



# Council of the Cherokee Nation

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

## Legislation Details (With Text)

**File #:** CNCA-51      **Version:** 4      **Name:** TITLE 51 - OFFICERS AND EMPLOYEES  
**Type:** Cherokee Nation Code      **Status:** Passed  
**File created:** 1/1/2014      **In control:** TRIBAL COUNCIL  
**On agenda:** N/A      **Final action:** N/A  
**Enactment date:** N/A      **Enactment #:** N/A  
**Title:** TITLE 51 OFFICERS AND EMPLOYEES (INCLUDES 2019 POCKET PART AND AMENDMENTS)  
**Sponsors:** N/A  
**Indexes:** CNCA, Code, Employee Administrative Procedures, Employee Appeal, Employee Termination Appeals, Employment of Relatives, Employment Rights Ordinance, Officers  
**Code sections:** Title 51 - Officers and Employees  
**Attachments:** 1. TITLE 51 - Officers and Employees.pdf, 2. TITLE 51 - OFFICERS AND EMPLOYEES pocket part.pdf, 3. PP2019 T51 OFFICERS AND EMPLOYEES, 4. PP2019 T51 OFFICERS AND EMPLOYEES +

Date	Ver.	Action By	Action	Result
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### TITLE 51 OFFICERS AND EMPLOYEES (INCLUDES 2019 POCKET PART AND AMENDMENTS)

NOTICE: This document is provided as a courtesy. This document includes amendments to the Title 51 2019 Pocket Part as listed below and have not yet been officially codified. To ensure accuracy, anyone using this document should compare it to the official amendments available at: <https://cherokee.legistar.com/Legislation.aspx>

\* Includes: LA 05-20, LA 50-21, LA 18-23, LA 18-24, and LA 42-24

### TITLE 51

### OFFICERS AND EMPLOYEES

#### Chapter

1. General Provisions
2. Office of the Principal Chief
3. Office of the Deputy Principal Chief
4. Office of Attorney General

5. Office of the Secretary of State

6. Office of the Treasurer [Reserved]

7. Marshal Service

8. Delegate to Congress

8A. Secretary of Veteran's Affairs

9. Impeachment Procedures For Elected and Appointed Officials

10. Employee Access to Justice

11. Drug Testing for Elected Officials (Repealed)

## CHAPTER 1

### GENERAL PROVISIONS

#### Section

1. Salaries for future terms of elected officials

2. Compensation from other sources-Compensation information publicly available-Health insurance and retirement options-Insurance policies-Recalculation of salaries

§ 1. Salaries for future terms of elected officials

Annual salaries and any additional benefit, including non-monetary compensation, for the Principal Chief, Deputy Principal Chief, and members of the Council of the Cherokee Nation shall be determined by the Citizen Committee on Compensation.

1. The Citizens Committee shall be comprised of five (5) total Cherokee citizens eighteen years of age (18) or older. Two (2) appointees by the Principal Chief, two (2) appointees by the Council of the Cherokee Nation, and a single fifth member selected by the four appointees.

2. Appointments of the Principal Chief shall be made through an official letter to the Speaker of the Council, appointments by the Council of the Cherokee Nation shall be made through a Council Resolution, and the appointment of the fifth (5) member shall be made through an official letter to both the Principal Chief and Speaker of the Council of the Cherokee Nation.

3. The Citizens Committee on compensation shall be paid Five Hundred Dollars (\$500.00) per committee member to cover all expenses they incur to attend up to three of their meetings per calendar year, subject to the meeting limitations set forth herein.

4. The Citizens Committee on compensation shall convene no later than sixty (60) days following enactment of this Act and shall complete its findings and report within sixty (60) days thereafter. The Committee shall notify the Office of the Principal Chief and the Council of the Cherokee Nation of its findings upon submission of a written memorandum. This memorandum shall be signed by all members of the Committee to affirm consensus.

5. Beginning in November of 2023 the Principal Chief and the Council of the Cherokee Nation shall appoint citizens to the committee in staggered terms. In order to stagger terms initial appointments shall be made as follows:

Seat One (1), Chief Appointment, shall be appointed for one (1) year

Seat Two (2), Council Appointment, shall be appointed for two (2) years

Seat Three (3), Chief Appointment, shall be appointed for three (3) years

Seat Four (4), Council Appointment, shall be appointed for four (4) years

Seat Five (5), Committee Appointment, shall be appointed for five (5) years.

All subsequent appointments will be for a term of five (5) years.

