



Council of the Cherokee Nation

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

Legislation Text

File #: 16-126, Version: 1

A RESOLUTION AUTHORIZING A LIMITED WAIVER OF IMMUNITY OF THE CHEROKEE NATION TO THE OKLAHOMA TOBACCO SETTLEMENT ENDOWMENT TRUST FOR PURPOSES OF THE TSET HEALTHY LIVING PROGRAM PROPOSAL

WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in behalf of the Cherokee people;

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

WHEREAS, a goal of the Cherokee Nation is to address all the health needs, promoting the health and welfare of its citizens;

WHEREAS, Cherokee Nation's Public Health Department seeks a grant from the Oklahoma Tobacco Settlement Endowment Trust, and a condition of this grant is that the Cherokee Nation enact a limited waiver of its immunity;

WHEREAS, Cherokee Nation Tribal Council has determined that a waiver of the immunity of the Cherokee Nation Tribe that is limited as stated in the following: "Limited Waiver of Sovereign Immunity," is appropriate for this purpose; this limited waiver of sovereign immunity is contingent upon the Cherokee Nation Tribal Council approving the contract, if awarded, to ensure the waiver of sovereign immunity is limited to the terms of the Oklahoma Tobacco Settlement Endowment Trust contract.

"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 waves 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 (a) any liability, dispute, suit or action arising out of this contract, (b) jurisdiction of any court, including the courts of the State of Oklahoma, (c) such relief, including, monetary damages, injunction, order for specific performance or the recovery of property that is equal in money or value to a judgment of a court that pertain only to this contract, including any interest or attorney fees included in such judgment, and to execution, enforcement, or collection of any judgment 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 person and corporations under Oklahoma law as it applies to the contractual agreement approved by the Cherokee Nation Tribal Council. 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 judgments that may issue from such proceedings.

Provided, however, that this limited waiver of sovereignty shall not extend to the granting of any relief or judgment 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 immunity” of the Cherokee Nation to the Oklahoma Tobacco Settlement Endowment Trust and not to any third parties, upon the approval of the awarded contractual language with the Oklahoma Settlement Endowment Trust by the Cherokee Nation Tribal Council, which waiver is as stated in the preceding “Limited Waiver of Sovereign Immunity”, as incorporated as part of this resolution.