

Citizens Compensation Committee, Final Report (2024)



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March 30, 2024

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Speaker, Council of the Cherokee Nation
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Re: Final Report of the Citizens Committee on Compensation for Elected Officials of the Cherokee Nation, 2024

I. Overview

As discussed more fully herein, the Citizens Committee on Compensation (“Citizens Committee”) concludes that substantially no adjustment in elected official compensation is warranted at this time. The Committee has clarified in this report its intent as to the lump sum one time annuity payment and the availability of health benefits to surviving spouses of former elected officials. The Citizens Committee will review this subject again when it reconvenes in 2026, per the underlying statute¹. The Citizens Committee does make, herein, determinations effective by operation of law, with respect to specific clarifications of its 2022 Report². It further shares observations as to compensation for the judiciary that it offers to the Principal Chief and Council to take under advisement.

¹ Legislative Act 50-21 <https://cherokee.legistar.com/View.ashx?M=F&ID=10233747&GUID=B471C5E5-7D0F4DB3-A42F-9F6ED3748F42>

² “Final Report of the Citizens Committee on Compensation for Elected Officials of the Cherokee Nation,” January 27, 2022, with addenda dated January 31, 2022, and February 1, 2022, <https://www.cherokee.org/media/nrxis2qn/final-report-of-the-citizens-committee-clarification-ltrs-1.pdf>

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II. Findings

A. Contemporary and Historic Context; Future Growth Anticipated

As mandated by the Council of the Cherokee Nation in LA 50-21, the Citizens Committee on Compensation (“Citizens Committee”) has reconvened to study and set compensation and benefits for elected officials of the Cherokee Nation. Accordingly, the Citizens Committee has reviewed its 2022 action, considered relevant information and reached relevant conclusions. By operation of law, the any adjustments of compensation and benefits as set forth herein shall become effective immediately.

As noted in our 2022 Report, Cherokee Nation is a sovereign Indian Nation whose elected officials undertake great responsibilities. Such responsibilities can be measured in many ways, but among them are:

- Authority and responsibilities extend across a 7,000 square mile reservation, the geographic and legal character of which has dramatically changed and expanded in the past three years.
- A governmental budget exceeding \$3 billion annually.³
- Governmental operations, often unique in nature, that are on a growth trajectory for the foreseeable future, including operating the largest tribal health system in the United States with substantially all new and state of the art infrastructure.
- Significant and increasing responsibilities in the area of government relations at the local, state, federal and inter-tribal level.
- Oversight of a multi-billion-dollar business as shareholder representatives, with significant responsibilities over the selection of business board governance (CNB board members).
- An annual economic impact that exceeds \$3 billion.⁴
- An overall trajectory of growth and complexity of governmental and business operations for the foreseeable future.

As likewise noted in our 2022 Report, Cherokee Nation’s growth occurs against a backdrop of centuries of oppression, dispossession and failed federal Indian policies. The exponential growth of Cherokee Nation and all of its related entities is worth celebrating, but is also a hedge against what the Cherokee people surely must guard against: A repeat, to any degree, of failed or anti-

³ “Cherokee Nation passes \$3.8 billion budget, largest in tribe’s history,” September 12, 2023, <http://tinyurl.com/3ebnhj9h>

⁴ See “Cherokee Nation Economic Impact Report, 2022,” <https://www.cherokeenationimpact.com>

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Indian public policy and law. In that regard, the great expansion and strengthening of Cherokee Nation and its entities takes on an even greater importance. Such expansion and increased strength calls upon the Cherokee people to elect officials with great capacity for leadership, both when times are good as well as when times are difficult. Adequate compensation for elected officials is one strategy to widen and deepen the pool of potential elected leaders from which the Cherokee electorate can choose in the near and long term.