The Citizen Committee on Compensation shall be authorized to select a Chair and such other officers as it deems warranted among its members to aid in the conduct of its meetings.

6. The Citizens Committee on Compensation shall reconvene in January of 2024 and biennially in evenly numbered years thereafter. The Committee shall issue any reports and findings on compensation by memorandum no later than March 31<sup>st</sup> of said years. The Committee shall notify the Office of the Principal Chief and the Council of the Cherokee Nation of its findings by written memorandum upon completion. This memorandum shall be signed by all members of the Committee to affirm consensus.

7. The Citizens Committee shall consider relevant comparative salary levels such as, but not limited to, salary information from other Tribal Governments, state and local governments, and the private sector. The Citizens Committee may use the Cherokee Nation's Human Resources, the Treasurer's Office and the Council of the Cherokee Nation's Financial Officer as sources of information and said report shall state clear and specific determinations as to increasing, otherwise enhancing or maintaining the status quo of compensation.

8. The report of the citizen committee shall exclusively, by operation of law under this Act, set the salaries for all elected officials of the Cherokee Nation, and shall be effective upon issuance and commensurate with the following bi-weekly Cherokee Nation payroll cycle.

a. Reaffirmation as to Reports: To the extent not otherwise established by law, the the Council and the Principal Chief hereby reaffirm Final Reports of the Citizens Committee on Compensation of January 27, 2022 and of March 30, 2024 as valid and effective law by operation of Section 5.D.8 of this Act and otherwise ratify said reports as valid and effective delegations of the Council's authority, and affirm the same as to any future reports of the Citizens Committee on Compensation issued pursuant to this Act and affirm all matters relating to compensation in all aforementioned reports as "salaries" within the meaning of Section 5.D.8 of this Act.

b. Implementation Authority: The Executive Director of Cherokee Nation Human Resources is authorized to implement the purposes, policies and provisions of this Act and, any Citizen Committee on Compensation Final Reports issued under authority of this Act, through practices, policies or procedures consistent with this Act.

9. Supreme Court: Consistent with the recommendation of Citizens Committee on Compensation Report of March 30, 2024, compensation for Justices of the Cherokee Nation Supreme Court is hereby aligned with that of the Council of the Cherokee Nation and any adjustments made thereto pursuant to future actions of the Citizens Compensation Committee to Council compensation, as follows:

a. Salary: Salaries of Justices of the Cherokee Nation Supreme Court shall be no less than members of the Council of the Cherokee Nation, with the salary of the Chief Justice no less than salary of the

Speaker of the Council of the Cherokee Nation.

b. Fringe Benefits: Fringe benefits available to members of the Supreme Court shall be consistent with fringe benefits available to members of the Council of the Cherokee Nation.

c. Post Service Benefits: Post-service benefits available to former members of the Supreme Court, serving as of and after the date of this Act, shall be consistent with post service benefits made available to members of the Council of the Cherokee Nation.

LA 42-03, eff. December 30, 2003. Amended LA 40-07, eff. November 20, 2007; LA 05-11, eff. February 22, 2011; LA 10-12, eff. March 13, 2012; LA 01-15, eff. March 11, 2015; LA 50-21, eff. November 19, 2021, LA 18-24, eff. May 30, 2024.

§ 2. Compensation from other sources-Compensation information publicly available-Health insurance and retirement options-Insurance policies-Recalculation of salaries

A. All elected officials shall not receive compensation from any other source for work directly related to their duties involving Cherokee Nation Boards or instrumentalities unless otherwise prescribed by law.

B. Information concerning the total amount of compensation of all elected officials of Cherokee Nation including expenses and the value of benefits shall be made available to any citizen of Cherokee Nation upon request at no charge. This information shall be kept and maintained by the Treasurer of Cherokee Nation.

C. All elected officials shall enjoy the same benefits of health insurance and retirement options as those offered to employees of Cherokee Nation except unemployment benefits and 401k.

D. The Treasurer or his or her designee shall let for bid insurance policies of Cherokee Nation consistent with this act.

E. All elected officials shall not be considered employees of Cherokee Nation.

F. The calculation as to when to set the average for Cherokee Nation officials elected in the 2003 Cherokee Nation General Election shall be the salaries of the officials listed in 19 CNCA § 21 and 51 CNCA §§ 1 and 11 as of January 1, 2003. The average is to be recalculated on January 1, 2007 and every four (4) years thereafter in accordance with the procedure described in 51 CNCA § 1.1.

LA 28-01, eff. August 13, 2001. Amended LA 18-03, eff. August 14, 2003; LA 42-03, eff. December

30, 2003.

