



RECONSIDERATION OF NCA 10-111

I, the undersigned, certify that the foregoing "**Reconsideration of NCA 10-111**" is a true extract from the June 19, 2010, Regular Session Journal of the Muscogee (Creek) National Council.

AND THAT, NCA 10-111 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 26, CHAPTER 3, ENTITLED "Justices, Judges and Judicial Branch Personnel" CHAPTER 4, ENTITLED "Code of Conduct and Canons of Judicial Ethics for Muscogee (Creek) Nation Judges and Employees", AND CHAPTER 5 ENTITLED "Budget, Finance and Compensation", was presented to the National Council acting as a Council as a Whole and was approved in Regular Session on June 19, 2010, National Council by a vote of **19** in favor, **5** against, **0** abstentions.

AND THAT, Said legislation was returned as a Veto with objections by the Principal Chief on July 2, 2010 and said objections have been entered at large in the Journal of the Muscogee (Creek) National Council;

AND THAT, The National Council taking action reconsider the Bill to **OVER-RIDE** the Veto at the Quarterly Session on July 31, 2010, in accordance with the Constitution, Article VI, Section 6(a), requires a (2/3) vote of the full membership, which consists of Twenty-Six members;

AND THAT, The record of vote reflects there were Twenty present with a vote of **18** in favor, **2** against, **0** abstentions;

THEREFORE, BE IT KNOWN, under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-111 is hereby recorded as a "**VETO OVER-RIDE**" on this 2nd day of August 2010.

A handwritten signature in cursive script, reading "Terry A. Fish", written over a horizontal line.

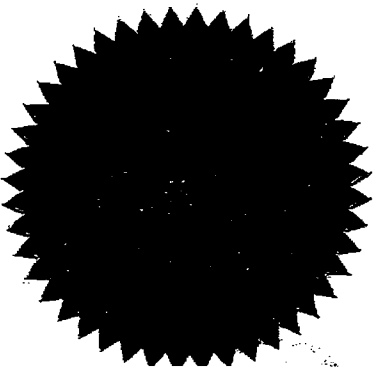
Terry A. Fish, Recording Secretary
Muscogee (Creek) National Council

CERTIFICATION OF APPROVAL

IN WITNESS WHEREOF, I, the Presiding Officer of the Muscogee (Creek) National Council have hereto attached my signature this 2nd day of August 2010.

A handwritten signature in cursive script, reading "Roger Barnett", written over a horizontal line.

Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation





VETO OVERRIDE

NCA 10-111

CLASSIFICATION: #26. JUDICIAL BRANCH/COURTS

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 26, CHAPTER 3, ENTITLED "Justices, Judges and Judicial Branch Personnel", CHAPTER 4, ENTITLED "Code of Conduct and Canons of Judicial Ethics for Muscogee (Creek) Nation Judges and Employees", AND CHAPTER 5, ENTITLED "Budget, Finance and Compensation"

Be it Enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. The Muscogee (Creek) Nation Constitution authorizes the National Council to make appropriations from available tribal funds. It is the Policy of the Muscogee (Creek) Nation to administer those funds according to strict accounting standards and to administer those funds through the Controller.

B. The National Council has enacted laws to safeguard the financial operations of the Nation by designating authority to the Controller to oversee the accountability of tribal funds.

C. All branches of the Government should operate within the strict internal controls of the Muscogee (Creek) Nation with the Controller overseeing the accountability of tribal and contracted funds. Currently, both the Executive Branch and Legislative Branch operate in this manner.

D. The Judicial Branch operates its own annual budget and financial affairs and receives program funds ranging from filing fees to CLE fees. All branches of the Government must operate under the same internal accounting controls with oversight by the Controller of the Muscogee (Creek) Nation. Therefore, the Judicial Branch's finances must be moved under the administrative oversight of the Controller of the Muscogee (Creek) Nation.

E. There is a need for an Associate District Court Judge to enhance the efficiency of the administration of justice within the Judicial Branch.

SECTION TWO. AMENDMENT. MCNCA Title 26, §§3-101, 3-102, 3-103, 3-104, 3-105, 3-106, 3-107, and 3-108 are hereby amended to read as follows:
§3-101. District Court Judge

Page 2 of 11
NCA 10-111

A. The District Court Judge is hereby created as the presiding Officer of the District Court. The District Court Judge shall possess the following educational and professional qualifications:

1. Must be a graduate of an accredited law school;
2. A member of the Muscogee (Creek) Nation Bar Association;
3. A member of a state bar association and admitted to practice law before the federal courts in Oklahoma;
4. Shall have a minimum of four (4) years active trial and law practice experience;
5. Shall be required to maintain a minimum of twelve (12) hours of continuing legal education each year, one (1) hour of which must be legal ethics.

B. The District Court Judge shall be an administrative officer for the District Court.

C. The District Court Judge shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution. All nominations rejected by the full National Council at a Regular Council meeting shall be replaced by a new nomination within thirty (30) days. The term of office shall be for four (4) years commencing on July 1, 2010, and every four years thereafter. Should a District Court Judge be appointed after July 1, 2010, the term shall expire on June 30, 2014. District Court judges appointed following the death, incapacitation, resignation or removal of a District Court Judge shall serve out the remainder of the original term and be subject to reappointment July 1, 2014 and subsequent four year intervals thereafter.

D. The District Court Judge shall be subject to removal from office for cause by Tribal Resolution of the National Council affirmatively approved with a two-thirds (2/3) vote of the full National Council.

