

# An Act

Legislative Act 04-05

## AN ACT AMENDING LEGISLATIVE ACT 28-04, THE FISCAL POLICY AND RESPONSIBILITY ACT AMENDMENTS OF 2004 AND DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

### Section 1. Title and Codification

This act shall be known as the “Fiscal Policy and Responsibility Act Amendments of 2004,” and codified as \_\_\_\_\_ (Title) \_\_\_\_\_ (Section) \_\_\_\_\_ of the Cherokee Nation Code Annotated.

### Section 2. Purpose

The purpose of this Act is to amend the Fiscal Policy and Responsibility Act Amendments of 2004,” which authorized a line of credit to be utilized in satisfying the permanent Cash Reserve required by Legislative Act 5-02, and to permanently provide for operating cash needs of the Nation. This amendment is necessary to eliminate Section 6.1.F of the Act, stating that a waiver of sovereign immunity is not associated with the line of credit. The authorized financial institution requires a limited waiver of sovereign immunity to execute the line of credit.

### Section 3. Legislative History

- A. The Constitution and laws of the Cherokee Nation, including Title 62 of the Cherokee Nation Code Annotated (CNCA) provide the requirements for appropriations, review and authorization for the use of all funds.
- B. Section 7 of Article X of the Cherokee Constitution, and 62 CNCA § 61 contain the specific requirements for pledges of credit of the Cherokee Nation.
- C. Legislative Act 5-02, dated January 29, 2002, the “Fiscal Policy and Responsibility Act of 2002” provides in part for a permanent Cash Reserve to be maintained at 1.75% of total authorized appropriations in the annual comprehensive budget each year.
- D. Legislative Act 28-04, dated July 12, 2004, the “Fiscal Policy and Responsibility Amendments of 2004” amended LA 5-02, authorized the Principal Chief or his/her designee to negotiate and execute documents to secure a line of credit not to exceed \$5,000,000, and contained other provisions related to same.
- E. All other applicable resolutions, statutes and Court decisions are hereby acknowledged.

### Section 4. Amendments

Legislative Act 28-04 is hereby amended as follows:

#### Section 6.1. Line of Credit Authorized

- A. A line of credit to provide cash requirements for the Cash Reserve and/or cash flow for operations is hereby authorized, not to exceed \$5,000,000 at any given time.
- B. Bank of America is the financial institution authorized from which to obtain such line of credit.

- C. The Principal Chief or his/her designee is authorized to negotiate and execute the line of credit, including the interest rate applicable to same.
- D. Any interest expense incurred under this line of credit must be provided for by appropriations in the annual Comprehensive Budget of the Nation.
- E. No additional budget authority is conferred or authorized by this Act. The use of the line of credit is limited to expenditures authorized by the annual Comprehensive Budget.

~~F. No waiver of sovereign immunity is granted associated with the authorized line of credit.~~

F. In connection with the securing of the line of credit it is necessary and the Principal Chief or his/her designee is hereby authorized to negotiate and execute one or more promissory note(s), pursuant to the terms of a loan agreement by and between the Cherokee Nation and Bank of America, N.A. to evidence the Nation's obligations pursuant to the line of credit.

- G. The authorized term of the line of credit will not expire until and unless amended or rescinded by Legislative Act; or, unless limited in the debt agreement executed by the Principal Chief or his/her designee.
- H. In accordance with 62 CNCA § 72 the Controller is required to report in the monthly financial report to the Council of the Cherokee Nation the status of the line of credit authorized herein.

#### **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 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.

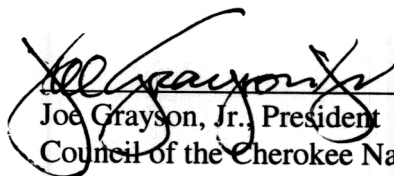
#### **Section 7. Emergency declared**

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.


#### **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.

Enacted by the Council of the Cherokee Nation on the 10<sup>th</sup> day of January, 2005.

  
\_\_\_\_\_  
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 17th day of JANUARY, 2005.

  
Chad Smith, Principal Chief  
Cherokee Nation

**ATTEST:**

  
Callie Catcher, Secretary/Treasurer  
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>YEA</u>
Joe Crittenden	<u>YEA</u>	John F. Keener	<u>YEA</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>YEA</u>	William G. Johnson	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>		