

TITLE 31. TRIBAL OFFICERS

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CHAPTER 1. REMOVAL OF OFFICERS

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SUBCHAPTER 1. GENERAL PROVISIONS

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§ 1-101. Short title

This chapter may be cited as the “Officer Removal Act of 1989.”
[NCA 89-75, § 101, veto overridden June 24, 1989.]

Cross References

Public Gaming Commissioner, removal from office, see Title 21, § 2-104.

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-102. Declaration of policy

A. The National Council declares its commitment to the principles of justice, to preserve our basic rights, and to strengthen and preserve self and local government.

B. The National Council hereby recognizes the Constitutional obligations of the Muscogee (Creek) Nation:

1. To provide a statutory basis to implement the Constitutional power and responsibility of the National Council outlining procedures and causes for removal of public officials of the Muscogee (Creek) Nation.

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2. To provide registered voters clear standards of conduct for the affairs of the public trust.

3. To provide processes guaranteeing the Constitutional right to petition to show cause to consider removal of a public official.

C. The National Council hereby declares that it is Muscogee (Creek) Nation public policy that:

1. Impeachment and conviction of officers of the Muscogee (Creek) Nation is an exclusive function of the National Council.

2. The Principal Chief, along with other civil officers of the Muscogee (Creek) Nation may be impeached, and if convicted by the National Council, removed from office.

3. The National Council shall have the sole power to try all impeachments. When sitting for that purpose, they shall be under oath or affirmation. When the Principal Chief is tried, the Chief Justice shall preside. The Principal Chief, Second Chief, and/or any member of the Supreme Court shall not be convicted without the concurrence of three-fourths (3/4) of the National Council present.

4. The National Council in exercising its power to approve, advise and consent, either Constitutionally or Legislatively, hereby exercises its power to remove those Civil Officers who require the advice and consent or approval of the National Council to hold office and perform the official duties and responsibilities of that Office.

5. Judgment in cases of impeachment shall not extend further than to remove from office, and disqualification to hold and enjoy any office of honor, trust, election, or profit under the Muscogee (Creek) Nation; but the party convicted shall nevertheless be liable and subject to indictment, trial judgment, and punishment according to law.

[NCA 89-75, § 105, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-103. Definitions

For the purposes of this chapter:

A. "Attorney General" means the Attorney General of the Muscogee (Creek) Nation as defined by law.

B. "Chief Justice of the Supreme Court" means the Supreme Court Justice chosen to preside over the Supreme Court chosen from their own members as defined in Article VII, Section 4 of the Constitution of the Muscogee (Creek) Nation.

C. "Civil Officer" means:

1. A member of the Constitutional Boards defined in the Constitution:

a. Citizenship Board: Article III, Section 1. One of five (5) citizens who have been appointed to the Citizenship Board by the Principal Chief and received majority approval of the Muscogee (Creek) National Council.

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b. Election Board: Article IV, Section 1. One of five (5) citizens who have been appointed to the Election Board by the Principal Chief and received majority approval of the Muscogee (Creek) National Council; or

2. Any person who serves as an officeholder by appointment of the Principal Chief with advice and consent or approval of the Muscogee (Creek) National Council to carry out the duties and functions of that office; or

3. Any person who serves as an officeholder by appointment by of the National Council.

D. "Financial interest" is any interest of monetary value which may be directly and predictable affected by the official action of an officer. There is no minimum amount of value or control that constitutes a financial interest.

E. "Impeachment" means to charge a public official before the National Council with a crime in the exercise of the duties of his office.

F. "Member of the Supreme Court" means one of the six (6) members of the Supreme Court as defined in Article VII, Section 2 of the Constitution of the Muscogee (Creek) Nation.

G. "Officer" means the Principal Chief, Second Chief, member of the Supreme Court, civil officer, or member of the National Council.

H. "Principal Chief" means Principal Chief as defined in Article V, Section 1(a) of the Constitution of the Muscogee (Creek) Nation.