## CHAPTER 2

### OFFICE OF THE PRINCIPAL CHIEF

#### Section

51. Salary of Principal Chief

52. Travel expenses-Allowance for local travel

53. Reimbursement of expenses for travel outside Cherokee Nation

54. Repealed

55. Control of National Seal

56. Authority to grant pardons

57. Procedure-Application for pardon

58. Offer of reward for information leading to apprehension of criminals at large

59. State burial ceremony-Stipend

§ 51. Salary of Principal Chief

The salary of the Principal Chief of Cherokee Nation shall be the average of the salaries that are paid to the Chiefs and Governor of the Five Civilized Tribes and the Chief of the Eastern Band of Cherokees based on a survey conducted of available information; provided that this amount shall not exceed One Hundred Twenty-Five Thousand Dollars (\$125,000.00) or fall below Seventy-Five Thousand Dollars (\$75,000.00).

LA 07-85, eff. July 13, 1985. Amended LA 07-96, eff. April 2, 1996; LA 28-01, eff. August 13, 2001; LA 18-03, eff. August 14, 2003; LA 42-03, eff. December 30, 2003.

§ 52. Travel expenses-Allowance for local travel

The Principal Chief shall receive Five Hundred Dollars (\$500.00) per month for travel within the fourteen-county area of Cherokee Nation.

LA 07-85, eff. July 13, 1985.

§ 53. Reimbursement of expenses for travel outside Cherokee Nation

The Principal Chief, when on official business for Cherokee Nation, shall be reimbursed for all actual and necessary expenses incurred for travel outside the fourteen-county area of Cherokee Nation of Oklahoma. Proper receipts must be documented and submitted to the Accounting Department of Cherokee Nation of Oklahoma.

The nature and amount of all such reimbursable expenses shall be published annually in the *Cherokee Phoenix*.

LA 07-85, eff. July 13, 1985. Amended LA 20-87, eff. April 13, 1987; LA 31-88, eff. December 10, 1988.

§ 54. Repealed by LA 34-07, eff. September 13, 2007

History

The repealed section, relating to employment of relatives of the Principal Chief, was derived from LA 07-85 and LA 16-87.

§ 55. Control of National Seal

The Principal Chief shall have control of the National Seal, and in all cases, when necessary, may

direct the proper application, use, and preservation of the same.

#### § 56. Authority to grant pardons

The Principal Chief shall have authority to grant, after conviction, pardons to persons convicted of crimes and sentenced to at least one (1) year in a correctional institution; or he may commute the punishment of persons convicted of crimes and sentenced to at least one (1) year in a correctional institution, to imprisonment for any term, upon such conditions and restrictions as he may think proper.

#### § 57. Procedure-Application for pardon

All applications made to the Principal Chief for the pardon or commutation of sentence of any person convicted of a crime, shall be accompanied with a recommendation of credible persons, that the convict is a proper subject for executive clemency; and shall also be accompanied by the evidence in the case, or a certified copy thereof, if accessible, and a full statement of the facts in the case, and the grounds of application. The Principal Chief shall, after notice to the victim, carefully consider the evidence, the circumstances, and the facts in the case, and decide and order accordingly.

#### § 58. Offer of reward for information leading to apprehension of criminals at large

Whenever, in his opinion, the public good requires it, the Principal Chief may offer, and pay from the Treasury of the Nation, a suitable reward, not exceeding One Thousand Dollars (\$1,000.00) in any one case, to any person who shall provide information leading to the apprehension of a person subsequently convicted of a crime or a person who has escaped from a penal institution.

#### § 59. State burial ceremony-Stipend

A. Cherokee Nation shall offer to conduct a memorial befitting a former or current Chief or Principal Chief which shall be conducted as a funeral service or as a separate event in accordance with the wishes of the family of the deceased. The cost of the memorial shall be incurred one hundred percent (100%) by Cherokee Nation.

B. A stipend to the family or burial and incidental expenses at a rate no less than our burial assistance program rate, the precise payment to be determined by the Principal Chief.

C. The Principal Chief or his designee shall commence planning for the memorial "immediately" upon the notice of death. If the deceased is the current Principal Chief, the current Deputy Chief shall

conduct all duties related to the provisions of this act that direct actions by the Principal Chief.

LA 50-12, eff. December 17, 2012.