A member of the Supreme Court, the Principal Chief, Attorney General or any member of the National Council may submit a resolution for the full National Council's consideration to remove the District Court Judge for cause for violations, including, but not limited to, abuse of power, financial impropriety, and violations of the Code of Conduct and Canons of Judicial Ethics detailed in MCNCA Title 26, Chapter 4. The National Council shall provide notice to the District Judge of any pending resolutions for removal and allow the District Judge the opportunity to speak and produce evidence in his/her defense.

§ 3-102. Associate District Court Judge

Page 3 of 11
NCA 10-111

A. The Associate District Court Judge is hereby created as an officer of the District Court. The Associate District Court Judge shall possess the following educational and professional qualifications:

1. Must be a graduate of an accredited law school;
2. A member of the Muscogee (Creek) Nation Bar Association;
3. A member of a state bar association and admitted to practice law before the federal courts in Oklahoma;
4. Shall have a minimum of four years active legal experience;
5. Shall be required to maintain a minimum of twelve (12) hours of continuing legal education each year, one (1) hour of which must be legal ethics.

B. The Associate District Court Judge shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution. All nominations rejected by the full National Council at a Regular Council Meeting shall be replaced by a new nomination within thirty (30) days. The term of office shall be two years commencing on October 1, 2010 and every two years thereafter; provided that the first Associate District Court Judge shall begin on confirmation and serve until September 30, 2012.

C. The Associate District Court Judge shall be subject to removal from office for cause by Tribal Resolution of the National Council affirmatively approved with a two-thirds (2/3) vote of the full National Council.

A member of the Supreme Court, the Principal Chief, Attorney General or any member of the National Council may submit a resolution for the full National Council's consideration to remove the Associate District Court Judge for cause for violations, including, but not limited to, abuse of power, financial impropriety, and violations of the Code of Conduct and Canons of Judicial Ethics detailed in MCNCA Title 26, Chapter 4. The National Council shall provide notice to the Associate District Judge of any pending resolutions for removal and allow the District Judge the opportunity to speak and produce evidence in his/her defense.

D. The Associate District Court Judge shall be also known as "District Court Judge" or "District Judge" for purpose of this Title other than as presiding officer of the District Court.

E. If there is a vacancy for the District Court Judge, the Associate District Court Judge shall act as the District Court Judge until a District Court Judge is appointed under tribal law.

§3-103. Special Judge; Vacancies in District or Supreme Court

A Special Judge shall be appointed using the following method and procedure:

A. If illness, conflict of interest, disqualification, recusal or other considerations prevent the District Court Judge and the Associate District Court Judge from presiding over a specific case or matter, then the Supreme Court shall appoint a Special Judge for that specific case, no later than thirty (30) days after the receipt of a written request stating the reason preventing the Judge from hearing the case.

B. If illness, conflict of interest, disqualification or other considerations prevent a judge or justice from hearing cases for an extended period of time (not including any vacancy created by expiration of the term of a District Court Judge, the Associate District Court Judge or a Supreme Court Justice), then a Special Judge may be appointed after following the process of nomination by the Principal Chief and confirmation by the National Council pursuant to § 3-101 of this Subchapter.

C. Any appointment of the Supreme Court that appoints a Special Judge for more than one case, matter, civil action, or otherwise without following the same process of nomination by the Principal Chief and confirmation by the National Council pursuant to § 3-101 of this Subchapter is null and void.

D. Any Special Judge appointed shall be a member of the Muscogee (Creek) Nation Bar in good standing or shall be a Muscogee (Creek) citizen.

E. The process for filling vacancies of judges contained in Title 27, App. 1, Rule 15A of this Code (Judicial Procedures) is hereby null and void and this Subsection shall control any and all appointments of any Special Judge.

§3-104. District Court Clerks

A. Appointments; duties. The District Court Judge shall appoint a person to serve as the District Court Clerk. The District Court Clerk shall render assistance to the District Court and to the Muscogee (Creek) Nation Lighthouse Police. It shall be the further duty of the District Court Clerk or Deputy District Court Clerk to attend and keep a written record of all proceedings of the District Court to administer oaths to witness and jurymen, to collect fines paid and authorize the payment of all fees authorized by these laws, and to make an accounting thereof and forward to the Controller on a monthly basis to the Controller of the Muscogee (Creek) Nation. The District Court Clerk and Deputy Court Clerk(s) are to be bonded for not less than \$5,000.00.

Page 5 of 11
NCA 10-111

B. Deputies. The District Court Clerk may appoint necessary deputies, clerical assistants, and employees as may be provided for in the District Court budget approved by the National Council and the Principal Chief. Such deputies, clerical assistants, and employees shall be subject to removal with approval of the District Court Judge as set out in the current written Judicial Branch Personnel Policies Handbook.

§3-105. Peace officers

A. The District Judge is authorized to commission qualified persons as peace officers, with authority to maintain public order, safety, and health by enforcement of all laws, maintain order in the Courthouse and supervise those persons on probation.

1. "Peace Officer" as used herein shall mean any duly appointed person who is charged with responsibility of maintaining public order, safety, and health by the enforcement of all laws or orders of this Nation and who is authorized to bear arms in election of his responsibilities.
2. "Qualified" as used herein shall mean certified as a peace officer by the Bureau of Indian Affairs, the Indian Police Academy, Oklahoma's Council on Law Enforcement Education and Training or some other comparable certifying school or agency for peace officers; and where a proper background investigation, with fingerprints to be taken and sent to the Federal Bureau of Investigation.