I. "Second Chief" means Second Chief as defined in Article V, Section 1(c) of the Constitution of the Muscogee (Creek) Nation.

J. "Secretary" is the Secretary of the National Council as defined in Article VI, Section 5(b).

[NCA 89-75, § 106, veto overridden June 24, 1989.]

§ 1-104. Cause for removal

There are hereby established causes for removal which are:

A. **Treason**, which shall include conspiracy to violate the Constitution of the Muscogee (Creek) Nation;

B. **Bribery**, which shall include the receipt of bribes; and

C. **High crimes and misdemeanors:**

1. A crime committed in the exercise of the duties of the office, to include but not limited to, theft, embezzlement, fraud, conspiracy, perjury; and also to include a felony conviction in a court of competent jurisdiction.

2. The violation of any law setting forth removal from office as a penalty; incompetence; mismanagement; conflict of interest between official duties resulting in personal gain, directly or indirectly; misrepresentation of office for personal gain; abuse of power; giving of false information with intent; to benefit materially from misuse of funds, directly and indirectly.

3. Misuse of government funds, property, and information:

a. Use of government funds:

i. An officer shall not:

- (A) Improperly use official travel;
 - (B) Improperly use payroll and other vouchers and documents on which government payments are based;
 - (C) Take or fail to account for funds with which the officer is entrusted in his or her official position; or
 - (D) Take other government funds for personal use.
- ii. An officer shall avoid wasteful actions or behavior in the performance of their assigned duties.

b. Use of government property:

An officer shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for other than officially approved activities in the performance of a governmental function.

c. Use of official information:

The public interest requires that certain information in the possession of the government may involve private, personal, or business information which has been furnished the government in confidence. In addition, information in the possession of the government and not generally available may not be used for private gain. Government employees are sometimes able to obtain information about some action the government is about to take or some matter which is not generally known. Information of this kind shall not be used by the officer to further his, her or someone else's private financial or other interest. Such use of official information is clearly a violation of the public trust. An officer shall not, directly or indirectly, make use of or permit others to make use of, for the purpose of furthering any private interest, official information not made available to the general public.

4. Illegal gifts, entertainment and favors:

a. Prohibited acceptance of gifts, entertainment, and favors:

i. An officer shall not directly or indirectly solicit or accept anything of monetary value, including gifts, gratuities, favors, entertainment or loans from a person or entity who, the officer knows because of the nature of official duties:

(A) Has, or is seeking to obtain, contractual or other business or financial relations with the officer's principal operating component, or sub-unit thereof; or with a component of the Tribal Government with respect to which the officer has official duties;

(B) Conducts operations or activities that are regulated by the officer's principal operating component, or subunit thereof or by a component of the Tribal Government with respect to which the officer has official duties; or

(C) Has interest that may be substantially affected by the performance or non-performance of the officer's official duties.

ii. An officer may not designate a person or organization, including charitable or nonprofit organizations, to accept any gift which an officer is prohibited from accepting directly.

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iii. An officer shall not:

(A) Receive or accept anything of value for or because of any official act the officer has performed or will perform ; or

(B) Give, offer or promise anything of value for the performance of an official act or to influence the performance of an official act.

b. Gifts to official superiors:

An Officer shall not solicit a contribution from an employee for a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself; except that a voluntary gift of a nominal value or donation in an nominal amount made on special occasion such as marriage, illness, retirement, birthdays or recognition of meritorious public contribution or achievement.

c. Gifts and decorations from another government:

i. An officer may not request or otherwise encourage the tender of gifts or decorations from another government or official thereof.

ii. An officer may accept:

(A) a gift in the nature of medical treatment or an educational scholarship;

(B) a tangible gift not to exceed one hundred dollars (\$100);

(C) a tangible gift of more than one hundred dollars (\$100) on behalf of the Muscogee (Creek) Nation.

d. Acceptance of travel and subsistence:

Officers may not accept accommodations, subsistence, or travel, in cash or in kind, in connection with official travel from a non-governmental source with which they or the government have official dealings unless government or commercial travel and/or accommodations are not available; if accepted under these circumstances, the justification and basis must be reported in writing to the Attorney General.

