

An Act

LEGISLATIVE ACT 16-07

AN ACT AMENDING LEGISLATIVE ACT #26-06 AUTHORIZING THE COMPREHENSIVE BUDGET FOR FISCAL YEAR 2007 – Mod. 5; AND DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

SECTION 1. TITLE AND CODIFICATION

This legislative act shall be titled and codified as “An Act Amending Legislative Act #26-06 Authorizing the Comprehensive Budget for Fiscal Year 2007 – Mod. 5”.

SECTION 2. PURPOSE

The purpose of this amendment is to authorize and approve the use of funds, subject to the availability of such funds, in accordance with Section 4, changing the amounts of certain cost centers approved in the “Comprehensive Budget Act for Fiscal Year 2007” or subsequent amendment. The cumulative total of the budget is increased by \$18,249,242 for a total budget authority of \$395,401,893. The following items are identified as estimated General Fund sources in excess of appropriated uses to wit:

	Previous Balance	Estimated Sources	Estimated Uses	Adjusted Balance
A. General Fund	\$4,032,732	\$4,526,701	<\$6,144,951>	\$2,414,482
B. Motor Fuels Tax	\$326,631	\$0	<\$0>	\$326,631

SECTION 3. LEGISLATIVE HISTORY

The provisions of compliance, policy of accountability, authorities and severability provided in Legislative Act #26-06 are applicable to this amendment.

SECTION 4. FUNDING AUTHORIZATIONS

The changes reflect increases to cost centers set forth in the program budget justifications incorporated herein. This amendment changes the total amount of the comprehensive budget authorization by an increase of \$18,249,242, to wit:

- A. An increase in the **General Fund** budget authority of \$6,144,951 related to several program's carryover funding as well as several new initiatives. *Vetoed severable provision increasing to \$4,810,480 by \$1,500,000. See attachment and written objections.*
- B. A net decrease in the **Motor Vehicle Tax Fund** budget authority of <\$113,552> related to carryover adjustments and prior year revenue apportionments.
- C. An increase in the **Tribal Force Account Fund** budget authority of \$53,654 related to the Environmental Protection Commission.
- D. An increase in the **Enterprise Fund** budget authority of \$50,000 related to the Landfill.
- E. An increase in the **DOI-General Fund** budget authority of \$7,900,350 related to special construction funding and indirect cost shortfall funding for Sequoyah High School as well as carryover authority on the fire fighter program.
- F. An increase in the **DOI-Self Governance Fund** budget authority of \$235,739 to transfer funds related to SHS shortfall of indirect cost funding, additional realty funding and a new Mineral Assessment grant related to the Wind Energy Development Project.

- G. An increase in the **IHS Self Governance - Health Fund** budget authority of \$95,000 related to an Optometry contract with Northeastern State University.
- H. An increase in the **I.H.S. Self-Governance T.E.H. Fund** budget authority of \$77,021 related to a solid waste cleanup project.
- I. An increase in the **DHHS – General** budget authority of \$186,274 related to the Compassion Capital Fund prior year carryover funding.
- J. An increase in the **NAHASDA Fund** budget authority of \$3,869,805 related to Housing Authority's Mortgage Assistance and Title VI Subsidy from the 2005 Indian Housing Plans .
- K. A decrease in the **Capital Projects Fund** budget authority of <\$250,000> pursuant to a change in accounting treatment of the Pow-Wow grounds improvement project.

SECTION 5. PROVISIONS AS CUMULATIVE

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

SECTION 6. 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.

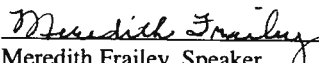
SECTION 7. EFFECTIVE DATE: EMERGENCY DECLARED

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 immediately upon its approval and signatures.


SECTION 8. SELF-HELP CONTRIBUTIONS

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.


Passed by the Cherokee Council on the 12th day of March, 2007


Meredith Frailey, Speaker
Council of the Cherokee Nation


ATTEST:


Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 19th day of MARCH, 2007


Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:


Melanie Knight, Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

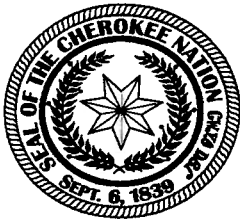
Audra Smoke-Conner	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
Bill John Baker	<u>Yea</u>	Meredith A. Frailey	<u>Nay</u>
Joe Crittenden	<u>Yea</u>	John F. Keener	<u>Nay</u>
Jackie Bob Martin	<u>Nay</u>	Cara Cowan	<u>Nay</u>
Phyllis Yargee	<u>Yea</u>	Buel Anglen	<u>Nay</u>
David W. Thornton, Sr.	<u>Yea</u>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