B. District Court peace officers serve under the direction of the District Court and shall perform such services as are necessary, maintaining order and decorum in the Courthouse, including supervision of those persons on probation. The District Court peace officer shall maintain annual weapon proficiency as required by the Lighthorse Commission.

§3-107. Public Defenders

The Supreme Court Chief Justice and District Court Judge shall be allowed to appoint Public Defenders to represent: criminal defendants who are unable to employ counsel, children, mothers and fathers, custodial relatives, and others in need of counsel and approved by the Supreme Court. All members of the Muscogee (Creek) Nation Bar Association shall have the opportunity to be listed and considered for Public Defenders appointments by informing the court clerk of the desire to accept such appointments.

§3-108. Training

Page 6 of 11
NCA 10-111

Mandatory training for Justices and Judges is hereby set at a minimum of 12 hours each fiscal period with the exception of non-attorney Justices. Mandatory training for Non-Attorney Justices is hereby set at a minimum of 24 hours.

SECTION THREE. AMENDMENT. MCNCA Title 26, §4-204. D., is hereby amended to read as follows:

D. Compensation.

A judicial employee should not receive any salary, or wages or supplemental income as compensation for additional Muscogee (Creek) Nation duties. To preserve the integrity of the judicial branch, judges and judicial employees are prohibited from appointments to Muscogee (Creek) Nation committees, boards, commissions, or otherwise being employed by Muscogee (Creek) Nation.

SECTION FOUR. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 1., Budget, Finance and Compensation, is hereby amended to read as follows:

§5-101.

A. The Judicial Branch shall prepare a budget that separates the Supreme Court and the District Court budget line items.

B. The Supreme Court Clerk shall be responsible for the annual preparation of the Supreme Court Budget with input from the Chief Justice and Associate Justices.

C. The District Court Clerk shall be responsible for the annual preparation of the District Court Budget with input from the District Judges.

D. The Chief Justice and District Judges shall approve the final overall budget before submission to the Principal Chief and the National Council as required by the Muscogee (Creek) Nation Constitution.

§5-102. Budget modifications

All modifications to line item appropriations shall be made in writing in accordance with requirements set forth in the Nation's Comprehensive Annual Budget.

§5-103. Accounting policies and procedures

The Judicial Branch shall adhere to the Muscogee (Creek) Nation Accounting Policies and Procedures.

§5-104. Federal regulations

The Supreme Court and District Court shall follow OMB Circular A87, a-102, and the Common Rule Administration Requirements currently in effect as they apply to Indian Tribal Governments, provided the Controller of the Muscogee (Creek) Nation shall have administrative oversight of all judicial branch funds.

§5-105. FEES

A. **Process Service Fees.** The Judicial Branch shall reimburse the Lighthorse Administration for any process service fees collected by the Judicial Branch. Such fees shall immediately be forwarded to the Controller to be deposited into the Lighthorse Administration Revolving Account in accordance with MCNCA Title 27, §2-213.

B. **Court Fees.** Court Costs and Fines shall be forwarded to the Controller on a monthly basis. The Controller shall maintain said monies in accordance with the Muscogee (Creek) Nation Accounting Policies and Procedures. All monies shall be deposited into the tribal treasury and made available for appropriation by the National Council according to tribal law.

§5-106. Temporary Court Deposits Revolving Fund

A revolving fund is hereby created entitled the "Temporary Court Deposits Fund." This fund is non-appropriated and does not contain any tax or license or gaming revenues of the Muscogee (Creek) Nation, nor any funds coming from or belonging to the United States of America. The revolving fund shall be used to deposit monies which are held by the Court on a temporary basis with the potential to be refunded to private parties. Deposits into the account include but are not limited to bonds posted in cases involving injunctive relief, appearance bonds, and escrow monies that will be potentially returned to litigants. Only upon a judicial determination that funds are forfeited to the Nation will money be transferred from the Temporary Court Deposits Revolving Fund to the Nation's treasury or other Court funds.

§5-107. The Court Costs and Publication Fee Revolving Fund

There is hereby created The Court Costs and Publication Fee Revolving Fund. The Fund shall be established with a monetary ceiling of ten thousand and no/100 dollars (\$10,000.00) to be used to pay for services and expenses for the citizen client who is indigent or unable to afford or pay, service of process fees, court reporter fees, guardian ad litem fees, costs and publication expenses. This Revolving Fund shall be held in escrow by the, Office of the Controller who shall only make expenditures in accordance with the above mentioned guidelines and in compliance with the Muscogee (Creek) Nation Accounting Policies and Procedures. Whenever this revolving fund contains less than one thousand dollars (\$1,000.00), the Controller shall notify the Speaker and the National Council may address a supplemental appropriation to replenish the Revolving Fund to ten thousand and no/100 dollars (\$10,000.00).

Page 8 of 11
NCA 10-111

§5-108. Judicial Branch Budget

The Controller shall maintain the budget and all monies of the Judicial Branch.

SECTION FIVE. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 2., Compensation, is hereby amended to read as follows:

§5-201. Supreme Court Justices

The Chief Justice of the Supreme Court shall be compensated at the rate of one thousand two hundred dollars (\$1,200.00) per month and the other Supreme Court Justices shall be compensated at the rate of one thousand dollars (\$1,000.00) per month. Compensation shall have F.I.C.A. and federal income taxes withheld in the same manner as any other employee.

§5-202. District Court Judge

The District Court Judge is to be compensated in the amount of \$45,000 - 90,000.00 per year based on qualifications, experience and tenure. Withholding of taxes and eligibility of benefits for judges shall be equivalent to that of National Council members.