5. Abuse of power; profiting from office, position, and knowledge:

a. An officer who is an appointee covered by this chapter shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing or appearance, the subject matter of which is devoted substantially to the responsibilities, program or operations of his or her official duties, or draws substantially official data or ideas which have not or will not on request become public information.

b. An officer may not, with or without compensation, represent another before any government agency, court, or commission in connection with the proceedings, application, request for a ruling, contract, claim or other particular matter in which the Muscogee (Creek) Nation is a party or has a direct and substantial interest.

6. Financial interest:

a. Participation in matters affecting a personal financial interest:

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An officer shall not participate personally and substantially as a government officer in a matter in which any of the following individuals or organizations has a financial interest:

- i. The officer;
 - ii. The officer's spouse;
 - iii. The officer's minor child;
 - iv. An organization in which the officer serves as an officer, director, trustee, partner, or employee; or
 - v. A person or organization with which the officer is negotiating for prospective employment or has an arrangement for prospective employment.
- b. The prohibition shall apply to personal and substantial involvement by an officer in a matter, exercised through decision, approval, disapproval, recommendation, investigation, giving of advice, or other significant effort regarding the matter.
- c. The prohibition against negotiation for prospective employment shall include both an indication of interest on the part of the officer in working for an organization and an affirmative action on the part of the officer in working for an organization and an affirmative action on the part of the organization to show consideration of the employee.

7. Misuse of public office:

Prohibition against involvement in financial transactions based on information obtained through Muscogee (Creek) Nation employment:

An officer shall not engage in, directly or indirectly, a financial transaction as a result of, or in primary reliance upon, any information gained through his or official duties. Information gained through official duties are those facts and other data that relate to the employee's official duties or to the functions of the employing component and would not be available to the employee were he or she not an officer of the Muscogee (Creek) Government.

8. Electioneering:

- a. An officer shall not solicit, promise, threat, coerce or make a contribution of value to any employee, directly or indirectly, of the government to influence the outcome of an election.
- b. An officer shall not make a contribution of monetary value to any candidate for office which will influence the outcome of an election.
- c. An officer shall not electioneer on Muscogee (Creek) Nation property, in or on buildings, or use any agency or subsidiary of the government thereof, or utilize assets to influence or gain advantage for a candidate or group of candidates; except that if by Muscogee (Creek) Nation public policy, property and assets shall be made available for such specific use.

9. Conflict of business interest:

An officer of the Muscogee (Creek) Nation shall not engage in any business of whatever nature, directly or indirectly, with the Muscogee (Creek) Nation, nor shall an officer solicit, participate, profit, benefit, or conspire to gain advantage over others; except that business transactions may be allowed which are

nominal in nature and the government transacts business in the same nature as does the general public, freely and openly.

[NCA 89–75, § 110, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1–105. Principles of procedure

A. There are hereby established fundamental principles of procedure for the removal of officers of the Muscogee (Creek) Nation:

1. The National Council recognizes the Constitutional right of the people to petition for removal of public officials and the National Council obligation to give consideration as to cause of removal. The petitions are to be presented to the National Council and in open court with a District Court Judge presiding, the National Council together with the petitioners, and Election Board validate or invalidate each and every name and signature on the petition, determine that the cause or causes for removal are clearly legible upon the petition, determine that the petition has the required number of valid signatures, and if the above conditions are met, the presiding judge shall certify the petition as valid. The National Council shall consider the cause for removal as stated in the petition(s).