CHEROKEE NATION
PROPOSED FY 2007 AMENDMENT
Sorted by Funding Source

MOD-5
(Amended) B

Funding Source	Ref # by FS	Program/Purpose	FY 2007 Prior LA	Data		
				Amend. Change to Sources	Amend. Expenses Total Change	Net Change
01-Cherokee Nation	1	1010042 - Charitable Contributions	LA 26-06	-	5,898	\$ (5,898)
	2	1010140 - Justice Department	LA 26-06	29,499	29,499	\$ -
	3	1010244 - History Course Project	New	87,400	87,400	\$ -
	4	1010272 - Cancer / Diabetes Treat / Prev	LA 26-06	702,790	702,790	\$ -
	5	1010280 - General Fund Operations	Mod 4	3,148,987	1,844,779	\$ 1,304,208
	6	1010290 - Contingencies Reserve	LA 26-06	-	-	\$ -
	7	1010315 - Cash Match For Grants	LA 26-06	-	69,212	\$ (69,212)
	8	1010432 - Self-Help Community Waterlines	LA 26-06	-	1,000,000	\$ (1,000,000)
	9	1010433 - Community Garden	New	21,700	21,700	\$ -
	10	1010436 - Bldg Constr Heavy Equip	New	78,000	78,000	\$ -
	11	1010465 - Rural Fire Stations	LA 26-06	-	2,703	\$ (2,703)
	12	1010474 - SHS Network Communications	New	19,973	19,973	\$ -
	13	1010480 - Employee Appreciation	LA 26-06	-	1,500,000	\$ (1,500,000)
	14	1010522 - Emer. Mgmt. Disaster Fund	New	23,643	23,643	\$ -
	15	1010840 - Judicial Expansion Planning	New	-	100,000	\$ (100,000)
	16	1011061 - OWRB Cooperative Agreement	New	39,735	39,735	\$ -
	17	1012201 - Jack Brown House	New	16,766	16,766	\$ -
	18	1012215 - Markoma Property	LA 26-06	111,043	111,043	\$ -
	19	1012260 - Ford Estate	LA 26-06	(14,439)	3,000	\$ (17,439)
	20	1012270 - Land Ops: Chilocco Project	LA 26-06	22,794	-	\$ 22,794
	21	1012320 - Pow-Wow Grounds	LA 26-06	-	250,000	\$ (250,000)
	22	1012342 - Softball Fields	New	32,114	32,114	\$ -
	23	1012343 - Warriors Memorial	New	47,099	47,099	\$ -
	24	1012670 - Orphan Cemetery	LA 26-06	17,647	17,647	\$ -
	25	1012801 - SHS Multipurpose Ctr Sound/Light	New	141,950	141,950	\$ -
01-Cherokee Nation Total				\$ 4,526,701	\$ 6,144,951	\$ (1,618,250)
05-Vehicle Tax	26	1051000 - MVT: Public Schools & Seq. HS	Mod 4	(147,848)	(147,848)	\$ -
	27	1051010 - MVT: SHS	LA 26-06	83,525	83,525	\$ -
	28	1051011 - MVT: Head Start	LA 26-06	7,524	7,524	\$ -
	29	1051012 - MVT: Immersion	New	3,237	3,237	\$ -
	30	1052000 - MVT: Highways-Const	Mod 4	(59,990)	(59,990)	\$ -
05-Vehicle Tax Total				\$ (113,552)	\$ (113,552)	\$ -
06-Tribal Force Account	31	2062000 - EPC Projects	LA 26-06	53,654	53,654	\$ -
06-Tribal Force Account Total				\$ 53,654	\$ 53,654	\$ -
10-Enterprise	32	4105000 - CN Landfill	LA 26-06	-	50,000	\$ (50,000)
10-Enterprise Total				\$ -	\$ 50,000	\$ (50,000)
20-DOI - General	33	3203000 - Sequoyah H S IDC Shortfall	New	56,569	56,569	\$ -
	34	3204000 - SHS Construction	New	7,763,781	7,763,781	\$ -
	35	3209000 - NR Fire	New	80,000	80,000	\$ -
20-DOI - General Total				\$ 7,900,350	\$ 7,900,350	\$ -
22-DOI - Self Governance	36	3221000 - Real Estate Services	LA 26-06	65,390	65,390	\$ -
	37	3221120 - SHS Contract Support Funding	New	56,569	56,569	\$ -
	38	3221900 - Tar Creek	New	12,000	12,000	\$ -
	39	3221130 - Mineral Assessment Program	New	101,780	101,780	\$ -
22-DOI - Self Governance Total				\$ 235,739	\$ 235,739	\$ -
32-IHS - Self Governance Hea	40	3324500 - Optometry	LA 26-06	95,000	95,000	\$ -
32-IHS - Self Governance Health Total				\$ 95,000	\$ 95,000	\$ -
33-IHS-Self Governance-TEH	41	3334000 - Tribal Solid Waste Management	New	77,021	77,021	\$ -
33-IHS-Self Governance-TEH Total				\$ 77,021	\$ 77,021	\$ -
40-DHHS - General	42	3405003 - 2006 Compassion Capital Fund	LA 26-06	186,274	186,274	\$ -
40-DHHS - General Total				\$ 186,274	\$ 186,274	\$ -
56-NAHASDA	43	3560529 - Mortgage Assistance - HACN	LA 26-06	1,369,805	1,369,805	\$ -
	44	3560577 - Title VI Subsidy - HACN	New	2,500,000	2,500,000	\$ -
56-NAHASDA Total				\$ 3,869,805	\$ 3,869,805	\$ -
96-Capital Projects Fund	45	7965000 - Cultural Grounds Improvements	LA 26-06	(250,000)	(250,000)	\$ -
96-Capital Projects Fund Total				\$ (250,000)	\$ (250,000)	\$ -
Grand Total				\$ 16,580,992	\$ 18,249,242	\$ (1,668,250)

