

**TO APPROVE THE CHOCTAW NATION OF OKLAHOMA
EMERGENCY MEDICAL LEAVE ACT**

**IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION
RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL**

A COUNCIL BILL

TO APPROVE the Choctaw Nation of Oklahoma Emergency Medical Leave Act

WHEREAS, the unprecedented, ongoing COVID-19 pandemic (the “COVID Pandemic”) has caused, and continues to cause, local, national and worldwide disruptions in government services and business and has threatened to crash economies across the globe;

WHEREAS, given the health risks associated with the COVID Pandemic, the Nation was forced to close almost all of its governmental and commercial facilities (each a “Closed Facility”) for an extended period of time;

WHEREAS, given the health risks associated with the COVID Pandemic, at those Nation facilities that were not completely closed (each a “Limited Facility”), the Nation was forced to limit in-person staffing to critical personnel only;

WHEREAS, Associates that could not report to work at a Closed Facility or a Limited Facility worked remotely from home if possible;

WHEREAS, while the Closed Facilities were closed and the Limited Facilities were limited to critical personnel only (the “COVID Closure Period”), Associates that could not report to work at a Closed Facility or a Limited Facility and that could not work remotely from home did not work but were on-call and maintained in a work-readiness reserve (collectively, the “On-Reserve Associates”);

WHEREAS, during the COVID Closure Period and without knowing how long the COVID Closure Period would last, the Nation had to determine, on a very short timeline, whether to continue employment of, furlough or terminate all the On-Reserve Associates;

WHEREAS, it was determined that continued employment of all On-Reserve Associates during the COVID Closure Period, without requiring the On-Reserve Associates to take sick and/or annual leave, would help:

- a. prevent termination of employment because such On-Reserve Associates could not work due to the COVID Pandemic;
- b. provide critical economic support to On-Reserve Associates;
- c. help avoid long-term government and business disruptions that could result from mass layoffs;

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- d. help prevent the imposition of increased burdens on local, state and federal resources that could result from mass layoffs and/or discontinuance of employment benefits, such as health insurance; and
- e. eliminate increased costs that would result from the training of new hires if the employment of On-Reserve Associates is terminated due to the COVID Pandemic;

WHEREAS, during the COVID Closure Period, each full-time On-Reserve Associate received payments from the Nation in an amount equal to the pay such On-Reserve Associate received before closure or in such amounts as otherwise determined by Nation leadership, and all such On-Reserve Associates continued to receive the benefits they were receiving before the COVID Closure Period or benefits at such levels as otherwise determined by Nation leadership;

WHEREAS, during the COVID Closure Period, each part-time On-Reserve Associate received payments from the Nation in amounts equal to such On-Reserve Associate's normal base pay rate and an additional amount to account for loss of tip income, as determined by Nation leadership, and all part-time On-Reserve Associates continued to receive the benefits they were receiving before the COVID Closure Period or benefits at such levels as otherwise determined by Nation leadership;

WHEREAS, during the COVID Pandemic, a large number of Associates (each a "Quarantined Associate") have been quarantined and prohibited from coming to work, as recommended by the guidelines of the Center for Disease Control (the "CDC"), because of contraction of the COVID-19 virus or close contact with someone who has tested positive for the COVID-19 virus;

WHEREAS, while quarantined and prohibited from coming to work, each full-time and part-time Quarantined Associate has received payments from the Nation as described above and each full-time and part-time Quarantined Associate has continued to receive benefits as described above;

WHEREAS, the Tribal Council of the Nation (the "Tribal Council") believes it is in the best interests of the Nation to establish a new emergency medical leave plan (the "EMLP") to deal with the COVID Pandemic and the health-related disruptions it is causing to its workplaces and workforce as well as any future emergency situations that cause disruptions similar to the ones experienced during the COVID Pandemic (each an "Emergency Situation");

WHEREAS, the Tribal Council believes the EMLP is needed to help:

- a. prevent termination of employment and/or the requirement that Associates must use sick and/or annual leave if Associates cannot work due to health issues related to an Emergency Situation;
- b. provide critical economic support to Associates impacted by an Emergency Situation;
- c. help avoid long-term government and business disruptions that could result from mass layoffs during an Emergency Situation;
- d. help prevent the imposition of increased burdens on local, state and federal resources that could result from mass layoffs and/or discontinuance of employment benefits, such as health insurance, during an Emergency Situation; and
- e. eliminate increased costs that would result from the training of new hires if the employment of then-current Associates is terminated due to facility closures or staffing limitations during an Emergency Situation;

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WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the EMLP be available to make payments to Associates that are placed on emergency medical leave because such Associate is:

- a. confirmed as having a communicable disease associated with the Emergency Situation (each a “Communicable Disease”);
- b. required not to report to work because of exposure to a Communicable Disease, in accordance with Nation policies and procedures; or
- c. unable to work (i) because his/her workplace has been closed to help mitigate any public health emergency caused by a Communicable Disease or (ii) to enable compliance with public health precautions dealing with such Communicable Disease that are in place to avoid spread, contagion, or other conditions that breed Communicable Disease transmission, undermine immunity measures, and fatal exposures of vulnerable demographic sub-populations, and such Associate’s job functions do not allow him/her to work remotely;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the EMLP cover all Associates that are employed by the Nation because all such Associates are government employees, regardless of the job function that any individual Associate performs;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the Chief of the Nation (the “Chief”) have authority to declare an Emergency Situation that necessitates the use of the EMLP to protect the health and welfare of Associates and the population in general;

WHEREAS, funds paid out of the EMLP will not be payroll expenses and the use of the EMLP is an emergency usage of funds for emergency medical leave that cannot be budgeted in any fiscal year;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that any monies needed to fund the EMLP may be taken from Unrestricted Funds, unused funds from an approved annual budget of the Nation or from any other source as reasonably determined by the Chief;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the EMLP be retroactive to March 1, 2020;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the On-Reserve Associates and Quarantined Associates be considered to be on emergency medical leave under the EMLP while such On-Reserve Associates and Quarantined Associates were unable to work due to the COVID Pandemic and the COVID-19 virus;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the EMLP be used to cover past, present or future payments made to such On-Reserve Associates and Quarantined Associates while such On-Reserve Associates and Quarantined Associates were and are unable to work due to the COVID Pandemic and the COVID-19 virus (collectively, the “COVID EMLP Payments”);

WHEREAS, in CB-86-20, the Tribal Council allocated a certain amount to be spent on COVID-19 Coronavirus Government Operations Stabilization for Employment Job Protection expenses, as defined in CB-86-20 (the “Previous Allocation”);

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WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the Chief, in his discretion, may use the Previous Allocation to pay the COVID EMLP Payments or he may fund the COVID EMLP Payments from any other sources, including any other monies allocated in CB-86-20, and as allowed hereunder;

WHEREAS, the Tribal Council believes it is in the best interests of the Nation that the Chief, or his designee(s), develop policies and procedures that will govern the use of the EMLP.

THEREFORE, BE IT ENACTED by the Council that this Bill be cited as approval of the establishment of the EMLP to deal with the COVID Pandemic and the health-related disruptions it is causing to the Nation's workplaces and workforce as well as any other Emergency Situation.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that the Chief have authority to declare an Emergency Situation that necessitates the use of the EMLP to protect the health and welfare of Associates and the population in general.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that funds paid out of the EMLP will not be payroll expenses and the use of the EMLP is an emergency usage of funds for emergency medical leave that cannot be budgeted in any fiscal year.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that any monies needed to fund the EMLP may be taken from Unrestricted Funds, unused funds from an approved annual budget of the Nation or from any other source as reasonably determined by the Chief.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that the EMLP be retroactive to March 1, 2020.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that On-Reserve Associates and Quarantined Associates be considered to be on emergency medical leave under the EMLP while such On-Reserve Associates and Quarantined Associates were and are unable to work due to the COVID Pandemic and the COVID-19 virus.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that the EMLP be used to cover the COVID EMLP Payments.


BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that the Chief, in his discretion, may use the Previous Allocation to pay the COVID EMLP Payments or fund the COVID EMLP Payments from any other sources, including any other monies allocated in CB-86-20, and as allowed hereunder.

BE IT FURTHER ENACTED by the Council that this Bill be cited as approval that the Chief, or his designee(s), develop policies and procedures, consistent with the terms of this Bill, that will govern the use of the EMLP.

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CERTIFICATION

I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that eleven (11) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on December 12, 2020. I further certify that the foregoing Council Bill CB- 23 -21 was adopted at such meeting by the _____ affirmative vote of eleven (11) members, zero (0) negative votes, and zero (0) abstaining.


Thomas Williston, Speaker
Choctaw Nation Tribal Council


Ronald Perry, Secretary
Choctaw Nation Tribal Council


Gary Batton, Chief
Choctaw Nation of Oklahoma

Date: 12-16-20

Purpose/Need of Council Bill: This Council Bill establishes a new Emergency Medical Leave Plan which authorizes paid emergency medical leave to help deal with the COVID-19 pandemic and the health-related disruptions it is causing to the Nation's workplaces and workforce as well as any future emergency situations that cause disruptions similar to the ones experienced during the COVID-19 pandemic. This Council Bill classifies all leave taken because of facility closures, quarantines and other leaves related to COVID-19 as emergency medical leave.

Title of Council Bill: To Approve the Choctaw Nation of Oklahoma Emergency Medical Leave Act

Agency: Division of Strategic Development

Budget: None immediately

Match Required: N/A

Request by/Project Director: Tammye Gwin