2. The National Council initiates impeachment proceedings by majority vote authorizing a National Council Directive instructing a Special Prosecutor, chosen by the National Council, to convene a Special Impeachment Committee consisting of seven (7) members of the National Council, selected at random, whose purpose shall be to examine charges, investigate activities, and examine evidence for cause of removal as the Directive shall state. If evidence warrants it, the Special Impeachment Committee shall vote by majority vote and direct the Special Prosecutor to prepare formal written statements as Articles of Impeachment charging the officer with a formal charge, with each charge being a separate and individual Article of Impeachment. The Special Prosecutor presents the Articles of Impeachment to the National Council.

3. The National Council convenes as a Court of Impeachment with the Chief Justice of the Supreme Court presiding in the case of a trial of the Principal Chief, or a lesser Supreme Court Judge, if a lesser officer.

4. The Special Prosecutor appointed by the National Council prosecutes the accused Principal Chief or other defendant on trial before the National Council sitting as a Court of Impeachment when the Principal Chief is on trial. The Principal Chief may not be present in person but is defended by his personal legal counsel.

5. A conviction on the charges of impeachment requires three-fourths (3/4) vote of the National Council for removal of the Principal Chief, Second Chief, and/or any member of the Supreme Court; removal of a civil officer may be less than three-fourths (3/4) vote.

6. The only penalty that the National Council can impose is removal from office.

7. A conviction on charges of impeachment is irrevocable.

8. The transition of power upon conviction of the Principal Chief shall pass to the Second Chief, and the presiding Supreme Court Justice shall administer the oath of office.

[NCA 89-75, § 107, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

**SUBCHAPTER 2. PETITION TO REMOVE
A PUBLIC OFFICER**

Section

1-201. Petition process.
1-202. Contents of petition.

Cross References

Petition for removal of Principal Chief, Second Chief or Supreme Court Justice, see Const. Art. VIII, § 3.
Petition for removal of Representative, see Const. Art. VIII, § 2.

§ 1-201. Petition process

A. The National Council shall recognize the constitutional right of the people to petition for removal of public officials and the National Council obligation to give consideration as to cause of removal which may be accomplished through public hearing.

B. 1. Petitioners shall file with the Secretary of the Election Board a Notice of Petition to Remove a Public Official which shall contain the alleged statutory violation, the office of the office holder, and the name of an individual who is acting in an official Petitioner capacity. The Election Board shall furnish a certified list of registered voters within three (3) days of the filing of Notice of Petition. A fee of two dollars (\$2.00) per district which shall include absentee voters shall be charged for the Registered Voter List to defray the cost of materials and processing.

2. Failure to furnish a certified list of registered voters to the Petitioners within three (3) days shall be punishable by fine of one hundred dollars (\$100) per day per Election Board member; and failure to pay such fine shall be punishable by removal from office and subject to other remedies at law.

C. The Petitioners shall have sixty (60) days from the date of receipt of the certified list of registered voters to file the Removal Petition; the Petitioners shall file the Petition with the Secretary of the National Council.

D. The Secretary of the National Council, acting in the capacity of an agent for the National Council, shall exercise all care and diligence to protect the Petition, provide a certified copy to the Petitioners, and notify the Speaker in writing of the official receipt that the Petition has been filed with the National Council.

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E. The Secretary shall file with the District Court a request to validate a Removal of Public Official Petition, and in open court with a District Court Judge presiding, the National Council, together with the petitioners and Election Board, shall validate or invalidate each and every name and signature on the petition, determine that the cause or causes for removal are clearly legible upon the petition and meet the criteria as provided by Title 31, § 1-202, determine that the petition has the required number of valid signatures; and

F. If the above conditions are met, the presiding Judge shall certify the petition as valid.

[NCA 89-75, § 108, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-202. Contents of petition

A. The Petition to Remove a Public Official showing cause for removal shall (1) specify the statutory or regulatory provision alleged to have been violated; and (2) state the allegation(s) in common and concise language. The Petition shall not consist merely of allegations stated in statutory or regulatory language.