§5-203. Associate District Court Judge

The Associate District Court Judge is to be compensated in the amount of \$40,000 – 80,000 per year based on qualifications, experience and tenure. Judges shall be equivalent to that of National Council members.

§5-204. Special District Judge

The Special District Judge shall be compensated in the same manner as court-appointed attorneys practicing in the tribal court.

§5-205. District Court Clerks

The District Court Clerk, deputy, or an assistant shall not receive any compensation or emoluments through any office or position to which appointed other than that received as such District Court Clerk, deputy or assistant.

SECTION SIX. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 3., Travel, Mileage and Per Diem, is hereby amended to read as follows:

§5-301. Travel

Page 9 of 11
NCA 10-111

A. All Supreme Court travel requests must be made in writing and approved by the Chief Justice and processed through the Muscogee (Creek) Nation Controller's Office.

B. District Court travel requests must be made in writing and approved by the District Judges and processed through the Muscogee (Creek) Nation Controller's Office.

C. The Supreme Court Clerk or the District Court Clerk shall be responsible for the preparation of all Justice, Judge, and court employee travel documentation, thus ensuring all federal government and Muscogee (Creek) Nation travel regulations in effect are complied with and the Muscogee (Creek) Nation Accounting Policies and Procedures are strictly adhered to and followed.

§5-302. Mileage and Travel Expenses

The Supreme Court Justices, District Court Judges, and Special Judge shall receive mileage and/or travel expenses while on judicial business in the amount per mile set out by Federal Travel Regulations for government employees not to exceed a total of five hundred dollars (\$500.00) per month, unless provided for in a resolution of the National Council based on special circumstances.

SECTION SEVEN. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 4., Contract or Grant Funds, is hereby amended to read as follows:

§5-401. Approval of proposals

All proposals and applications for grant funds shall be approved by the Supreme Court Justices and District Court, respectively. All grant funds received must be expended according to tribal law and with the approval of the National Council.

§5-402. Approval of agreements

All agreements shall require majority approval of the Judges of the Judicial Branch, provided that said agreement shall not waive the sovereign immunity of the Nation.

§5-403. Expenditures

Expenditures shall follow the usual accounting procedures as set out by the laws of this Nation.

§5-404. Annual audit

All contract and grant funds received by the Judicial Branch shall be included in the annual audit of the Muscogee (Creek) Nation.

§5-405. Management procedures

All contract and grant funds shall be managed according to Generally Accepted Accounting Procedures (GAAP).

SECTION EIGHT. REPEALER. All prior laws which are inconsistent with this Act are hereby repealed and shall have no force and effect from this date forward.

SECTION NINE. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this 19th day of June 2010.

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with Twenty-Five members attending this meeting on the 19th day of June 2010, and that the above is in conformity with the provisions therein adopted by a vote of 19 in favor, 5 against, 0 abstention, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Terry A. Fish, Recording Secretary
Muscogee (Creek) National Council

Page 11 of 11
NCA 10-111

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this _____ day of _____, 2010, to the above Law, **NCA 10-111** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

A. D. Ellis, Principal Chief
Muscogee (Creek) Nation

VETO OVERRIDE



NCA 10-111

CLASSIFICATION: #26. JUDICIAL BRANCH/COURTS

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 26, CHAPTER 3, ENTITLED "Justices, Judges and Judicial Branch Personnel", CHAPTER 4, ENTITLED "Code of Conduct and Canons of Judicial Ethics for Muscogee (Creek) Nation Judges and Employees", AND CHAPTER 5, ENTITLED "Budget, Finance and Compensation"

Be it Enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. The Muscogee (Creek) Nation Constitution authorizes the National Council to make appropriations from available tribal funds. It is the Policy of the Muscogee (Creek) Nation to administer those funds according to strict accounting standards and to administer those funds through the Controller.

B. The National Council has enacted laws to safeguard the financial operations of the Nation by designating authority to the Controller to oversee the accountability of tribal funds.

C. All branches of the Government should operate within the strict internal controls of the Muscogee (Creek) Nation with the Controller overseeing the accountability of tribal and contracted funds. Currently, both the Executive Branch and Legislative Branch operate in this manner.

D. The Judicial Branch operates its own annual budget and financial affairs and receives program funds ranging from filing fees to CLE fees. All branches of the Government must operate under the same internal accounting controls with oversight by the Controller of the Muscogee (Creek) Nation. Therefore, the Judicial Branch's finances must be moved under the ~~control~~ **administrative oversight** of the Controller of the Muscogee (Creek) Nation.

E. There is a need for an Associate District Court Judge to **enhance the efficiency of the administration of justice within** ~~further carry out the duties of~~ the Judicial Branch.

SECTION TWO. AMENDMENT. MCNCA Title 26, §§3-101, 3-102, 3-103, 3-104, 3-105, 3-106, 3-107, and 3-108 are hereby amended to read as follows:
§3-101. District Court Judge

A. The District Court Judge is hereby created as the presiding Officer of the District Court. The District Court Judge shall possess the following educational and professional qualifications:

1. ~~the District Court Judge m~~Must be a graduate of an accredited law school;
2. a A member of the Muscogee (Creek) Nation Bar Association;
3. a A member of a state bar association and admitted to practice law before the federal courts in Oklahoma;
4. ~~The District Court Judge e~~Shall have a minimum of four (4) years active trial and law practice experience;
5. ~~The District Court Judge s~~Shall be required to maintain a minimum of twelve (12) hours of continuing legal education each year, one (1) hour of which must be legal ethics.

