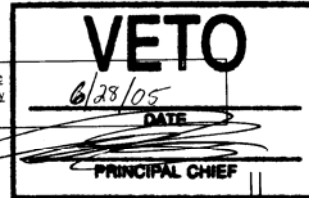


Committee: Rules  
Date: 4-05-05 Committee Date: 4-12-05

Author: Todd Hembree  
Sponsor: Linda O'Leary



## An Act

### LEGISLATIVE ACT 22-05

AN ACT AMENDING LEGISLATIVE ACT 16-96, ADDING SUBSECTION 19, CORPORATION CODE REQUIRING COUCNIL APPROVAL OF CAMPAIGN CONTRIBUTIONS GIVEN BY TRIBAL CORPORATIONS; AND DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

#### SECTION 1. TITLE AND CODIFICATION

This Act shall be titled as "The Cherokee Nation Corporation Campaign Contribution Act of 2005" and shall be codified as Title 51, Section 19, of the Cherokee Code Annotated.

#### SECTION 2. PURPOSE

The purpose of this Act is to provide for Tribal Council approval of any political or campaign contribution of a corporation owned by the Cherokee Nation, prior to the contribution being made.

#### SECTION 3. LEGISLATIVE HISTORY

Title 51 of the Cherokee Nation Code Annotated, Article V, Section 7 of the Cherokee Nation Constitution 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. Laws or enactments which are required by Federal Statutes to be approved shall be transmitted immediately upon enactment as provided by Section 11 of this Article to the President of the United States or his authorized representative.

The style of all bills or laws shall be: "Be It Enacted By The Cherokee Nation."  
The style of all resolutions shall be "Be It Resolved by the Cherokee Nation."

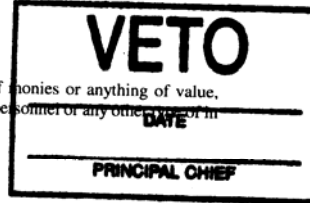
Article X, Section 7 of the Cherokee Nation Constitution states:

The credit of the Cherokee Nation shall not be given, pledged, or loaned to any individual, firm, company, corporation, or association without the approval of the Council. The Cherokee Nation shall not make any donations by gift, or otherwise, to any individual, firm, company, corporation, or association with out the approval of the Council.

#### SECTION 4. DEFINITIONS

For the purposes of this Title:

- A. "Cherokee Nation" means the Cherokee Nation, located at Tahlequah, Oklahoma.
- B. "Tribal Council" means the duly elected and confirmed person(s) of the legislative branch of the Cherokee Nation.
- C. "Corporation" means a corporation in which the Cherokee owns a majority stock or has controlling interest.



D. "Campaign Contribution" means a gift or donation of monies or anything of value, including but not limited to, loan of equipment, use of personnel or any other form of fund contribution.

**SECTION 5. SUBSTANTIVE PROVISIONS**

Article 3 of Legislative Act 96-16, is hereby amended to read as follows:  
Add new Subsection 19

19. Corporations in which the Cherokee Nation is the sole or majority shareholder shall have the authority to make campaign contributions to political candidates, political parties, state questions or other issue oriented campaigns as allowed by state and federal law. Provided that said corporation receives prior approval by the Tribal Council resolution prior to said contribution being made. Corporations in which the Cherokee Nation is the sole or majority shareholder are prohibited from making any type of campaign contribution in Cherokee Nation elections. Corporate officials or directors violating the provisions of this section may be guilty of a crime and subject to removal.

**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 reason whereof this Act shall take effect and be in full force upon its approval and signatures.

Enacted by the Council of Cherokee Nation on the 20<sup>th</sup> day of June, 2005.

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

ATTEST:

\_\_\_\_\_  
Audra Smoke-Conner, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Chadwick Smith, Principal Chief  
Cherokee Nation

ATTEST:

\_\_\_\_\_  
Callie Catcher, Secretary/Treasurer  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

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



## CHEROKEE NATION

P.O. Box 948  
Tahlequah, OK 74465-0948  
918-456-0671

Chad "Comtassel" Smith  
ᏆᏆᏆᏆ  
Principal Chief

Joe Grayson, Jr.  
ᏆᏆᏆᏆ  
Deputy Principal Chief

June 28, 2005

Joe Grayson, Jr., Deputy Principal Chief and  
Council Members of the Cherokee Nation  
Tahlequah, Ok.

06-28-05A08:50 RCVD

Dear Mr. President and Council Members:

I am returning the enactments passed by the Tribal Council at the regular meeting held on June 20, 2005 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 but two of them as follows.