B. The National Council shall consider the cause(s) for removal as stated on the Petition to Remove Public Officials.

[NCA 89-75, § 109, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

SUBCHAPTER 3. IMPEACHMENT INVESTIGATION

Section

- 1-301. Convening of Impeachment Session.
- 1-302. Special Prosecutor.
- 1-303. Special Impeachment Committee.
- 1-304. Articles of Impeachment.
- 1-305. Failure to find cause.
- 1-306. Subpoena and deposition powers.
- 1-307. Confidentiality.
- 1-308. Criminal investigations.
- 1-309. Scope of investigative power.

§ 1-301. Convening of Impeachment Session

A. The Speaker of the National Council shall poll Representatives of the National Council to determine if an Impeachment Session shall be convened. If the Speaker determines that a majority of the Representatives desire an Impeachment Session be convened, the Speaker shall issue a call in writing to the Representatives as to time and place to convene an Impeachment Session; or if the Speaker fails to convene an Impeachment Session, a Letter of Petition

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to convene an Impeachment Session, including time and place, signed by a majority of the Representatives, shall be sufficient to call an Impeachment Session.

B. The Speaker, presiding, shall upon call to order of the Impeachment Session in open assembly inquire of each Representative of the National Council present whether the Representative cast a vote to convene an Impeachment Session.

C. Each Representative shall stand, state his name, and answer yea or nay to the question of whether to convene an Impeachment Session.

D. The Secretary shall record and read the tally of votes in open assembly. The Speaker shall declare the National Council in Impeachment Session, if a majority present so votes, or declare the failure to receive a majority of those voting, and dismiss the Representatives.

E. The National Council shall, as a tribunal of the whole with the membership present voting, convene in Impeachment Session.

F. The National Council shall initiate impeachment proceedings by majority vote authorizing a National Council Directive which shall state the purpose, probable cause for removal, and other such allegations, and facts, which may be probable cause for removal and authorize a Special Impeachment Committee and the appointment of Special Prosecutor.

[NCA 89-75, § 111, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-302. Special Prosecutor

The National Council shall choose a Special Prosecutor whose responsibility and duty it is to investigate and prepare information, and present evidence to the Special Impeachment Committee.

[NCA 89-75, § 111, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-303. Special Impeachment Committee

A. A Special Impeachment Committee shall be convened consisting of seven (7) members of the National Council, and one (1) member to serve as an alternate Committee member, selected at random, shall be chosen.

B. The Committee members shall be chosen by drawing of lots.

C. The purpose of the Special Impeachment Committee shall be to examine charges, investigate activities, and examine evidence for cause for removal as the Directive shall state and report its findings to the National Council.

[NCA 89-75, § 111, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1–304. Articles of Impeachment

A. If evidence warrants it, the Special Impeachment Committee shall vote by majority vote and direct the Special Prosecutor to prepare formal written statements as Articles of Impeachment charging the Officer with a formal charge with each charge being a separate and individual Article of Impeachment; such charges to reflect “treason, bribery, or other high crimes and misdemeanors”.

B. The charge(s) cited in the Article of Impeachment showing cause for removal shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

[NCA 89–75, § 111, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1–305. Failure to find cause

If the Special Impeachment Committee fails to find cause or evidence to warrant a trial, it shall vote for dismissal and the Special Prosecutor shall notify the National Council of the results of the inquiry. Thereupon the Impeachment Session may be dismissed, or another Special Impeachment Committee chosen if a new Impeachment Directive is so ordered. The Impeachment Session may recess and convene as necessary.

[NCA 89–75, § 111, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1–306. Subpoena and deposition powers

A. The Special Impeachment Committee shall have the power to require by subpoena the attendance and testimony of witnesses, under oath, and the production of all books, papers, and documents relating to any matter under consideration or investigation.

B. The attendance of witnesses and the production of books, papers, and documents, may be required from any place of hearing. The Special Impeachment Committee may request the Attorney General to bring an action to enforce any subpoena under this section; the action of the Attorney General notwithstanding, the Attorney General may instruct and compel the Tribal Attorney, representing the Muscogee (Creek) Nation as a government-in-total, to take appropriate action in a court of competent jurisdiction to compel the attendance of witnesses and the production of books, papers, and documents.