B. Reiterating 2022 Findings and Conclusions

The Citizens Committee reiterates herein our basic findings in 2022: Cherokee Nation elected official compensation remains lagging, particularly when size, scope and trajectory of governmental and business operations are taken into account. We further find, in view of the responsibilities of the executive branch of Cherokee Nation government which runs the range of day-to-day basic operations, to long term planning, to engagement with business and government officials across the country and even internationally, to crisis situations, the jobs of Principal Chief and Deputy Principal Chief are effectively 24 / 7, 365 days per year jobs. Likewise, the legislative, government and budgetary oversight and constituent service functions exercised by of members of the Council of the Cherokee Nation have long made those positions full time jobs, well beyond, for example, typical state legislative offices⁵. Yet, these elected officials appear to remain behind their peers in governmental and private sectors, as it relates to compensation⁶.

Notwithstanding these findings we are satisfied, however, that the 2022 compensation adjustments have been impactful and helped close the gap. Council's decision, embodied in the underlying statute, to not only delegate compensation adjustments to this body but to adjust the frequency of our report, provides the Citizens Committee with an opportunity to evaluate and reevaluate compensation over a longer term than it was previously afforded. We note that the compensations adjustments determined in 2022 were tiered, the last of which only went into effect this fiscal year. Accordingly, we find that there is considerably less urgency to make further adjustments to elected official compensation at this time. We find that it is appropriate to defer such adjustments substantially to our next reporting period of 2026.

III. Determinations

A. Compensation

⁵ See "Full time and part time legislatures," National Conference of State Legislatures, July 28, 2021, <https://www.ncsl.org/about-state-legislatures/full-and-part-time-legislatures>

⁶ As noted in our 2022 Report, for example, the Chickasaw Nation Governor is paid at minimum of \$600,000 plus \$50,000 for each elected term.

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The Citizens Committee has determined that elected official compensation will remain status quo, pursuant to the Citizens Committee’s 2022 report.⁷

B. Fringe Benefits

1. Benefits Added in the 2022 Report- Clarification:

The Citizens Committee’s 2022 Report added elected official post-service benefits, including and as clarified below:

a. Lump sum single payment towards an annuity

i. **Clarification:** The Citizens Committee’s intent was to provide elected officials, “twice elected,” with a specified level of a single lump sum payment to fund a retirement instrument, specifically an annuity⁸. We requested an update on the implementation of this provision from Cherokee Nation’s Executive Director of Human Resources (CNHR). Based on her input, we understand that implementation of this provision is best achieved by giving CNHR and former elected officials some flexibility in utilizing the single lump sum payment required by the Citizens Committee’s 2022 Report.

Accordingly, the Citizens Committee determines that, effective with this 2024 Report, CNHR is authorized to implement the lump sum retirement benefit as a lump sum net (after tax) payment not to exceed the amount specified in the 2022 Report via some application from the eligible former elected official that the payment will be used for some *bona fide* retirement purpose or fund. This flexibility is warranted, as the intent of this benefit was to provide the former elected official with some form of additional retirement security for the justifications set forth in the 2022 Report. **The Committee has determined, in consultation with Cherokee Nation Human Resources, that the lump sum payment should be a gross of the prescribed amount, plus 20%, in order to reasonably net the prescribed amount per the 2022 report and this clarification. Relatedly, the Committee determined that any beneficiaries of the lump sum benefit prior to the issuance of this report should be made whole by provision of a supplemental payment.**

b. Health Benefit

i. ***The Committee has determined that the health benefit should extend to the surviving spouse of the eligible former elected officials.***

⁷ Elected official compensation will continue to increase, pursuant to the 2022 report, by way of an annual cost of living increased tied to the average annual increase of the Cherokee Nation workforce.

⁸ The Citizens Committee reiterates that our identification of an “annuity” was never intended to establish some annual payment to eligible former elected officials. As clarified in an addendum to our 2022 Report, this post service benefit was a single lump sum payment to be paid by the elected officials into an annuity.

