

# An Act

## LEGISLATIVE ACT 43 -2003

### AN ACT AUTHORIZING EMERGENCY ASSISTANCE PROGRAM AND COMMUNITY SUPPORT PROJECTS

**BE IT ENACTED** by the Cherokee Nation:

Section 1. Title and Codification

This Act shall be known as the "Emergency Assistance and Community Support Projects Authorization Act of 2003" and codified as Title Section of the Cherokee Code Annotated.

Section 2. Purpose and Findings

The purpose of this Act is to establish a program for the distribution of funds to Cherokee citizens in the time of imminent need or emergency and to authorize the Council of the Cherokee Nation to consider and authorize funding of community projects as provided in Section 5 of this Act.

The Tribal Council finds that legislation is necessary to establish a program for Emergency Assistance, formerly called the General Assistance Program. The Judicial Appeals Tribunal of the Cherokee Nation held in JAT-03-15, dated November 14, 2003, that the current General Assistance Program was unconstitutional in its present form because there is no legislation establishing a program. Further, the JAT advises that in crafting legislation, the subject areas of health, education and welfare, commerce and communications, which constitute cabinet positions, are not infringed upon and legislation be narrowly crafted to avoid duplicity. Finally, the JAT advised that attention be given to the Constitutional requirement for Tribal Council approval of "any donations by gift, or otherwise, to any individual, firm, company, corporation or association." *Article X, § 7 Cherokee Constitution.*

Section 3. Legislative History

- A. "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."

*Article V § 7, Cherokee Nation Constitution.*

- B. "The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation."

*Article VI § 10 Cherokee Nation Constitution.*

- C. "The Cherokee Nation shall not make any donations by gift, or otherwise, to any individual, firm, company, corporation, or association without approval of the Council."

*Article X § 7, Cherokee Nation Constitution.*

Section 4. Definitions

For the purposes of this Title:

1. "Tribal Council member" means any duly elected or appointed member of the Cherokee Nation Tribal Council;
2. "Cherokee citizen" means any registered member of the Cherokee Nation;

3. "Medical Emergency" means any medical condition that places an extreme emotional or financial burden on the Cherokee citizen;
4. "Emergency Housing Repair" means necessary repair to a Cherokee citizen's home that would be required to keep the home safely habitable;
5. "Basic Utilities" means water, sewer, heating or cooling sources;
6. "Major House Damage" means substantial damage to any part of a house that renders the house unsafe or uninhabitable;
7. "Community Support Projects" means projects for civic organizations, clubs, or groups that are composed of Cherokee Nation Citizens of 50% or greater. Said organization must use any funds received pursuant to this enactment to benefit the Cherokee people or Cherokee communities or for the restoration or improvement of community cemetery sites that have a significant number of Native American gravesites.

Section 5. Operative Provisions

- A. Authorized Purposes. Disbursement of funds under this Act shall only be made for the following purposes:
  1. Emergency Assistance to Cherokee citizens for the following:
    - a) Medical emergencies that are suffered such as transportation, medication or supplies;
    - b) Housing assistance to avoid eviction or shutting off basic utilities;
    - c) Emergency housing repairs or to obtain adequate emergency housing after major house damage;
    - d) Assistance for emergency meals or clothing when there is a finding of immediate jeopardy to health, safety or employment; or,
    - e) Other assistance for basic needs of an individual or family that if not addressed immediately, within 24 hours or less, may result in hunger, loss of shelter, medical peril, job loss or family breakdown.
  2. Community support projects are authorized, provided that the Council of the Cherokee Nation authorizes such projects by enactment of the Council in any regular or Special called Council meeting.
  3. Self-Help Emergency Housing Repairs to pay Cherokee citizens for materials only. These materials must be used for dwelling repairs needed to alleviate or eliminate safety factors for occupants and repairs that prevent the immediate development of these conditions. Recipients will be responsible for securing labor to complete projects.
  4. Housing Accessibility to make renovations for handicap or elder access for Cherokee citizens. These renovations may include accessibility ramps, structural modifications, and structural assistive devices for the elderly (citizens who are 62 years of age or older) and people with physical disabilities to allow them better mobility and use of their houses and/or to remedy health and safety concerns.
  5. Emergency Education Assistance to Cherokee citizens as defined by published guidelines for program administration.
  6. Delegations to pay for promotional items and nominal honorariums for visitors and awards to deserving individuals or groups.
- B. Duplication of Services Prohibited. Assistance provided under this Act shall not duplicate or replace assistance available under any other program. The intent of this legislation is to meet special needs not covered by other programs.
- C. Expedited Payment. The Controller of the Cherokee Nation, whenever practicable, shall issue funds authorized in this Act directly to the vendor or civic organization providing the needed service. After eligibility is determined, the Controller is responsible for developing appropriate procedures, as needed, for distributing funds within (48) hours if not immediately, where emergencies and imminent needs exist, to insure timely receipt of such assistance.
- D. Policies and Procedures for Emergency Assistance. The Human Services Group Leader of the Cherokee Nation shall designate an advocate/ coordinator to ensure effective implementation and the Group Leader is hereby authorized and directed to develop such policies and procedures necessary to effectively implement the

program, including but not limited to the specific types of services, determining eligibility, verification of circumstances, assuring that services are not duplicated, and conducting appropriate follow-up services and appeal rights in the event that assistance is denied. The policies and procedures will be published for review by the Tribal Council as well as the general public. Human Services shall coordinate with any other departments or groups of the Nation, such as Health or Community Services, as necessary to effectively carry out this Act.