## CHAPTER 3

### OFFICE OF THE DEPUTY PRINCIPAL CHIEF

#### Section

71. Salary of the Deputy Principal Chief

72. Travel expenses-Allowance for local travel

73. Reimbursement of expenses for travel outside Cherokee Nation

74. Repealed

#### ***FILLING VACANCY IN OFFICE OF DEPUTY PRINCIPAL CHIEF***

81. Purpose

82. Vacation of office generally

83. Manner of resignation by Deputy Principal Chief-Proceedings upon receipt of resignation by Principal Chief

84. Filling of vacancies by vote of Tribal Council-Generally

85. Vacancies occurring within thirty days of scheduled election

86. Term of officer elected by Council

87. Compensation of officer elected by Council

88. Oath of officer elected by Council

89. Transfer of records, accounts, moneys, etc.

#### § 71. Salary of Deputy Principal Chief

The salary of the Deputy Principal Chief of Cherokee Nation shall be the average of the salaries that are paid to the Deputy Principal Chief or the comparable office of the Five Civilized Tribes and the Eastern Band of Cherokees, based on a survey conducted of available information; provided that this amount shall not exceed Eighty Thousand Dollars (\$80,000.00) or fall below Forty-Five Thousand Dollars (\$45,000.00).

LA 07-85, eff. July 13, 1985. Amended LA 07-96, eff. April 2, 1996; LA 28-01, eff. August 13, 2001; LA 18-03, eff. August 14, 2003; LA 42-03, eff. December 30, 2003.

#### § 72. Travel expenses-Allowance for local travel

The Deputy Principal Chief shall receive Five Hundred Dollars (\$500.00) per month for travel within the fourteen-county area of Cherokee Nation.

LA 07-85, eff. July 13, 1985.

#### § 73. Reimbursement of expenses for travel outside Cherokee Nation

The Deputy Principal Chief, when on official business for Cherokee Nation, shall be reimbursed for all actual and necessary expenses incurred for travel outside the fourteen-county area of Cherokee Nation of Oklahoma. Proper receipts must be documented and submitted to the Accounting Department of Cherokee Nation of Oklahoma.

The nature and amount of all such reimbursable expenses shall be published annually in the Cherokee Phoenix.

LA 07-85, eff. July 13, 1985. Amended LA 21-87, eff. April 13, 1985; LA 32-88, eff. December 10, 1988.

§ 74. Repealed by LA 34-07, eff. September 13, 2007

### History

The repealed section, relating to employment of relatives of the Deputy Principal Chief, was derived from LA 07-85 and LA 15-87.

### FILLING VACANCY IN OFFICE OF DEPUTY PRINCIPAL CHIEF

#### § 81. Purpose

The purpose of 51 CNCA §§ 81 through 89 is to provide procedures for filling vacancies in the Office of Deputy Principal Chief pursuant to Article VI, Section 4 [now Article VII, Section 4] of the Cherokee Nation Constitution.

LA 10-85, eff. August 12, 1985.

#### § 82. Vacation of office generally

The office of Deputy Principal Chief shall become vacant on the happening of either of the following events before the expiration of the term of such office:

1. The death of the incumbent or his resignation; or
2. His removal from office or failure to qualify as required by law.

LA 10-85, eff. August 12, 1985.

#### § 83. Manner of resignation by Deputy Principal Chief-Proceedings upon receipt of resignation by

## Principal Chief

A resignation by the Deputy Principal Chief shall be made in writing to the Principal Chief. The Principal Chief shall, upon receipt of said resignation, immediately notify the Members of the Tribal Council.

LA 10-85, eff. August 12, 1985.

### § 84. Filling of vacancies by vote of Tribal Council-Generally

A. Vacancies in the office of Deputy Principal Chief shall be filled by the Tribal Council. The Tribal Council shall elect a Member of the Tribal Council as successor to serve the remainder of the term.

B. Upon receipt of the vacancy notice from the Principal Chief, the Tribal Council shall, at the next regularly scheduled Council session, produce a slate of nominees for the office of Deputy Principal Chief. The slate of nominees shall consist of all current elected Council Members; provided that any Council Member may request that his name not appear on the slate of nominees; and provided, further, that each nominee shall qualify for the office of Deputy Principal Chief as provided for in 26 CNCA § 33.

C. Upon completion of the slate of nominees, the Tribal Council shall proceed to vote for said nominees. Each council Member shall cast one (1) vote for one (1) nominee by secret ballot.

D. The nominee receiving the lowest number of votes shall be removed from the slate until one (1) nominee receives a two-thirds (2/3) majority vote. In the event that more than one nominee receives the lowest number of votes, those having the same number of low votes shall be removed from the slate or until two (2) nominees remain, voting will then continue until one (1) nominee receives a two-thirds (2/3) majority vote of those present.