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- ii. **The Committee has determined, in consultation with Cherokee Nation Human Resources, that the lump sum payment amounting to 20% of the gross cost of health insurance premium in order to reasonably compensate for anticipated taxes to be paid upon the same by the recipient. Relatedly, the Committee determined that any beneficiaries of the lump sum benefit prior to the issuance of this report should be made whole by provision of a supplemental payment.**

c. Burial Benefit

- i. *No Clarification warranted.*

C. Clarification as to eligibility for benefits extended to Cherokee Nation workforce.

In the 2022 Report the Citizens Committee affirmed Cherokee Nation's practice of making employee-wide benefits available to elected officials via Cherokee Nation Human Resources policy, other than the compensation subjects addressed by the Citizens Committee. For example, various benefits provided by employees across private and public section industries- such as paid vacation, basic defined contribution retirement plans and insurance- are provided or regular fulltime employees across Cherokee Nation's workforce and have historically been extended to elected officials. The policies and practices that form that precedent predated the Council's enactment of the underlying statute. Therefore, had the Council wished to disturb that precedent, it could have and would have presumably done so.

The Citizens Committee hereby reaffirms and clarifies its determination that employee benefits (employee-wide or categories of employees not wholly related to elected official status) remain within Cherokee Nation's discretion as an employer administering benefits, provided those benefits are not uniquely provided to Cherokee Nation elected officials. Prospectively, to the extent changes to such employee benefits incidentally impact the benefits provided to elected officials, such changes do not implicate or violate the Citizens Committee, its Report, or the underlying statutory authority under which the Citizens Committee operates. Only those elements of compensation unique to elected officials fall within the purposes and policies of the underlying statute or the actions of this Committee. The Citizens Committee has not, and is not authorized to, alter CNHR administered employee benefits afforded to Cherokee Nation employees that are incidentally afforded to elected official. Even assuming such benefits do fall within our purview, such benefits are alternatively endorsed by the Citizens Committee.

Recommendations as to Life Insurance Caps: The Citizens Committee observes that Cherokee Nation's existing benefits policy caps life insurance, an employee benefit that incidentally extends to elected officials, at \$500,000. Given the recent adjustment in elected official compensation and the increase over time in executive compensation, the Citizens Committee recommends that Cherokee Nation Human Resources review its life insurance

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benefits plan and policies and ensure that the cap keeps pace with adjustment in compensation across not only elected officials, but across the workforce.

IV. Unsolicited Recommendations as to Judiciary

The Committee recognizes that compensation for the judiciary is beyond its authority. However, the committee conclude that the expertise it has developed in the area of public official compensation could be useful to the Council. Accordingly, the committee offers two recommendations:

1. Supreme Court: Based on the dramatic expansion in the Cherokee Nation judiciary, as a matter of equity among the branches of government and in order to adjust Supreme Court pay going forward in a manner comparable to that of elected officials, Supreme Court pay should be tied to Council pay. The Committee observes that, at present, Justices are paid on par with Council members and the Chief Justice's pay aligns with the Council speaker. An adjustment to the compensation act could tie future Supreme Court pay to the council in this manner, freeing the court from the year to year ad hoc adjustment by Council appropriation.

2. District Court judges should have pay ranges established through the Cherokee Nation HR process in a manner that is transparent and accessible to the public, subject of course to any adjustment the Council may prescribe and, as with all budgetary matters impacting compensation, subject to council appropriations.

V. Severability

It is the intent of this Committee that the compensation, salary, and benefits described herein shall inure to the maximum benefit of all current and former elected officials of the Cherokee Nation. Should any portion of this Report be found unlawful, unenforceable, or otherwise void by prevailing law or policy, it is the intent of this Committee that any remaining provisions of this report shall give effect to the mandate of the Council of the Cherokee Nation as set forth in LA50-21.

VI. Effective Date

This Final Report is effective March 30, 2024.⁹

VII. Approvals

⁹ Although the Council's action, by statute, precludes any further legislative action to effectuate this Final Report, the Committee anticipates various administrative actions, policies, regulations, etc, will be required of Cherokee Nation's Executive Director of Human Resources consistent with the statue and this Final Report.

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The foregoing has been reviewed and approved unanimously by members of the Citizens Committee on Elected Official Compensation, as evidenced by the signatures of each member below:

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Deacon Turner
Committee Chair

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