

VETO

2-18-03

DATE

PRINCIPAL CHIEF

An Act

Legislative Act 4-03

A LEGISLATIVE ACT AMENDING LA# 34-02, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Purpose. The purpose of this Act is to amend LA# 34-02, section 105.

Section 105 of LA# 34-02 is hereby amended to read in full as follows:

Section 105. Revenue Sharing.

A. A portion of the revenue generated from fees, taxes penalties and fines generated in connection with the issuance of motor vehicle licenses hereunder shall be allocated to Sequoyah High School, the Cherokee Nation Head Start program and the public schools within the Reservation Boundaries of the Cherokee Nation and as described in subsection B below, to the Marshal Service and to certain counties and municipalities in accordance with the provisions of Section 105B of this Act.

B. Allocation of Revenues.

The fees, taxes, penalties and fines collected by the Commission pursuant to the provisions of this Act shall be allocated and expended for the purposes set forth in the following paragraphs:

- (1) The fees, taxes, penalties and fines collected by the Commission shall be applied to the costs and expenses of the Commission in carrying out the provisions of this Act, as authorized and appropriated in the Nation's comprehensive annual budget. Provided, however, that said costs and expenses shall be paid out of revenues remaining after the prior allocations of funds pursuant to paragraphs (2) and (3) of this subsection.
- (2) ~~An amount equal to~~ 38% of all fees and taxes collected by the Commission shall be allocated and made available to Oklahoma public schools located within the Reservation Boundaries of the Cherokee Nation that have students who are tribal citizens; to Sequoyah High School; and to the Cherokee Nation Head Start program in accordance with the provisions of subsection C(2) of this section. Such students shall be included in a certified Cherokee student count by an eligible school under this subsection in order to participate in the allocation of revenues. Any public school located outside the Reservation Boundaries shall be eligible to receive a share of the allocation pursuant to subsection C(2) of this section provided all three of the following conditions are met with respect to such school: (a) any portion of the district of which said school is a part is within the Reservation Boundaries; *and* (b) any portion of the premises of said school is located within two miles of the Reservation Boundary; *and* (c) the school has one or more enrolled Cherokee students as referenced herein.
- (3) ~~An amount equal to~~ 20% of all fees and taxes collected by the Commission shall be made available for contribution to the cost of constructing or maintaining federally- and/or state-funded highways within the Nation's Reservation Boundaries, to be allocated among such highway projects in accordance with subsection C(3) of this section.
- (4) ~~An amount not to exceed~~ 20% but not less than 5% of the amount of such fees and taxes remaining after the amounts appropriated pursuant to paragraphs (1), (2) and (3) of this subsection shall be available to and allocated among counties and municipalities within the Nation's Reservation Boundaries and/or the Cherokee Nation Marshal Service in accordance with subsection C(4) of this section.

- (5) Any funds not appropriated or expended pursuant to paragraphs (1), (2), (3) or (4) of this subsection shall remain available in the General Fund for appropriation and expenditure pursuant to Legislative Act. All amounts apportioned under Subsection C of this section shall be appropriated as part of the Nation's comprehensive annual budget.

Distribution and Expenditure of Revenues.

All revenues set aside pursuant to Subsection B of this section shall be distributed and expended as follows:

- (1) Within 10 days after the end of each month during which this Act is in effect, the Commission shall prepare and submit to the Controller a report setting forth separately the amounts collected by the Commission as fees, taxes, penalties and fines. The Commission shall make available any documents or records requested by the Controller to verify the accuracy of the report. In addition to the foregoing report, the Commission shall prepare and submit to the Controller any other reports as may be requested by the Controller.

The Principal Chief shall cause a copy of any report prepared pursuant to this paragraph to be delivered to the Tribal Council upon receipt of same by the Controller.

- (2) Revenues set aside under Subsection B(2) of this section shall be distributed pro rata each year among eligible public schools, Sequoyah High School and Cherokee Nation Head Start program based on each school's qualified student enrollment determined as follows: for the purposes of this distribution formula, (a) the qualified student enrollment for each public school shall be equal to the total number of its enrolled Cherokee students, as determined annually from a certified Cherokee student count as described in section 105(B)(2), submitted and documented by the Superintendent of each eligible public school district as of October 1 of each year, and subject to review by the Cherokee Nation Education Department; (b) the qualified student enrollment for Sequoyah High School shall be equal to the total number of its enrolled Indian students in accordance with the most recent Bureau of Indian Affairs student count; and (c) the qualified student enrollment for Cherokee Nation Head Start shall be equal to the total amount of its enrolled Indian students, who are at least four years old as of October 1 of each year, submitted and documented by the Director of the program.

The pro rata share referred to in this paragraph shall be the percentage that each such school's qualified student enrollment bears to the total qualified student enrollment of all such schools within the Reservation Boundaries and as described in section 105(B)(2); Sequoyah High School; and the Cherokee Nation Head Start program. Provided, however, for any year that the available per-pupil federal education funding for Indian students attending Sequoyah High School is less than 85% of the state per-pupil expenditures for students attending public schools in the State of Oklahoma, each Indian Student enrolled at Sequoyah High School shall be weighted as two Indian Students for the purposes of the distribution formula in this paragraph.

The Cherokee Nation Education Department is hereby authorized to develop and implement policies and procedures necessary for review and proper documentation of the student counts for purposes of this Act. Such policies and procedures shall, at a minimum contain procedures by which appropriate parties will be notified about the requirements herein; requirements for documentation and substantiation of student count submissions; and procedures for appeal of determinations affecting an entity's student count.

- (3) The funds set aside under Section 105B(3) shall be allocated each year to governmental agencies or political subdivisions for expenditure on federally- and/or state-funded highway construction or maintenance projects within the Nation's Reservation Boundaries. The projects and their respective allocations hereunder shall be identified in the comprehensive annual budget approved by the

Tribal Council. These funds are to be distributed equally between Councilors for appropriation.

(4) The funds set aside under Section 105B(4) shall be allocated among the counties and municipalities within the Nation's Reservation Boundaries and/or to the Marshal Service in accordance with and as appropriated in the comprehensive annual budget of the Cherokee Nation. These funds are to be distributed equally between Councilors for appropriation.

(5) No funds allocated and distributed under this subsection shall be made available to the schools, highway projects, counties, municipalities or Marshal Service until appropriated as part of the comprehensive annual budget for the applicable fiscal year. Any revenue distributions to Sequoyah High School or the Cherokee Nation Head Start program pursuant to this Act shall first be used to meet any matching requirements for federal funds, if applicable. The Controller, with the assistance of any officer designated by the Principal Chief, shall be responsible for calculating and making all expenditures authorized by this subsection.

Section 2. 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 3. 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 and be in full force after its passage and approval.

Enacted by the Council of the Cherokee Nation on the 10th day of FEBRUARY, 2003.

Hastings Shade, President
Council of the Cherokee Nation

ATTEST:

Stephanie Wickliffe-Shepherd, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this _____ day of _____, 2003.

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>YEA</u>	Stephanie Wickliffe-Shepherd	<u>YEA</u>
Ralph Keen, Jr.	<u>YEA</u>	John F. Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Harold DeMoss	<u>YEA</u>
Mary Flute-Cooksey	<u>YEA</u>	Buel Anglen	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	Nick Lay	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Barbara Starr-Scott	<u>YEA</u>		