Policies and Procedures for Community Support Project awards. Individual Council members may nominate worthy projects not to exceed the District's allocation to be funded from the Community Support Project fund, provided the Council of the Cherokee Nation approves by enactment.

- E. Policies and procedures for the Self-Help Emergency Housing Repairs, Housing Accessibility and Emergency Education Assistance programs. Policies and procedures shall be developed to implement these programs, including but not limited to the specific types of services, determining eligibility, verification of circumstances, assuring that services are not duplicated, and conducting appropriate follow-up services and appeal rights in the event that assistance is denied. The policies and procedures will be published for review by the Tribal Council as well as the general public. Executive officials shall conduct appropriate coordination with any other departments or groups of the Nation as necessary to effectively carry out this Act.
- F. Requests or Referrals. The Council of the Cherokee Nation may, individually, or as a body, make requests or referrals to the designee Human Services staff for identified needs. Any requests or referrals denied under the program will be reported to the Council member making the initial referral.
- G. Appropriations. The Council of the Cherokee Nation may appropriate such sums as may be necessary to carry out the Emergency Assistance program requirements of this Act.
- H. (1) For Fiscal Year 2004, \$210,000 has been appropriated for General Assistance and this sum shall be made available for implementation of this enactment. The Emergency Assistance Program is hereby funded at a level of \$165,000 and the Community Assistance Support Projects is funded at a level of \$45,000, respectively. For the Community Support Projects authorized herein, the sum of \$45,000 (\$3,000 per Council Member) is allocated by District representation. The Community Support Project fund may be used for financial assistance to support local communities as provided under Section 4 (8).
- (2) Additional appropriations are authorized as needed and justified for:
- a) Self-Help Emergency Housing Repairs,
  - b) Housing Accessibility,
  - c) Emergency Education Assistance, allocated, and
  - d) Delegations to pay for promotional items and nominal honorariums for visitors and awards to deserving individuals or groups.
- The Emergency Education Assistance funding is authorized to be appropriated and shall be allocated proportionately to the Districts based on Council representation. Future appropriations for programs or expenditures under this section shall be justified and requested in the established budget processes of the Nation.
- (3) Any financial assistance provided under this Act is limited to such appropriations set forth in the annual comprehensive budget. Funding for this enactment for subsequent Fiscal Years shall be contingent on the availability of tribal funds and priorities of spending as provided in future comprehensive annual budgets of the Cherokee Nation.
- I. Reports. All expenditures for the Emergency Assistance Program shall be reported in the monthly Executive and Finance Committee of the Tribal Council. Further, a report regarding referrals not funded under the program will be made monthly in accordance with D. above.

Section 6. Provisions as cumulative

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

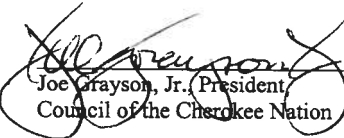
Section 7. Severability

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. Emergency declared

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

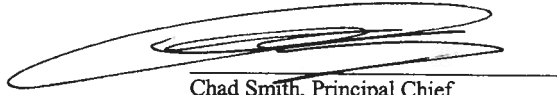
Enacted by the Council of the Cherokee Nation on the 30TH day of DECEMBER, 2003.

  
Joe Grayson, Jr., President  
Council of the Cherokee Nation

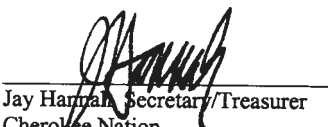
ATTEST:

  
Bill John Baker, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 7th day of JANUARY, 2004.

  
Chad Smith, Principal Chief  
Cherokee Nation

ATTEST:

  
Jay Hannah, Secretary/Treasurer  
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Bill John Baker	<u>NAY</u>	Melvina Shotpouch	<u>NAY</u>
Audra Smoke-Connor	<u>YEA</u>	Meredith Frailey	<u>YEA</u>
S. Joe Crittenden	<u>NAY</u>	John F. Keener	<u>NAY</u>
Jackie Bob Martin	<u>YEA</u>	Cara Cowan	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	Buel Anglen	<u>YEA</u>
David W. Thornton, Sr.	<u>NAY</u>	William G. "Bill" Johnson	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>NAY</u>
Linda Hughes-O'Leary	<u>NAY</u>		