B. The District Court Judge shall be the an administrative officer for the District Court.

C. The District Court Judge shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution. All nominations rejected by the full National Council at a Regular Council meeting shall be replaced by a new nominations within thirty (30) days. The term of office shall be for four (4) years commencing on July 1, 2002 ~~10~~, and every four years thereafter; ~~provided that the District Court Judge in office as of December 15, 2001, shall serve until commencement of the new term on July 1, 2002.~~ Should a District Court Judge be appointed after July 1, 2010, the term shall expire on June 30, 2014. District Court judges appointed following the death, incapacitation, resignation or removal of a District Court Judge shall serve out the remainder of the original term and be subject to reappointment July 1, 2014 and subsequent four year intervals thereafter.

D. The District Court Judge shall be subject to removal from office ~~by Tribal Resolution for cause.~~ for cause by Tribal Resolution of the National Council affirmatively approved with a two-thirds (2/3) vote of the full National Council.

A member of the Supreme Court, the Principal Chief, Attorney General or any member of the National Council may submit a resolution for the full National Council's consideration to remove the District Court Judge for cause for violations, including, but not limited to, abuse of power, financial impropriety, and violations of the Code of Conduct and Canons of Judicial Ethics detailed in MCNCA Title 26, Chapter 4. The National Council shall provide notice to the District Judge of any pending resolutions for removal and allow the District Judge the opportunity to speak and produce evidence in his/her defense.

§ 3-102. Associate District Court Judge

A. The Associate District Court Judge is hereby created as an officer of the District Court. The Associate District Court Judge shall possess the following educational and professional qualifications:

- 1. Must be a graduate of an accredited law school;**
- 2. A member of the Muscogee (Creek) Nation Bar Association;**
- 3. A member of the Oklahoma Bar Association or a state bar association and admitted to practice law before the federal courts in Oklahoma;**
- 4. Shall have a minimum of four years active legal experience;**
- 5. Shall be required to maintain a minimum of twelve (12) hours of continuing legal education each year, one (1) hour of which must be legal ethics.**

B. The Associate District Court Judge shall be an administrative officer for the District Court.

B. The Associate District Court Judge shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution. All nominations rejected by the full National Council at a Regular Council Meeting shall be replaced by a new nomination within thirty (30) days. The term of office shall be two years commencing on October 1, 2010 and every two years thereafter; provided that the first Associate District Court Judge shall begin on confirmation and serve until September 30, 2012.

C. The Associate District Court Judge shall be subject to removal from office by Tribal Resolution for cause, for cause by Tribal Resolution of the National Council affirmatively approved with a two-thirds (2/3) vote of the full National Council.

A member of the Supreme Court, the Principal Chief, Attorney General or any member of the National Council may submit a resolution for the full National Council's consideration to remove the Associate District Court Judge for cause for violations, including, but not limited to, abuse of power, financial impropriety, and violations of the Code of Conduct and Canons of Judicial Ethics detailed in MCNCA Title 26, Chapter 4. The National Council shall provide notice to the

Associate District Judge of any pending resolutions for removal and allow the District Judge the opportunity to speak and produce evidence in his/her defense.

D. The Associate District Court Judge shall be also known as "District Court Judge" or "District Judge" for purpose of this Title other than as presiding officer of the District Court.

EF. If there is a vacancy for the District Court Judge, the Associate District Court Judge shall act as the District Court Judge until a District Court Judge is appointed under tribal law.

§3-103. Special Judge; Vacancies in District or Supreme Court

A Special Judge shall be appointed using the following method and procedure:

A. If illness, conflict of interest, disqualification, recusal or other considerations prevent the District Court Judge **and the Associate District Court Judge** from presiding over a specific case or matter, then the Supreme Court shall appoint a Special Judge for that specific case, no later than thirty (30) days after the receipt of a written request stating the reason preventing the Judge from hearing the case.

B. If illness, conflict of interest, disqualification or other considerations prevent a judge or justice from hearing cases for an extended period of time (not including any vacancy created by expiration of the term of a District Court Judge, **the Associate District Court Judge** or a Supreme Court Justice), then a Special Judge may be appointed after following the process of nomination by the Principal Chief and confirmation by the National Council pursuant to § 3-101 of this Subchapter.

C. Any appointment of the Supreme Court that appoints a Special Judge for more than one case, matter, civil action, or otherwise without following the same process of nomination by the Principal Chief and confirmation by the National Council pursuant to § 3-101 of this Subchapter is null and void.

D. Any Special Judge appointed shall be a member of the Muscogee (Creek) Nation Bar in good standing or shall be a Muscogee (Creek) citizen.

E. The process for filling vacancies of judges contained in Title 27, App. 1, Rule 15A of this Code (Judicial Procedures) is hereby null and void and this Subsection shall control any and all appointments of any Special Judge.

§3-104. District Court Clerks

A. Appointments; duties. The District Court Judge shall appoint a person to serve as the District Court Clerk. The District Court Clerk shall render assistance to the District Court and to the Muscogee (Creek) Nation Lighthouse Police. It shall be the further duty of the District Court Clerk or Deputy District Court Clerk to attend and keep a written record of all proceedings of the District Court to administer oaths to witness and jurymen, to collect fines paid and authorize the payment of all fees authorized by these laws, and to make an accounting thereof and forward to the Controller on a monthly basis to the Controller of the Muscogee (Creek) Nation. The District Court Clerk and Deputy Court Clerk(s) are to be bonded for not less than \$5,000.00.

