



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: LA-27-01, **Version:** 1

An Act

Legislative Act 27-01

A LEGISLATIVE ACT AMENDING LA# 01-01, "THE CHEROKEE NATION
MOTOR VEHICLE LICENSING AND TAX CODE"

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. The purpose of this Act is to amend LA# 01-01, sections 103, 105, and 202 to include and hereby amend to read as follows:

Section 103 (S). Definitions.

S. "Tribal Citizen" shall mean any person who is duly enrolled as a member registered as a citizen of the Cherokee Nation pursuant to the Cherokee Nation Membership Act, L.A. 6-92, as amended.

CNCA 11 ♦ 1-35.

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 and the public schools within the Reservation Boundaries of the Cherokee Nation, to the Marshal Service and to certain counties and municipalities in accordance with the provisions of Section 105B of this Act; provided, however, in the event that a compact is approved in accordance with Section 104A of this Act, such revenues shall be allocated in accordance with the provisions of the compact.

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 first 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 allocation of funds to schools pursuant to paragraph (2) of this subsection.

(2) 38% of all fees and taxes collected by the Commission shall be first allocated and made available to Oklahoma public schools located within the Reservation Boundaries of the Cherokee Nation that have students on current Johnson O'Malley rosters and to Sequoyah High School in accordance with the apportionment provisions of subsection C of this section. Any public school located outside the Reservation Boundaries shall be eligible to receive a share of the allocation pursuant to subsection C 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 students included in current Johnson O'Malley rosters.

(3) 20% of all fees collected by the Commission remaining after the amounts appropriated pursuant to paragraph (-1-) (2) of this subsection shall be made available for apportionment to the Nation's Marshal Service and to counties and municipalities within the Nation's Reservation Boundaries for apportionment in accordance with Subsection C of this section.

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

C. Apportionment and Expenditure of Revenues.

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

(1) Within 30 days after the end of each fiscal year 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 annual report, the Commission shall prepare and submit to the Controller any monthly or quarterly 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 apportioned pro rata each year among eligible public schools and Sequoyah High School based on each school's qualified student enrollment determined as follows: for the purposes of this allocation 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 the most recent official Johnson O'Malley roster prepared by the Cherokee Nation or any other bordering Indian Nation; and (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. 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 Sequoyah High School. 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 apportionment formula in this paragraph.

(3) The funds set aside under Section 105B(3) may be apportioned each year among the counties and municipalities within the Nation's Reservation Boundaries and to the Marshal Service in accordance with and as appropriated in the comprehensive annual budget of the

Cherokee Nation. The funds apportioned under this subsection shall not be transferred to the schools, counties, municipalities or Marshal Service until appropriated as part of the comprehensive annual budget for the applicable fiscal year. The Controller shall be responsible for calculating and making all expenditures authorized by Section 105C(2).

Section 202. Rules and Regulations.

The Commission shall adopt such rules and regulations, and amendments thereto, as it deems necessary to administer and enforce this Code, which rules and regulations need not be approved by the Tribal Council, provided that said rules and regulations and any amendments thereto shall not be inconsistent with this Code and shall be made available to the Council immediately after adoption. The Commission shall adopt such rules and regulations no later than 90 150 days after the earlier of (i) the approval of a compact pursuant to Subsection A of § 105 of this Act, or (ii) May 31, 2001. The rules and regulations shall provide for a process to appeal decisions of the Administrator assessing any fees, taxes, fines or penalties authorized by this Act. Any decision by the Commission on a question so presented on appeal shall be final. The rules and regulations shall also set forth the procedures and requirements for perfecting the lien of a secured party against any Vehicle registered pursuant to this Act.

Section 2. Provisions as cumulative

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

Section 3. 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 4. 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 1ST day of AUGUST, 2001.

Hasting 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 9th day of August, 2001.

Chadwick Smith, Principal Chief Cherokee Nation

ATTEST: Jay Hannah, Secretary-Treasurer Cherokee Nation

YEAS AND NAYS AS RECORDED:

John A. Ketcher	YEA	Melvina Shotpouch		ABSENT
Don Crittenden	ABSENT	Stephanie Wickliffe Shepherd	YEA	
Harold "Jiggs" Phillips	ABSENT	John F. Keener	YEA	
Jackie Bob Martin	YEA	Harold DeMoss	YEA	
Mary Flute-Cooksey	YEA	Dorothy Jean McIntosh	YEA	
David W. Thornton, Sr.	YEA	Nick Lay	YEA	
Don Garvin	YEA	Charles "Chuck" Hoskin	YEA	
Barbara Starr-Scott	YEA			