This provision
vetted. →



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CHEROKEE NATION®

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Chad "Comtassel" Smith
Principal Chief

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Joe Grayson, Jr.
Deputy Principal Chief

March 19, 2007

*Received at 5:07 pm
Smullen
3-19-07*

Meredith A. Frailey, Speaker
Charles "Chuck" Hoskin, Deputy Speaker
Council of the Cherokee Nation
Tahlequah, Oklahoma

Dear Speaker Frailey and Council Members:

I am returning the enactments passed by the Tribal Council at the regular meeting held on March 12, 2007 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 of them as follows, with the exception of a rider in one (1) legislative act.

APPROVED RESOLUTIONS

1. Resolution No. 26-07, A Resolution Authorizing the Bureau of Indian Affairs (BIA) to Revise and Update the Cherokee Nation's Inventory of Indian Reservation Roads.
2. Resolution No. 27-07, A Resolution Confirming the Renomination of John T. Cripps as a District Judge of the Cherokee Nation District Court.
3. Resolution No. 28-07, A Resolution Authorizing Commerce Staff to Develop and Submit a Loan Application to USDA to Replenish Funds Available for Small Businesses.
4. Resolution No. 29-07, A Resolution Authorizing Cherokee Nation Environmental Programs to Submit a Formal Grant Application to the U.S. Fish and Wildlife Service for a Tribal Wildlife Grant.
5. Resolution No. 30-07, A Resolution Authorizing a Grant of Easement for Right of Way Over Tribal Trust Land in Adair County Known as CMS-32 Between Cherokee Nation and Fred and Ronda Holtz, for Access.

APPROVED LEGISLATIVE ACTS

1. Legislative Act No. 12-07, A Legislative Act Amending Title 51, "Officers", of the Cherokee Nation Code Annotated; Relating to Duties of the Attorney General.
2. Legislative Act No. 13-07, Cherokee Nation Administrative Procedure Act.
3. Legislative Act No. 14-07, A Legislative Act Amending Title 51 "Officers" of the Cherokee Nation Code Annotated; Relating to Duties of the Delegate to Congress.
4. Legislative Act No. 15-07, A Legislative Act Amending Title 4 Section 21 of the Cherokee Nation Code Annotated Relating to Gaming Within the Jurisdiction of the Cherokee Nation; and Declaring an Emergency.

OTHER LEGISLATION

1. Legislative Act No. 16-07, An Act Amending Legislative Act #26-06 Authorizing the Comprehensive Budget for Fiscal Year 2007 – Mod. 5; and Declaring an Emergency.