B. Deputies. The District Court Clerk may appoint necessary deputies, clerical assistants, and employees as may be provided for in the District Court budget approved by the National Council and the Principal Chief. Such deputies, clerical assistants, and employees shall be subject to removal with approval of the District Court Judge as set out in the current written Judicial Branch Personnel Policies Handbook.

§3-105. Peace officers

A. The District Judge is authorized to commission qualified persons as peace officers, with authority to maintain public order, safety, and health by enforcement of all laws, maintain order in the Courthouse and supervise those persons on probation.

1. "Peace Officer" as used herein shall mean any duly appointed person who is charged with responsibility of maintaining public order, safety, and health by the enforcement of all laws or orders of this Nation and who is authorized to bear arms in election of his responsibilities.
2. "Qualified" as used herein shall mean certified as a peace officer by the Bureau of Indian Affairs, the Indian Police Academy, Oklahoma's Council on Law Enforcement Education and Training or some other comparable certifying school or agency for peace officers; and where a proper background investigation, with fingerprints to be taken and sent to the Federal Bureau of Investigation.

B.C. District Court peace officers serve under the direction of the District Court and shall perform such services as are necessary, maintaining order and decorum in the Courthouse, including supervision of those persons on probation. The District Court peace officer shall maintain annual weapon proficiency as required by the Lighthouse Commission.

~~§3-106. Lawmenders~~

~~— A Supreme Court Justice, District Judge or Special District Judge as the case may be shall have the authority to appoint lawmenders.~~

§3-107. Public Defenders

The Supreme Court Chief Justice and District Court Judge shall be allowed to appoint ~~engage in contracts for the~~ Public Defenders to represent: criminal defendants who are unable to employ counsel, children, mothers and fathers, custodial relatives, and others in need of counsel and approved by the Supreme Court. ~~Funds to be expended for Public Defenders shall be set out in the Judicial Branch Budget, and approved on a yearly basis or as needed basis by the National Council.~~ The Certified Public Accountant responsible for the audit of the court system shall be approved by the Supreme Court Chief Justice, District Judge, and Controller. The List shall be available and open to all members of the Muscogee (Creek) Nation bar. All members of the Muscogee (Creek) Nation Bar Association shall have the opportunity to be listed and considered for Public Defenders appointments by informing the court clerk of the desire to accept such appointments.

§3-108. Auditors Training

~~The Certified Public Accountant responsible for the audit of the court system shall be approved by the Supreme Court Chief Justice, District Judge, and Controller.~~

Mandatory training for Justices and Judges is hereby set at a minimum of eight 12 hours each fiscal period with the exception of non-attorney Justices. Mandatory training for Non-Attorney Justices is hereby set at a minimum of 24 hours. with a maximum carryover of eight hours from one fiscal year to the next.

SECTION THREE. AMENDMENT. MCNCA Title 26, §4-204. D., is hereby amended to read as follows:

D. Compensation and Reimbursement.

1. ~~A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this code, or other applicable law, and provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety. Expense reimbursement should be limited to the actual~~

~~cost of travel, food, and lodging reasonably incurred by a judicial employee and, where appropriate to the occasion, by the judicial employee's spouse or relative.~~

~~2. Notwithstanding the above, a judicial employee should not receive any salary, or any supplementation of salary or wages or supplemental income as compensation from any source other than the Muscogee (Creek) Nation for additional Muscogee (Creek) Nation duties. To preserve the integrity of the judicial branch, judges and judicial employees are prohibited from appointments to Muscogee (Creek) Nation committees, boards, commissions, or otherwise being employed by Muscogee (Creek) Nation.~~

SECTION FOUR. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 2-1., Budget, Finance and Compensation, is hereby amended to read as follows:

§5-101.

- A. The **Judicial Branch** court system shall prepare a budget that separates the Supreme Court and the District Court budget line items.
- B. The Supreme Court Clerk shall be responsible for the annual preparation of the Supreme Court Budget with input from the Chief Justice and Associate Justices.
- C. The District Court Clerk shall be responsible for the annual preparation of the District Court Budget with input from the District Judges.
- D. The Chief Justice and District Judges shall approve the final overall budget before submission to the Principal Chief and the National Council as required by the Muscogee (Creek) Nation Constitution.

§5-102. Budget modifications

All modifications to line item appropriations shall be made in writing **in accordance with requirements set forth in the Nation's Comprehensive Annual Budget**, and ~~approved by the respective administrative officer before taking effect. Budget modifications to funds appropriated by line item for the operation of the Supreme Court may be made by the Chief Justice during the Fiscal Year. Budget modifications to funds to line item for the operation of the District Court may be made by the District Judge or the District Court Clerk during the Fiscal Year. Budget modifications to line items during any Fiscal Year which result in the transfer of funds from the District Court line items to Supreme Court line items shall be in writing and approved by the Chief Justice, District Judge, and Judicial Branch Accountant.~~

§5-103. Accounting policies and procedures

Page 8 of 14
NCA 10-111

The Judicial Branch shall adhere to the Muscogee (Creek) Nation Accounting Policies and Procedures. ~~Manual, prepared by Arledge & Associates Certified Public Accountants dated November 9, 1993 is hereby made a statute and law of this Nation. Future additions, deletions, or amendments with written justification from by the court system's Certified Public Accountant shall be presented to the Controller and National Council for comments before taking effect. The National Council shall have ninety days to comment or by National Council Resolution reject the proposed addition, deletion, or amendment.~~

§5-104. Federal regulations

The Supreme Court and District Court shall follow OMB Circular Aa-87, a-102, and the Common Rule Administration Requirements currently in effect as they apply to Indian Tribal Governments, provided the Controller of the Muscogee (Creek) Nation shall have administrative oversight of all judicial branch funds.