### APPROVED RESOLUTIONS

1. Resolution No. 51-05, A Resolution Authorizing the Food Distribution Program to Submit an Application for Funding to the United States Department of Agriculture.
2. Resolution No. 52-05, A Resolution Authorizing the Submission of a Grant Application to the USDA for a Housing Preservation Grant.
3. Resolution No. 53-05, A Resolution Authorizing Cherokee Nation Environmental Programs Group to Submit a Formal Grant Application to the U.S. Environmental Protection Agency for a 2006 Clean Air Section 103 Grant Titled Clean Air-Ambient Air Monitoring.
4. Resolution No. 54-05, A Resolution Authorizing the Submission of a Grant Application Through the U.S. Environmental Protection Agency for a Cherokee Lead Certification/Accreditation Program.
5. Resolution No. 55-05, A Resolution Authorizing the Cherokee Nation Environmental Program to Submit a Proposal to the U.S. Environmental Protection Agency, Region 6/Air Toxics Division to Establish a Cherokee Radon Pilot Program.
6. Resolution No. 56-05, A Resolution Confirming the Nomination of Mark Fredrick Green as a Member of the Cherokee Nation Environmental Protection Commission.
7. Resolution No. 57-05, A Resolution Confirming the Nomination of Charles L. Plunkett as a Board Member of Cherokee Nation Industries.

8. Resolution No. 58-05, A Resolution Confirming the Renomination of Leticia Stevenson-Pablo as a Governing Board Member of the Cherokee Nation Comprehensive Care Agency.
9. Resolution No. 59-05, A Resolution Confirming the Nomination of Dennis Springwater as a Commissioner of the Cherokee Nation Gaming Commission.
10. Resolution No. 60-05, A Resolution Confirming the Nomination of Dr. Charles D. Hathaway as the Fifth Member of the Cherokee Nation Election Board Commission.
11. Resolution No. 61-05, A Resolution Authorizing the Following Bridge Projects to be Included in the Indian Reservation Roads (IRR) System and Submitted as Priority Construction Projects for IRR Bridge Funding.
12. Resolution No. 62-05, A Resolution Authorizing the Submission of a Grant Application to the Indian Health Service for a Health Promotion/Disease Prevention Initiative.
13. Resolution No. 63-05, A Resolution Authorizing the Submission of a Grant Application, "Health Promotion and Diabetes Prevention: Adaptations of Practical Community Environmental Indicators Project".

#### **APPROVED ACTS**

1. Legislative Act No. 21-05, An Act Amending Legislative Act #37-04 Authorizing the Comprehensive Budget for Fiscal Year 2005 – Mod. 9; and Declaring an Emergency.
2. Legislative Act No. 23-05, An Act Amending LA#8-02, Establishing Procedures Upon Vacancy of Office of Cherokee Nation Tribal Councilor; Repealing Title 19 Section 3 of the Cherokee Nation Code; and Declaring an Emergency.

#### **VETOED ACTS**

1. Legislative Act No. 22-05, An Act Amending Legislative Act 16-96, Adding Subsection 19, Corporation Code Requiring Council Approval of Campaign Contributions Given by Tribal Corporations; and Declaring an Emergency.

The above Act is hereby vetoed, primarily because this Act would require approval of specific expenditures by corporations owned by the Nation. For the purposes of clarification, corporations are prohibited from making campaign donations to individual candidates under Federal law, although the Act states that corporations "...shall have the authority to make campaign contributions to political candidates..." The only donations corporations may presently make are towards "issue oriented" campaigns, an expenditure for which a business entity would consider a cost of doing business. Corporate expenditures are duly authorized by the Boards of Directors for the subject corporations. Corporate oversight by the Principal Chief and Council is in the form of appointment and confirmation of members of the Board of Directors for each of these entities, and we entrust them to be wise stewards of funding and activities that they oversee. The individuals comprising these Boards of Directors are distinguished members of the business community, and highly qualified to make financial decisions affecting the future of these corporate entities. I cannot approve this Act, as requiring

approval of the business entities' specific expenditures would unreasonably hamper business activities and flexibility, and thus defeat the purpose of organizing business activities under a corporation. While the government as the shareholder has oversight responsibility, I do not believe that imposing an expenditure-by-expenditure approval is an appropriate or effective means of exercising oversight responsibility for our business activities.

2. Legislative Act No. 24-05, An Act Amending LA #16-01, and LA #15-04 Relating to Referendum and Initiative Measures; Setting Procedures; Setting Crime and Punishment; and Declaring an Emergency.

The above Act is hereby vetoed. Although this proposal is substantially different than a former proposal that failed, I still cannot approve this Act. First and foremost, there is not sufficient evidence that the current Legislative Act has flaws that warrant an amendment. The Council has taken great care in former Acts to develop a referendum and initiative procedure that provides for appropriate identification of Cherokee citizens, and with this amendment, the burden for such identification is proposed to be shifted from the petitioner to the Election Commission without a compelling reason to do so. An argument has been made that this amendment will make it easier for citizens to sign a petition, however, the use of citizens' birth dates and releasing this private information could have unintended consequences. The Act provides in Section XI that "any interested parties" will immediately be provided with copies of the petition signatures with addresses, birthdates and so on. Identity theft is a real threat in today's information age, and the use of a birth date on a public document that is widely circulated could place this private and personal information into the wrong hands unintentionally.

I believe that we currently have procedures for referendum and initiative that protects citizens and balances the burden of verification of signatures, and that there has been little but anecdotal evidence to support the need to alter the existing law. Finally, the use of private information on a petition would unreasonably expose citizens to the risk of release of sensitive information. Thus, I cannot support this legislation.

Sincerely,



Chadwick Smith  
Principal Chief

cc: Gina Blackfox, Legislative Aide, Council of the Cherokee Nation  
File