E. No motion for adjournment shall be made or received until such time as the voting has been completed with one (1) nominee receiving a two-thirds (2/3) majority and the results of the voting announced and recorded.

LA 10-85, eff. August 12, 1985.

**Source.** LA 17-85, eff. December 14, 1985.

§ 85. Vacancies occurring within thirty days of scheduled election

If a vacancy occurs within thirty (30) days prior to an election day at which it may be filled, no internal election shall be made unless it be necessary to carry out said election and the canvass of the same according to law; in that case an internal election by the Tribal Council may be made at any time prior to said election with the person elected to hold office until after said election or until his successor is elected and qualified.

LA 10-85, eff. August 12, 1985.

§ 86. Term of officer elected by Council

The elected officer shall hold office until the end of the term for which the officer whom he succeeds was elected or appointed, and until his successor is elected and qualified.

LA 10-85, eff. August 12, 1985.

§ 87. Compensation of officer elected by Council

Any officer elected as provided for herein shall receive the same rate of pay as the incumbent.

LA 10-85, eff. August 12, 1985.

§ 88. Oath of officer elected by Council

Any officer elected as provided for herein shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation:

"I, \_\_\_\_\_, do solemnly swear, or affirm, that I will faithfully execute the duties, of Deputy Principal Chief of the Cherokee Nation, and will, to the best of my ability, preserve, protect, and defend the Constitutions of Cherokee Nation and the United States of America. I swear or affirm further, that I will do everything within my power to promote the culture, heritage and traditions of Cherokee Nation."

LA 10-85, eff. August 12, 1985.

§ 89. Transfer of records, accounts, moneys, etc.

Upon the death, resignation, suspension or removal from office, or upon the expiration of his term, of any officer elected as provided for herein, all public moneys, books, records, accounts, papers, documents and property of other kind in his hands, or held by him by virtue of his office, shall be delivered to his successor.

LA 10-85, eff. August 12, 1985.

## CHAPTER 4

### OFFICE OF ATTORNEY GENERAL

#### Section

101. Short title

102. Purpose

103. Definitions

104. Seal

105. Functions and duties of Attorney General

106. Costs of litigation

107. Appearance not waiver of immunity of Nation

108. Prosecutors and other assistants to Attorney General-Delegation of authority

109. Interests of Cherokee Nation in pending suits

110. Disqualification of officers and employees of Office of Attorney General

111. Vacancy in position of Attorney General

112. Employment of attorneys, authority of boards or officials-Defense of actions by Attorney General

113. Legal representation of agency or official of Executive Branch-Contracts

114. Nation officer or employee-Legal defense services-Defense duties-Evidence

§ 101. Short title

This act shall be known and may be cited as the Attorney General Act.

LA 12-07, eff. March 19, 2007.

§ 102. Purpose

The purpose of this act is to assign to the Cherokee Nation's Attorney General those "other duties as the Council may prescribe by law" as provided for in Article VII, Section 13 of the Cherokee Nation Constitution drafted in 1999 and ratified in 2003. The Council recognizes the duties and powers delegated to the Attorney General by said Constitution and finds that nothing herein shall be construed to diminish or abridge those duties and powers delegated to the Attorney General by said Constitution.

LA 12-07, eff. March 19, 2007.

§ 103. Definitions

For the purposes of this act:

1. **"Administration"** shall mean the Executive Branch of Cherokee Nation as provided for in Article VII of the Cherokee Nation Constitution.

2. **"Agency"** shall mean commissions, departments, government-owned companies, or other instrumentalities of Cherokee Nation.

3. **"Council"** or **"Tribal Council"** shall mean the Council of Cherokee Nation as provided for in Article VI of the Cherokee Nation Constitution.

4. **"Government-owned company"** or **"instrumentalities"** means those entities in which Cherokee Nation is the sole or majority stockholder or owner, including, but not limited to: Cherokee Nation Enterprises, Cherokee Nation Businesses, and Cherokee Nation Industries.

5. **"Nation"** shall mean Cherokee Nation.

6. **"Person"** means an agency, individual, a corporation, an estate, a trust, a general partnership, a limited partnership, a limited liability company, an association, or any other legal, commercial, government-owned company, or governmental entity.

7. **"State"** means a state, territory, or possession of the United States, a federally-recognized Indian tribe, the District of Columbia or the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

LA 12-07, eff. March 19, 2007.

#### § 104. Seal

The Attorney General shall have a seal for the Office of Attorney General. The design of the seal is subject to the approval of the Principal Chief.