§5-105. Vouchers **FEES**

~~Vouchers of the Supreme Court shall be documented according to standard tribal expenditure procedures, and after approval by the Chief Justice, shall be processed by the Office of the Administration as necessary, and forwarded to the Controller for Payment.~~

A. Process Service Fees. The Judicial Branch **shall** is hereby authorized to reimburse the Lighthouse Administration for any process service fees previously collected for such service and any process service fees collected by the Judicial Branch in the future. Such fees shall immediately be **forwarded** paid over to the Muscogee Nation Controller to be deposited into a revolving fund for use by the Lighthouse Administration **Revolving Account in accordance with MCNCA Title 27, §2-213**.as appropriated by the Muscogee National Council. Funds presently in the revolving account referred to herein shall be included in the annual budget of the Lighthouse Administration.

B. **Court Fees. Court Costs and Fines shall be considered tribal income and shall be forwarded to the Controller on a monthly basis. The Controller shall maintain said monies in accordance with the Muscogee (Creek) Nation Accounting Policies and Procedures. All monies shall be deposited into the tribal treasury and made available for appropriation by the National Council according to tribal law.**

§5-106. **Temporary Court Deposits Revolving Fund**

A revolving fund is hereby created entitled the "Temporary Court Deposits Fund." This fund is non-appropriated and does not contain any tax or license or gaming revenues of the Muscogee (Creek) Nation, nor any funds coming from or belonging to the United States of America. The revolving fund shall be used to deposit monies which are held by the Court on a temporary basis with the potential to be refunded to private parties. Deposits into the account include but are not limited to bonds posted in cases involving injunctive relief, appearance bonds, and escrow monies that will be potentially returned to litigants. Only upon a judicial determination that funds are forfeited to the Nation will money be transferred from the Temporary Court Deposits Revolving Fund to the Nation's treasury or other Court funds.

Court Clerk Revolving Fund

~~A Revolving Fund is hereby created out of the District Court Clerk Fund. This fund is non-appropriated and does not contain any tax and license revenues of the Muscogee (Creek) Nation, nor any funds coming from or belonging to the United States of America. The fund may be used for maintenance and updating of the law library, renovation and moving expense, special events, or supplies upon the written request of the National Council, Principal Chief, Chief Justice, or District Judge. All withdrawals shall be made in accordance with the Accounting Policies and Procedures Manual and shall require original invoices. Pre-payment of expenditures may be made out of this Revolving account.~~

§5-107. ~~Legal Services~~ The Court Costs and Publication Fee Revolving Fund

~~There is hereby created The Legal Services Court Costs and Publication Fee Revolving Fund. The Fund shall be established with a monetary ceiling of ten thousand and no/100 dollars (\$10,000.00) to be used to pay extra-ordinary travel expenses, service of process fees, court reporter fees, guardian ad litem fees, court costs and publication expenses in accordance with guidelines adopted by the Commission in connection with services provided by the Muscogee (Creek) Legal Services Department. for sServices and expenses will be paid for the citizen client who is indigent or unable to afford or pay such extra-ordinary travel expenses, service of process fees, court reporter fees, guardian ad litem fees, costs and publication expenses. This Revolving Fund shall be held in escrow by the District Court Clerk, Office of the Controller who shall only make expenditures in accordance with the above mentioned guidelines and in compliance with the Muscogee (Creek) Nation Judicial Branch Accounting Policies and Procedures, prepared by Arledge and Associates Certified Public Accountants. Whenever this revolving fund contains less than one thousand dollars (\$1,000.00), the Controller District Court Clerk shall notify the Speaker and the National Council may address a supplemental appropriation to replenish the Revolving Fund to ten thousand and no/100 dollars (\$10,000.00).~~

~~§5-108. § 5-109.~~ District Court Judicial Branch Budget Separation

~~The Court shall be responsible for expenditures and the budget modifications within sources of revenue and approved line items. The budget for the Judicial Branch is separate from and not a part of the general tribal budget. Expenditures from this budget are not contingent upon funding of any other budget within the Muscogee (Creek) nation. Funds appropriated under this budget are to be turned over to the Judicial Branch in the form of a draft on the Muscogee (Creek) Nation Treasury to be deposited in a financial institution of the Judicial Branch of the Muscogee (Creek) Nation choosing, and shall be subject to audit at any time by the Executive and/or Legislative Branch of the Muscogee (Creek) Nation. The Controller shall maintain the budget and all monies of the Judicial Branch.~~

SECTION FIVE. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 2., Compensation, is hereby amended to read as follows:

~~§5-201.~~ Supreme Court Justices

~~A. Effective October 1, 1994, the Chief Justice of the Supreme Court shall be compensated at the rate of one thousand two hundred dollars (\$1,200.00) per month and the other Supreme Court Justices shall be compensated at the rate of one thousand dollars (\$1,000.00) per month, and these monthly compensation amounts shall have F.I.C.A. and federal income taxes withheld by the Judicial Branch in the same manner as any other employee, the Nation shall pay its statutory F.I.C.A. contribution and the Judicial Branch shall remit said F.I.C.A. and taxes withheld to the United States Treasury as required by federal law.~~

~~B. Further, the Supreme Court, by order, may assign a Supreme Court Justice or member of the Muscogee (Creek) Nation Bar Association in good standing to research and write any opinion required and such assigned individuals shall be compensated at the rate of sixty dollars (\$60.00) per hour upon receipt of an itemized invoice. All provisions of law in conflict with this Section are repealed effective September 30, 1994.~~

~~§5-202.~~ District Court Judge

~~The District Court Judge is to be compensated as a salaried employee on the same basis as other employees in the amount of \$45,000 - 90,000.00 per year based on qualifications, experience and tenure. F.I.C.A. and withholding of federal income tax shall be accomplished by the Judicial Branch in other taxes shall be withheld in the same manner as any other employee. The District Court Judge may elect to participate in fringe benefits provided to judicial branch employees and may engage in the private practice of law in state and federal courts. Withholding of~~

taxes and eligibility of benefits for judges shall be equivalent to that of National Council members.

