application or use of any public funds entrusted to the care of the Cherokee Nation from any source may be prosecuted according to applicable criminal statutes.
- B. The enactment of this Act or any part thereof, does not ratify, condone or legalize any prior expenditures which may be incurred contrary to Cherokee law. Any unauthorized expenditures, misappropriations, or other illegal acts involving the finances of the Cherokee Nation or any of its subsidiaries may be prosecuted under applicable law or other appropriate administrative or legal remedies.

SECTION 5. Funding Allocations, Authorization to Cover Negative Fund Balances, Authorization to Adjust General Fund Budgets and Appropriations.

The following sources identified below provides the source of funds to be used in accordance with the provisions of this Act:

A. Identified Sources and Uses of Funding to provide Equity Transfers:

- (1) An Accounting Transfer in the amount of \$2,343,817 of fund balances in the General Fund and Ranch Operations shall be transferred to counter-balance the following:

Forces Accounts	(\$ 360,764)
Tsa-La-Gi Apartments	(\$ 144,873)
Golf Course	(\$ 480,360)
Other Enterprises	<u>(\$1,357,820)</u>
 Sub-Total	 (\$2,343,817)
General Fund Balance	\$2,300,000
Ranch Operations Fund Balance	<u>\$ 43,817</u>
 Balance	 \$ -0-

- (2) The amount of \$2,032,448 shall be transferred to counter-balance the following:

Indirect Cost Shortfalls & Underrecovery	(\$1,639,053)
Balance of Force Accounts	(\$ 388,101)
Leases	<u>(\$ 5,294)</u>
 Sub-Total	 (\$ 2,032,448)
Interest (DOI) – Un budgeted	\$ 498,255
IHS Interest	\$ 708,525
Trust Funds – Un budgeted	<u>\$ 825,668</u>
 Balance	 \$ -0-

B. Establishment of the Cash Reserve in the General Fund

<u>Sources of Funds</u>	<u>Amount</u>
Contingency in the FY 2002 Budget (uncommitted)	\$ 755,916
Reduction in General Fund Budgets	\$ 500,000
Ramah Settlement	<u>\$ 2,748,255</u>
 FY 2002 Total of the Cash Reserve Fund	 \$ 4,004,171

SECTION 6. Adjustments, Authorizations, Appropriations and requiring every Comprehensive Budget to maintain a Cash Reserve Fund.

- A. A reduction of five hundred thousand dollars (\$500,000) in the Fiscal Year 2002 General Fund Budget is authorized.
- B. An accounting transfer pursuant to Section 2C and 5A (1) of \$2,343,817 is authorized.
- C. An appropriation pursuant to Section 2B and 5A (2) in the amount of \$2,032,448 amending the previous Comprehensive Budget Act of 2002.
- D. To establish the Cash Reserve Fund in the amount of \$4,004,171 (1.62%) pursuant to Section 5B, to amend and adjust the Comprehensive Budget of 2002, provided that the Ramah Settlement Funds will only be drawn after all other reserve funds have been depleted. It is the intent of the Council that the Ramah Settlement Funds utilized to establish the Cash Reserve Fund in Fiscal Year 2002 be replaced with other funds derived by obtaining Indirect Cost and Fringe Pool rates to recover prior year Indirect Costs and Fringe Pool Compensated Absences in the Fiscal Year 2003 Comprehensive Budget, in order to allow these funds to be expended for health clinic expansions beginning in Fiscal Year 2003.
- E. The permanent Cash Reserve Fund to be maintained at 1.75% of the total Comprehensive Annual Budget for each and every subsequent year hereafter pursuant to Section 2D is required.
- F. The equity transfers and Cash Reserve Fund amounts identified herein are subject to amendment pursuant to final audits.

SECTION 7. Reports to Council

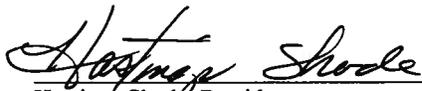
In addition to the monthly financial reports required in accordance with Title 62, the Controller shall provide a weekly special report on the status of the Cash Reserve Fund. Further, the Controller shall report quarterly regarding the status of annual revenue and expenditure estimates for the Fiscal Year. The Controller shall assure the integrity and proper use of the reserve fund as well as all other funds. The Controller shall report to the Principal Chief and to the Tribal Council any material discrepancy in the maintenance or use of the Cash Reserve Fund.

SECTION 8. Severability: The provisions of this act are severable and if any part or 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 9. Effective Date: Emergency

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

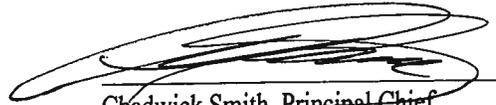
Enacted by the Council of the Cherokee Nation on the 28th day of JANUARY, 2002.


Hastings Shagle, President
Council of the Cherokee Nation

ATTEST:


Stephanie Wickliffe-Shepherd
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 29th day of JANUARY, 2002.



Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:


Jay Hannah, Secretary / Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

John A. Ketcher	<u>YEA</u>	Melvina Shotpouch	<u>YEA</u>
Don Crittenden	<u>NAY</u>	Stephanie Wickliffe Shepherd	<u>YEA</u>
Harold A "Jiggs" Phillips	<u>YEA</u>	John F. Keener	<u>NAY</u>
Jackie Bob Martin	<u>YEA</u>	Harold DeMoss	<u>NAY</u>
Mary Flute-Cooksey	<u>NAY</u>	Dorothy Jean McIntosh	-----
David W. Thornton, Sr.	<u>NAY</u>	Nick Lay	<u>NAY</u>
Don Garvin	<u>YEA</u>	Charles Chuck Hoskin	<u>NAY</u>
Barbara Starr-Scott	<u>YEA</u>		