This budget Act contains an item that has been vetoed on two prior occasions: \$1.5 million for a *second* special staff bonus for government employees in this fiscal year. The history of this provision is long and contentious:

- 10/26/06 – double bonus rider added to Budget Modification #1 in Committee
- 11/13/06 - passed in Budget Modification #1 at full Council; vetoed
- 12/12/06 - veto sustained
- 12/14/06 - double bonus rider added to Budget Modification #3 in Committee
- 01/22/07 - passed in at full Council; vetoed
- 02/12/07 - veto sustained
- 02/23/07 - double bonus rider added to Budget Modification #5 in Committee
- 03/12/07 - passed in Budget Modification at full Council

I have, in each instance, expressed my objections to this item as required by our Constitution. In each instance my veto has been sustained. For part of the Council to continue down this path is irresponsible, destructive to the Nation's operations, and an abuse of legislative authority. Certain Councilors have proposed positive legislative alternatives, and these overtures have been repeatedly ignored by the majority. Councilors have repeatedly requested separation of the vote on this measure which was rejected in each case. Another alternative offered by a Councilor was to convert the fund into a program that perhaps we could all agree upon. This was also dismissed by the Council. When reasonable people disagree, the responsible course is to constructively work together to reach a solution. I stand ready to do so.

This "second bonus" item has a unique and distinct identity, evidenced by its becoming a rider to three separate Legislative Acts of the Council (two vetoed Acts, and now this Act). It has become of such distinct character that it may become a rider to any Act of the Council. Enactments may either be approved or returned with objections from the Principal Chief to the Council (Article VI, Section 10, Cherokee Nation Constitution). 25 CNCA § 21 requires that each Act include a section stating that the provisions of each Act are severable. This Act contains this Severability section (Section 6).

I am hereby returning my objections to this rider or provision called "Employee Appreciation, \$1,500,000" to Legislative Act No. 16-07. I have no objections to all other provisions that were enacted, and will faithfully execute them. My objections to this provision follow:

I originally proposed a \$2.1 million bonus for employees, to cover both the bonus and other associated costs. However, it appears that some council members did not understand that proper accounting practices dictate that we charge our fringe and indirect rate equally and mistakenly promised \$1000 to every employee. Now, to make up for council members' promises, the Cherokee people are being asked to spend \$1.5 million to cover up for that mistake. That's \$1.5 million to be added on to a range of other improvements in employee compensation in this year:

- a. A special bonus of \$2,100,000
- b. Merit increases of approximately \$2,280,000
- c. Minimum wage increases of approximately \$270,000
- d. Christmas gift increased to \$50 each, or approximately \$110,000

- e. Performance Incentive and Exceptional Service Awards per year of approximately \$490,000 (estimate based upon actual 2006)


I am responsible for administrating employee compensation. In doing so, I must ensure that compensation is fair, competitive and responsible, and that personnel costs are contained. This has been an unprecedented year for bonuses and pay increases. We have done it all this fiscal year: adjusted for better minimum wages, granted across-the-board bonuses and gifts, and paid employees for good performance. This is as it should be, because this has been a great year for the Cherokee Nation.

However, we must keep in mind what our jobs are as elected officials. It is not our job to try to buy votes from employees by adding bonus on top of bonus. But the Council, by refusing to separate out the double bonus from the rest of the budget, has put important programs on hold. Instead of voting separately on the double bonus, they have tried the old political tactic of lumping the double bonus in with projects like water lines in Rocky Mountain, cancer and diabetes treatment money and mortgage assistance. A few Councilors have decided to hold the entire budget hostage. I think they have forgotten that we work for the Cherokee citizens.

Further, many of the Cherokee Nation employees are upset that the bonus, which is supposed to represent a thank you for a job well done, has been turned into a political football. This issue is deliberately being used to divide the Council and draw attention away from the good work employees do. Cherokees who are not employees have contacted our programs concerned about a second bonus. They, rightly, have reminded us that we should be dealing with the challenges that face all Cherokees.

Our employees are well deserving of the record increases we have approved and allocated this year. I am proud of their dedication and service to the Cherokee people. Our employees often selflessly go above and beyond their required jobs to help Cherokee families in need. Many of these employees work hours and hours past their normal work times on weekends and nights to make sure Cherokee families have water and shelter. These employees don't go to these great lengths because they have something to get out of it for themselves – they do this work because it is in their hearts. They are dedicated to serving the Cherokee Nation – and we should learn from their example.

Sincerely,



Chadwick Smith
Principal Chief

cc: Legislative Aide, Council of the Cherokee Nation
Councilors (17), Council of the Cherokee Nation
Melanie Knight, Secretary of State
File