§5-203. Associate District Court Judge

The Associate District Court Judge is to be compensated as a salaried employee in the amount of \$405,000 – 980,000 per year based on qualifications, experience and tenure. F.I.C.A. and other taxes shall be withheld in the same manner as any other employee. The Associate District Court Judge may elect to participate in fringe benefits provided to Judicial branch employees and may engage in the private practice of law in state and federal courts. Withholding of taxes and eligibility of benefits for Judges shall be equivalent to that of National Council members.

§5-204. Special District Judge

The Special District Judge shall be compensated in the same manner as court-appointed attorneys practicing in the tribal court.

§5-205. District Court Clerks

The District Court Clerk, deputy, or an assistant shall not receive any compensation or emoluments through any office or position to which appointed other than that received as such District Court Clerk, deputy or assistant.

Lawmenders

~~Lawmenders shall be compensated in accordance with the rules adopted by the Supreme Court and District Court.~~

SECTION SIX. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 3., Travel, Mileage and Per Diem, is hereby amended to read as follows:

§5-301. Travel

A. All Supreme Court travel (~~Out of Oklahoma~~) requests must be made in writing and approved by the Chief Justice and processed through the Muscogee (Creek) Nation Controller's Office.

B. District Court (~~Out of Oklahoma~~) travel requests must be made in writing and approved by the District Judges and processed through the Muscogee (Creek) Nation Controller's Office.

~~C. The Supreme Court Clerk or the District Court Clerk shall be responsible for the court system's accounting and shall be responsible for the preparation of all Justice, Judge, and court employee travel documentation, thus ensuring all federal government and Muscogee (Creek) Nation travel regulations in effect are complied with and Judicial Branch the Muscogee (Creek) Nation Accounting Policies and Procedures are strictly adhered to and followed. All out-of-state travel claims shall be approved by the Chief Justice or District Judge and Controller before final payment is made.~~

§5-302. Mileage and Travel Expenses

~~Effective October 1, 1994, the Supreme Court Justices, District Court Judges, and Special Judge shall receive mileage and/or travel expenses while on judicial business in the amount per mile set out by Federal Travel Regulations for government employees not to exceed a total of ~~two hundred fifty~~ five hundred dollars (\$500.00) per month, unless provided for in a resolution of the National Council based on special circumstances.~~

§5-303. Per Diem

~~Effective October 1, 1994, the members of the Supreme Court, District Judge, any Special Judge and employees of Judicial Branch shall receive per diem for travel away from their home to attend meetings with federal and state officials, judicial association meeting, schools, seminars, and workshops that designed to improve the judicial skills and knowledge of the attendee. The per diem in this section shall governed by the actual hotel room rate plus the meals and incidental (m & i) rate per Federal Travel Regulations in effect at the time of travel.~~

SECTION SEVEN. AMENDMENT. MCNCA Title 26, Chapter 5., Subchapter 4., Contract or Grant Funds, is hereby amended to read as follows:

§5-401. Approval of proposals District Court Enhancement Grant

All proposals and applications for grant funds shall be approved by the Supreme Court Justices and District Court, respectively. All grant funds received must be expended according to tribal law and with the approval of the National Council.
~~The purpose of this law is to authorize the Muscogee (Creek) Nation District Court to expend a Tribal Court's Enhancement Grant awarded by the United States Department of Justice.~~

§5-402. Approval of agreements Authorization

All agreements shall require majority approval of the Judges of the Judicial Branch, provided that said agreement shall not waive the sovereign immunity of the Nation. ~~The National Council hereby authorizes the District Court to expend grant funds awarded by the United States Department of Justice in accordance with the attached Budget Detail Worksheet and Budget Narrative. The National Council further authorizes the District Judge to engage in contracts for the service of Certified Public Accountants, Professors of Law, Graduate Attorneys, Graduate Students, enrolled law students, technical service providers and publishers.~~

§5-403. Expenditures

Expenditures shall follow the usual accounting procedures as set out by the laws of this Nation.

§5-404. Annual audit

All contract and grant funds received by the Judicial Branch shall be included in the annual audit of the Muscogee (Creek) Nation.

§5-405. Management procedures

All contract and grant funds shall be managed according to Generally Accepted Accounting Procedures (GAAP).

SECTION EIGHT. REPEALER. All prior laws which are inconsistent with this Act are hereby repealed and shall have no force and effect from this date forward.

SECTION NINE. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this 19th day of June 2010.

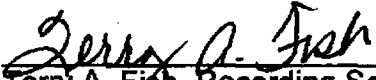
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with **Twenty-Five** members attending this meeting on the **19th day of June 2010**, and that the above is in conformity with the provisions therein adopted by a vote of **19** in favor, **5** against, **0** abstention, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Terry A. Fish, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this _____ day of _____, 2010, to the above Law, **NCA 10-111** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

A. D. Ellis, Principal Chief
Muscogee (Creek) Nation