LA 12-07, eff. March 19, 2007.

#### § 105. Functions and duties of Attorney General

A. Pursuant to Article VII, Section 13 of the Cherokee Nation Constitution, the Attorney General "shall

represent the Cherokee Nation in all criminal cases in the courts of the Nation, and in all civil actions wherein the Cherokee Nation is named as a party, and shall have such other duties as the Council may prescribe by law."

B. In addition to the duties prescribed by the Constitution, the duties of the Attorney General as the chief legal officer of the Nation shall be:

1. To supervise Cherokee Nation's representation in all litigation in which Cherokee Nation, an agency, or officer thereof is interested, and shall direct all special attorneys appointed pursuant to this title and all contract attorneys in the discharge of their respective duties; the conduct of litigation in which Cherokee Nation, an agency, department or officer thereof is a party, or is interested, is reserved to the Attorney General, provided that the Attorney General may waive this requirement for specific legal issues which do not implicate governmental interests;
2. To initiate or appear, at his or her discretion, in any action in which the interests of the Nation or the People of the Nation are at issue, and prosecute and defend in any court or before any commission, board or officers or other adjudicatory body, administrative tribunal or body of any nature, in all civil or criminal legal or quasi-legal matters, any cause or proceeding, in which the Nation may be interested; and when so appearing in any such cause or proceeding, the Attorney General may, if the Attorney General deems it advisable and to the best interest of the Nation, take and assume control of the prosecution or defense of the Nation's interests therein, provided that this section includes the authority to initiate or appear in any action involving a government-owned company;
3. To prosecute all actions necessary under Title 10 of the Cherokee Nation Code Annotated for the protection and welfare of children and juveniles in the Cherokee Nation Courts, and to intervene, at the discretion of the Attorney General, in any action in any state court wherein intervention is permitted pursuant to the federal Indian Child Welfare Act, 25 U.S.C. § 1901 et seq.;
4. To give an official opinion upon all questions of law submitted to the Attorney General by any Member of the Tribal Council, the Principal Chief, the Deputy Principal Chief, or by the Group Leader or equivalent of any Cherokee Nation board, commission or executive branch department, and only upon matters in which the requesting party is officially interested. Said opinions shall have the force of law in Cherokee Nation until a differing opinion or order is entered by a Cherokee Nation Court;
5. To prepare drafts of regulations, and of contracts and other instruments in which the Cherokee Nation government is interested and to render opinions on the legal sufficiency of all contracts and other instruments in which the Cherokee Nation is interested and the best interests of the people of the Cherokee Nation are served;
6. To prepare legislation and resolutions as the Attorney General deems appropriate and to provide review of all legislation in whatever form in order to provide a written opinion thereon as to the

possibility of conflicts with other laws and the Constitutionality of said bills;

7. To enforce the proper application of monies appropriated by the Tribal Council and to prosecute breaches of trust in the administration of such funds;

8. To institute actions to recover Nation monies illegally expended, to recover Nation property;

9. To keep and file copies of all opinions of the Office of Attorney General, and to keep an index of all such opinions according to subject and section of the law construed or applied and to cause to be published such of his or her opinions as he or she considers valuable for preservation and to prescribe the manner for the publication of the opinions;

10. To keep a register or docket of all actions, demands and investigations prosecuted, defended or conducted by the Attorney General on behalf of the Nation. Said register or docket shall give the style of the case or investigation, where pending, court number if any, the substance of the matter, result and the names of the assistant(s) who handled the matter;

11. To keep a complete office file of all cases and investigations handled by the Attorney General on behalf of the Nation;

12. To furnish legal advice to Nation officials and all executive departments, boards, commissions, agencies, instrumentalities and officers of Cherokee Nation concerning any matter arising in connection with the exercise of their official powers and duties, and to supervise and direct the legal business of every executive department, board, commission, agency, instrumentality and officer of Cherokee Nation, provided that this section does not include advice and representation to such officials in their individual capacity, nor does it include advice to tribal citizens who are not officials of the Nation, and provided further that, in order to preserve the independence of the Office of Attorney General and to avoid actual and perceived conflicts of legal advice, the Office of Attorney General shall not provide legal advice on day-to-day operations of the Office of Principal Chief or Deputy Principal Chief;

13. To investigate any report by the Treasurer or the Office of Audit and Compliance filed with the Attorney General and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of the Nation;