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C. Any court of the Muscogee (Creek) Nation within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such persons to appear before the Special Impeachment Committee and produce books, papers, or documents as so ordered and give evidence concerning the matter in question and any failure to obey such order of the Court may be punished by such Court as a contempt thereof.

[NCA 89-75, § 112, veto overridden June 24, 1989.]

Cross References

Court of Impeachment, investigative powers, see Title 31, § 1-404.

Library References

Indians ⇌218.
Westlaw Topic No. 209.

§ 1-307. Confidentiality

A. Except as provided in subsection B of this section, the Special Impeachment Committee shall preserve any and all information received pursuant to this chapter as confidential.

B. The Special Impeachment Committee shall when such information indicates a violation of federal, state, or Tribal law or resolutions provide such information to the Attorney General who shall in turn provide such information to the appropriate law enforcement officials.

[NCA 89-75, § 113, veto overridden June 24, 1989.]

Cross References

Court of Impeachment, investigative powers, see Title 31, § 1-404.

Library References

Indians ⇌218.
Westlaw Topic No. 209.

§ 1-308. Criminal investigations

The Attorney General shall at the direction of the Special Prosecutor investigate activities associated with causes for removal as authorized by this chapter which may be a violation of Tribal law.

[NCA 89-75, § 113, veto overridden June 24, 1989.]

Cross References

Court of Impeachment, investigative powers, see Title 31, § 1-404.

Library References

Indians ⇌218.
Westlaw Topic No. 209.

§ 1-309. Scope of investigative power

The review of laws, contracts, activities, official duties, and violations prior to the enactment of this chapter shall be within the review authority of this

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chapter and within the constitutional authority of the National Council as defined in Article VIII Section 1.

[NCA 89-75, § 113, veto overridden June 24, 1989.]

Cross References

Court of Impeachment, investigative powers, see Title 31, § 1-404.

Library References

Indians ↻218.
Westlaw Topic No. 209.

SUBCHAPTER 4. COURT OF IMPEACHMENT

Section

- 1-401. Notice to Convene.
- 1-402. Convening of Court.
- 1-403. Presiding Judge.
- 1-404. Investigative powers of Court.
- 1-405. Administration of oath or affirmation.
- 1-406. Hearings.

§ 1-401. Notice to Convene

The National Council acting through the Speaker, upon receipt of the Articles of Impeachment shall provide Notice to Convene the Court of Impeachment within thirty (30) days. Such notices shall be provided to the parties involved to hear and answer charges, the Supreme Court of the Muscogee (Creek) Nation, and the Representatives of the National Council.

[NCA 89-75, § 114, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1-402. Convening of Court

The National Council shall convene as a Court of Impeachment, acting as a tribunal of the whole with the members of the National Council present voting. As a Court of Impeachment, the National Council is not in legislative session.

[NCA 89-75, § 115, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1-403. Presiding Judge

The National Council convenes as a Court of Impeachment with the Chief Justice of the Supreme Court presiding in the case of a trial of the Principal Chief, or a lesser Supreme Court Judge, if a lesser officer or the Chief Justice of the Supreme Court is on trial.

[NCA 89-75, § 115, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-404. Investigative powers of Court

The Court of the Impeachment shall have the powers outlined as provided in Title 31, §§ 1-306 to 1-309.

[NCA 89-75, § 116, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-405. Administration of oath or affirmation

The Presiding Judge shall administer an oath or affirmation to each Representative, who shall stand, state their name, and give a public oath or affirmation to administer justice under and uphold the Constitution of the Muscogee (Creek) Nation.

[NCA 89-75, § 117, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-406. Hearings

A. The Presiding Judge shall ensure that an impartial hearing is conducted providing Rules of Conduct to the Special Prosecutor and the party charged.

