



## Legislation Text

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### **A RESOLUTION AUTHORIZING A LIMITED WAIVER OF SOVEREIGN IMMUNITY IN CONNECTION WITH THE OKLAHOMA TOBACCO SETTLEMENT ENDOWMENT TRUST COOPERATIVE AGREEMENT**

**WHEREAS**, the Cherokee Nation (“Nation”) since time immemorial has exercised the sovereign rights of self-government on behalf of the Cherokee people;

**WHEREAS**, the Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America;

**WHEREAS**, the Nation enjoys sovereign immunity from suit under federal and state law;

**WHEREAS**, the Nation has inherent sovereign power by virtue of its constitution and tribal law to enter into contractual agreements and execute such waivers necessary for such agreements;

**WHEREAS**, waivers of sovereign immunity must be approved by the Cherokee Nation Tribal Council;

**WHEREAS**, the Nation is committed to improving and promoting the health and welfare of Cherokee citizens;

**WHEREAS**, the Nation has been awarded a grant from the Oklahoma Tobacco Settlement Endowment Trust (“TSET”) to administer and implement a TSET Healthy Living Program, contingent upon execution of a Cooperative Agreement;

**WHEREAS**, the Nation has negotiated a Cooperative Agreement which includes provisions for governing law, jurisdiction, and a limited waiver of sovereign immunity;

**WHEREAS**, the Principal Chief and/or his designee has determined that it is necessary for the Nation to enter into this Cooperative Agreement in order to promote the health and welfare of Cherokee citizens and the *Limited Waiver of Sovereign Immunity*, provided below, is appropriate for this purpose;

**WHEREAS**, this *Limited Waiver of Sovereign Immunity*, below, is contingent upon the Cherokee Nation Tribal Council’s review and approval of the terms as described within the Cooperative Agreement;

#### *Limited Waiver of Sovereign Immunity*

To the extent that the grantee may have: immunity from any action to enforce the terms of the contract provided and approved by the Cherokee Nation Tribal Council, the grantee expressly and irrevocably waives for the benefit of the Oklahoma Tobacco Settlement Endowment Trust and to the fullest extent permitted by law, any immunity on the grounds of sovereignty or other similar grounds from 1) any liability, dispute, suite, or action arising out of this contract, 2) jurisdiction of any court, including the courts of the State of Oklahoma, 3) such relief, including monetary damages, injunction, order for specific performance or the recovery of property that is equal in money or value to a judgement of a court that pertains only to this contract, including an interest or attorney fees included in such judgement, and to execution, enforcement, or collection of any judgement that may issue from any action or dispute

arising out of this contract.

The grantee expressly and irrevocably waives its right to require exhaustion of tribal remedies, and consent to have its liability determined in accordance with the same rules of law as are applied in action against natural persons and corporations under Oklahoma law as it applies to the contractual agreement approved and executed by Cherokee Nation. These waivers by the grantee extend to all of the rights, duties, and obligations under this contract and shall be effective from the date of this contract and for five (5) years thereafter, and shall continue until the expiration, termination, or cancellation of this contract, and shall remain in effect for the duration of any arbitration, litigation, or dispute resolution proceedings arising out of this contract, all appeals therefrom, and the full satisfaction of any awards or judgements that may issue from such proceedings.

Provided, however, that this limited waiver of sovereignty shall not extend to the granting of any relief or judgement to funds, revenues, assets, or other property of the grantee that are appropriated by the United States Congress, federal trust funds, or trust property.

**BE IT RESOLVED BY THE CHEROKEE NATION**, that the Council hereby adopts and approves a “waiver of sovereign immunity” of the Cherokee Nation, as incorporated above in this resolution as the *Limited Waiver of Sovereign Immunity*, to the Oklahoma Tobacco Settlement Endowment Trust and not to any third parties, upon the approval of the awarded contractual language with the Oklahoma Tobacco Settlement Endowment Trust by the Cherokee Nation Tribal Council.