14. To investigate and prosecute all actions, civil or criminal, relating to civil actions or crimes against or within the jurisdiction of Cherokee Nation, provided that any such criminal actions shall be investigated in coordination with the Marshal Service, and when deemed appropriate by the Attorney General, with any federal or local law enforcement agency and to convene grand juries in such

manner and for such purposes as provided by law, provided that such grand juries shall be composed of citizens of Cherokee Nation;

15. To probate, at the request of Cherokee Nation Real Estate Services, restricted estates;

16. To settle any case or controversy on behalf of the Nation, except that a settlement involving injunctive relief which substantially impacts the operation or programs of a Nation agency or would impose obligations requiring the expenditure of funds in excess of unallocated unencumbered monies in the agency's appropriations or beyond the current fiscal year shall be reviewed prior to its finalization by the Principal Chief and the Tribal Council. The purpose of the review is to determine the budgetary, programmatic and operational impact of the proposed settlement;

17. To oversee all Nation activities related to child-support enforcement as designated by law;

18. Coordinate with the Marshal's Service the following duties:

a. bailiff duties;

b. transportation of prisoners;

c. protection of the Courthouse and the court staff;

d. protection of witnesses, parties and prosecutors;

e. service of process;

f. and to obey the lawful orders and directions of the Courts.

19. To direct and supervise all activities of the Attorney General's Office;

20. To prepare the budget for the Attorney General's Office;

21. To promulgate such rules, regulations, policies, and procedures as the Attorney General deems necessary to fulfill the duties of the Office;

22. To promulgate rules, regulations, policies, and procedures for the qualifications and conduct of employees of the Attorney General's Office, which may include rules for conduct and corresponding disciplinary actions for breaches of conduct which are more stringent than those of the Cherokee Nation Human Resources Policies and Procedures;

23. To carry firearms upon authorization of the Cherokee Nation Marshal;

24. To designate an individual to act as Attorney General in the absence of the Attorney General so long as said designation does not exceed six (6) months; and

25. To engage in other activities as may be prescribed in other sections of the Cherokee Nation Code.

LA 12-07, eff. March 19, 2007.

#### § 106. Costs of litigation

A. Except as otherwise provided by law or written agreement, the cost of litigation in any case for which representation is provided pursuant to this act shall be paid out of the Attorney General's budget.

B. Costs of litigation shall include, but are not limited to, court fees and costs, deposition expenses, travel and lodging, witness fees and other similar costs; except that this act shall not be construed as authorizing the payment by the Nation or any agency thereof of any judgment making an award of monetary damages.

LA 12-07, eff. March 19, 2007.

#### § 107. Appearance not waiver of immunity of Nation

The appearance of the Attorney General or his or her designee(s) in any matter, proceeding or action in any court, before any commission, board or officer or other adjudicatory body, shall not be construed to waive the sovereign immunity of Cherokee Nation.

LA 12-07, eff. March 19, 2007.

§ 108. Prosecutors and other assistants to the Attorney General-Delegation of authority

A. Pursuant to Article VII, Section 13 of the Cherokee Nation Constitution, the Attorney General is empowered "to designate such prosecutors and other assistants as deemed necessary to carry out the duties of office." The Attorney General may from time to time make such provisions as he or she considers appropriate authorizing the performance of any function of the Attorney General by any other officer or employee of the Office of Attorney General.

B. Investigators designated by the Attorney General shall be certified by an accredited police academy and will be deputized by the Marshal.

C. The Attorney General shall appoint and fix the duties of all prosecutors, assistants, and other employees of the Office of Attorney General as the Attorney General deems necessary to perform the duties imposed upon the Attorney General. The compensation of the Attorney General shall not be decreased during his or her term of office.

D. The Attorney General is further authorized to appoint special assistants or special attorneys, including those from external law firms and entities, to fulfill the functions of the Attorney General where deemed necessary and appropriate to secure the best interests of the Nation.

LA 12-07, eff. March 19, 2007.

§ 108. Interests of Cherokee Nation in pending suits

Any attorney, officer, or employee of the Office of Attorney General may be sent by the Attorney General to any tribe, state or district in the United States to attend to the interests of Cherokee Nation in a suit pending in a court of the United States, a tribe or state, or to attend to any other interest of Cherokee Nation.

LA 12-07, eff. March 19, 2007.

§ 109. Disqualification of officers and employees of the Office of Attorney General

The Attorney General shall promulgate rules and regulations which require the disqualification of any attorney, officer or employee of the Office of Attorney General, from participation in a particular

investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

LA 12-07, eff. March 19, 2007.