B. The Special Prosecutor appointed by the National Council shall prosecute the accused Principal Chief or other defendant on trial before the National Council, sitting as a Court of Impeachment, with the Chief Justice of the Supreme Court presiding when the Principal Chief is on trial. The Principal Chief may not be present in person but is defended by his personal legal counsel.

[NCA 89-75, § 118, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

SUBCHAPTER 5. CONVICTION

Section

- 1-501. Vote for conviction.
- 1-502. Judgment.
- 1-503. Conviction not subject to judicial review.
- 1-504. Transition of power.

§ 1-501. Vote for conviction

A conviction on the charges of impeachment requires three-fourths (3/4) vote of the National Council for removal of the Principal Chief, Second Chief, and/or any member of the Supreme Court; removal of civil officers shall require a majority vote of those present.

[NCA 89-75, § 118, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-502. Judgment

A. Judgment in cases of impeachment shall not extend further than:

1. Removal from office; and
2. Disqualification to hold and enjoy any office of honor, trust, election or profit under the Muscogee (Creek) Nation; but

B. The party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

[NCA 89-75, § 119, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-503. Conviction not subject to judicial review

A conviction on charges of impeachment shall be irrevocable and not subject to review by the Courts of the Muscogee (Creek) Nation.

[NCA 89-75, § 120, veto overridden June 24, 1989.]

Library References

Indians ⇄218.
Westlaw Topic No. 209.

§ 1-504. Transition of power

A. Upon conviction of the Principal Chief, the Chief Justice of the Supreme Court shall administer the Oath of Office to the Second Chief, who shall assume office immediately.

B. In the event the Office of the Second Chief is vacant, it being within the last six (6) months of the term, an election shall be held for the office of Principal Chief within twenty (20) calendar days from the date of conviction. During the interim, there being no Principal Chief, the Speaker of the National Council shall perform ministerial and routine administrative functions, and shall be prohibited from employment of personnel, approving of legislation, and otherwise performing functions which are reserved for the Office of Principal Chief; except that funds required for the conduct of the Special Election and other necessary and required expenditures authorized by law, and to safeguard the health and safety of an emergency nature may be expended.

[NCA 89-75, §§ 121, 122, veto overridden June 24, 1989.]

Library References

Indians ⇨218.
Westlaw Topic No. 209.

SUBCHAPTER 6. CONSTRUCTION

Section

- 1-601. Severability.
- 1-602. Rules of construction.
- 1-603. Scope of judicial review.
- 1-604. Supersession of other Acts.
- 1-605. Finality of convictions.

§ 1-601. Severability

In the event that any section or provision of this Act,¹ or amendment made by this Act, is held invalid, it is the intent of the National Council that the remaining sections or provisions of this Act, and amendments made by this Act, shall continue in full force and effect.

[NCA 89-75, § 125, veto overridden June 24, 1989.]

¹ NCA 89-75.

Library References

Indians ⇨218.
Westlaw Topic No. 209.

§ 1-602. Rules of construction

Nothing in this Act,¹ or in any amendment made by this Act, shall be construed:

A. To constitute authority to the Executive Branch of the Muscogee (Creek) Nation other than has been specifically authorized by this Act.

B. To authorize any agency to perform any function of the Executive Branch of the Muscogee (Creek) Nation other than has been specifically authorized by this Act.

C. To expand the exercise of judicial review of the removal of officers by the Courts of the Muscogee (Creek) Nation.

[NCA 89-75, § 126, veto overridden June 24, 1989.]

¹ NCA 89-75.

Library References

Indians ⇨218.
Westlaw Topic No. 209.

§ 1-603. Scope of judicial review

Where constitutional provisions are clear and precise, the supremacy of the Constitution as construed makes little difficulty. But where language is used that is not capable of precise definition, the Court may in fact determine not only the constitutionality but also the wisdom of legislative action.

[NCA 89-75, § 127, veto overridden June 24, 1989.]

REMOVAL OF OFFICERS

Title 31, § 1-605

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1-604. Supersession of other Acts

This Act ¹ shall supersede any Act or amendments and where conflicts may occur this Act shall supersede.

