

RESOLUTION NO. 21-11

COUNCIL OF THE CHEROKEE NATION

**A RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VI SECTION 13 OF
THE CHEROKEE NATION CONSTITUTION, PROVIDING FOR SPECIAL
ELECTIONS FOR VACANCIES IN THE TRIBAL COUNCIL IN CASE OF
REMOVAL, DEATH, RESIGNATION OR INABILITY TO DISCHARGE
THE POWERS AND DUTIES OF OFFICE;
SUPERCEDING RESOLUTION 80-08**

WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in behalf of the Cherokee people; and,

WHEREAS, a Constitution of the Cherokee Nation was approved by the Commissioner of Indian Affairs on September 5, 1975, seconded by Principal Chief Ross O. Swimmer on October 2, 1975, and ratified by the Cherokee people on June 26, 1976; and,

WHEREAS, that Constitution of the Cherokee Nation provided that a Constitutional Convention be held in twenty (20) years if the Cherokee people elected to convene such Convention, and the Cherokee people elected to convene said Convention by a vote of the people in 1995; and,

WHEREAS, a Constitution of the Cherokee Nation was approved by the duly called Convention of Delegates in 1999 as provided by law; and,

WHEREAS, that Constitution of the Cherokee Nation was ratified by the Cherokee people on July 26, 2003; and,

WHEREAS, the Cherokee Nation Tribal Council is approved by Article XV Section 2 of the Constitution to proposed constitutional amendments when the same are approved by a majority of all members of the Council and submitted to the people for their approval at a general election, or at a special election called for that purpose by a two-thirds vote of the Council; and,

WHEREAS, Article VI Section 13 of the Cherokee Nation Constitution requires that vacancies of the Tribal Council be filled in the following manner:

In the case of removal, death, resignation or disability of any Council member, such seat shall be filled by the candidate having the next highest number of votes in that district, who is available and willing to serve and whose eligibility is confirmed by the Election Commission. In the event no such candidate exists, the Council shall fill the vacated seat in the following manner: If a majority of the four-year term remains to be served, the Council shall authorizing a special election in the district of the vacated seat to be conducted within ninety days, if a minority of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.

And,

WHEREAS, it would be of great benefit to the Cherokee people if they were to decide, by majority popular vote who would fill vacancies of the Tribal Council if more than one year remains of the vacated position; and,

WHEREAS, It is deemed proper that the Cherokee people determine by election any vacancies of the Cherokee Nation Tribal Council if more than one year remains of the vacated position.

NOW, THEREFORE, BE IT RESOLVED by the Cherokee Nation through its Tribal Council, that a proposed amendment to substitute language in Article VI Section 13 of the Cherokee Nation Constitution and that the same be submitted to the duly qualified registered voters of the Cherokee Nation at the general election to be held on June 25, 2011 setting forth the following question:

REFERENDUM ON CONSTITUTIONAL AMENDMENT

There is hereby an amendment to the Constitution of the Cherokee Nation, pursuant to Article XV Section 2. Said Amendment would modify Article VI Section 13 and the section would read as follows:

In the case of removal, death, resignation or the inability to discharge the powers and duties of office of any Council member, such seat shall be filled in the following manner: If more than one year of the four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety days, unless a general election is to be held within one hundred and twenty (120) days from the vacancy at which time this special election may be held as part of the general election; if one year or less of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.

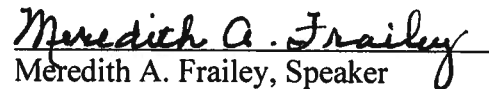
NOW, THEREFORE, BE IT FURTHER RESOLVED that this resolution supersedes and replaces Resolution 80-08.

_____ Yes In favor of the Amendment


_____ No Against the Amendment and keep the language the same

CERTIFICATION

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 14th day of March, 2011, having 17 members present, constituting a quorum, by the vote of 17 yea; 0 nay; 0 abstaining.


Meredith A. Frailey, Speaker
Council of the Cherokee Nation

ATTEST:



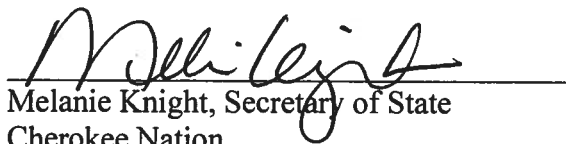
Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 21st day of March, 2011.



Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:



Melanie Knight, Secretary of State
Cherokee Nation