[NCA 89-75, § 128, veto overridden June 24, 1989.]

¹ NCA 89-75.

Library References

Indians ↻218.
Westlaw Topic No. 209.

§ 1-605. Finality of convictions

Convictions rendered by the National Council are final and are not subject to review by any Court of the Muscogee (Creek) Nation.

[NCA 89-75, § 129, veto overridden June 24, 1989.]

Library References

Indians ↻218.
Westlaw Topic No. 209.

CHAPTER 2. HOMAGE TO DECEASED OFFICIALS

Section

- 2-101. Purpose.
- 2-102. Authorization.
- 2-103. Responsibility for flag inventory maintenance.
- 2-104. Procedures for flag and certificate presentation.

Historical and Statutory Notes

- NCA 94-93, § 101, provides:
- “Findings:
“The National Council finds that:
“A. The 1979 Constitution of the Muscogee Nation specifies elected officials and members of the Supreme Court.
“B. These officials are specifically identified as the Principal Chief, Second Chief and mem-
- bers of the National Council and Supreme Court.
“C. These officials have served the Muscogee Nation with utmost dignity during their term or terms.
“D. To extend honor and respect to these late officials of the Nation, a flag of the Nation should be presented to the family as well as a certificate of service.”

§ 2-101. Purpose

The purpose of this chapter is to extend respect to deceased honorable servants of the Muscogee (Creek) Nation, (with the exception of officials removed from office), by presentation of a Tribal flag and certificate of service; and to provide for appropriations for the purchase of these flags to be placed in stock.

[NCA 94-93, § 102, approved Feb. 7, 1995.]

§ 2-102. Authorization

The Principal Chief is hereby authorized to expend the amount of eight hundred sixty-four dollars (\$864.00) from the National Council budget, Travel Line Item, for the purpose of purchasing a stock of twelve (12) outdoor Creek Nation flags at a cost of seventy-two dollars (\$72.00 each). These monies will be paid after the completion of the 1995 Comprehensive Budget.

[NCA 94-93, § 103, approved Feb. 7, 1995.]

§ 2-103. Responsibility for flag inventory maintenance

The Tribal flags will be maintained by the Speaker and Second Speaker in the Council office. These flags will be made available for wake and funeral purposes as specified within this chapter.

[NCA 94-93, § 104, approved Feb. 7, 1995.]

§ 2-104. Procedures for flag and certificate presentation

The Tribal flags and certificates of service shall be presented by an elected official from the deceased's district, and/or representative from the National Council, to the surviving spouse or children of the deceased official, at the site of interment.

[NCA 94-93, § 105, approved Feb. 7, 1995.]

CHAPTER 3. COMPENSATION OF TRIBAL OFFICERS AND EMPLOYEES

Section

3-101. Compensation for certain officers or employees of the Muscogee (Creek) Nation.

Cross References

Board of Regents, College of the Muscogee, see Title 18, § 4-108.

§ 3-101. Compensation for certain officers or employees of the Muscogee (Creek) Nation

With the exception of doctors, dentists, lawyers, professional engineers, mid-level health professionals, the Director of the Division of Health Administration, the General Manager of the Muscogee (Creek) Nation Business Enterprise, the General Manager of the Tribal Trade and Commerce Authority and the Controller employed within the Muscogee (Creek) Nation, no other person who receives compensation with funds owned by or under the jurisdiction of the Muscogee (Creek) Nation shall be compensated in an amount which exceeds compensation established by ordinance for the Principal Chief of the Muscogee (Creek) Nation.

[NCA 99-83, § 102, approved July 1, 1999; amended by NCA 02-096, § 2; amended by NCA 03-053, § 1, eff. March 28, 2003]

Cross References

Controller, compensation, see Title 37, § 2-719.

Principal Chief, compensation, see Title 16, § 2-101.

Library References

Indians ⇨216, 222, 224.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