#### § 110. Vacancy in position of Attorney General

In case of a vacancy in the position of Attorney General by reason of removal, death, resignation or disability lasting for more than six (6) months, the Attorney General position shall be filled by appointment by the Principal Chief with confirmation by the Tribal Council in accordance with Article VII, Section 13 of the Constitution of the Cherokee Nation.

LA 12-07, eff. March 19, 2007; LA 18-23, eff. September 11, 2023.

#### § 111. Employment of attorneys, authority of boards or officials-Defense of actions by Attorney General

Except as otherwise provided by this act, no Nation officer, agency, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, agency, board or commission in any matter without prior written approval of the Attorney General. Nothing herein shall prevent the Tribal Council or the Principal Chief, without approval from the Attorney General, from employing, contracting with, or otherwise seeking counsel with an attorney to provide day-to-day advice and counsel on matters within the purview of their respective powers and authorities.

LA 12-07, eff. March 19, 2007.

#### § 112. Legal representation of agency or official of Executive Branch-Contracts

A. An agency or official of the Executive Branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney if authorized by the Attorney General;
2. Seeking representation by the Office of Attorney General; or

3. If the Office of Attorney General is unable to represent the agency or official due to a conflict of interest, or the Office of Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the Executive Branch shall select an attorney or attorneys and gain approval of said attorney or attorneys from the Attorney General. The Attorney General must approve a schedule of fees for services. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation, regardless of cost, by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

1. The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction(s) requiring representation;

2. The reason or reasons for not obtaining the representation from the Office of Attorney General;

3. The anticipated cost of the representation including the following:

a. the basis for or method of calculation of the fee, including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and

b. the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract, and

c. an estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the Executive Branch shall obtain the approval of the Attorney General. Any amendment, modification, or extension of a contract covered by this section shall also require approval by the Attorney General.

E. When an agency or official of the Executive Branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with all other applicable procurement and finance regulations and procedures. All costs of contract legal representation, including costs of litigation occurring pursuant to the contract, shall be borne by the agency entering the contract.

F. Nothing herein shall prevent the Tribal Council or the Principal Chief, without approval from the Attorney General, from employing, contracting with, or otherwise seeking counsel with an attorney to provide day-to-day advice and counsel on matters within the purview of their respective powers and authorities.

LA 12-07, eff. March 19, 2007.

### § 113. Nation officer or employee-Legal defense services-Defense duties-Evidence

A. The Attorney General shall defend any employee, elected or appointed Nation officer or employee of any Nation office, institution, agency, board or commission of any branch of Nation government in any civil action or special proceeding in the courts of the Nation, a state, or of the United States, by reason of any alleged act done or omitted in the scope of the employee's authority and in the course of his or her employment. The employee named in the action may employ private counsel at his own expense to assist in his defense, however, such employment of private counsel shall not preclude the Attorney General from intervening in the action on the Nation's behalf. Failure of an employee to request representation shall not prohibit the Attorney General from intervening to protect the Nation's interests in any cause of action.

B. The Attorney General shall not represent a Nation employee if that employee acted outside the scope of his or her authority.

C. The Attorney General may intervene in any such action or proceeding and appear on behalf of the Nation, or any of its officers or employees, where the Attorney General deems the Nation to have an interest in the subject matter of the litigation. However, in cases in the Nation's courts where one branch of the Nation's government is an opposing party in a suit brought by another branch of the Nation's government, the Attorney General shall not represent either party but may intervene to provide an opinion concerning the Nation's interests in the matter.

D. 1. When an original action seeking either a writ of mandamus or prohibition against a District Judge, Associate District Judge, or Special Judge of the District Court is commenced or when a cause of action challenging the authority of any Nation Court is commenced in state or federal court, the Attorney General shall represent such judicial officer(s) if, and only if, directed to do so, in writing, by the Chief Justice of the Cherokee Nation Supreme Court, upon the Chief Justice's finding that such representation is necessary to protect either the function or integrity of the judiciary. Such finding by the Chief Justice shall be final and binding.

2. In the event that the Attorney General is or shall be disqualified from representing such judicial officer, the Attorney General shall immediately notify, in writing, the Chief Justice. The Chief Justice then may appoint counsel to represent the judicial officer. The appointed counsel shall determine the method of preparation and presentation of such defense. The appointed counsel shall not be held civilly liable for the exercise of such discretion. The appointed counsel shall, upon approval by the Chief Justice, be entitled to be compensated by the Court for services rendered.

LA 12-07, eff. March 19, 2007.

## CHAPTER 5

### OFFICE OF THE SECRETARY OF STATE

#### Section

201. Books of the Secretary of State's office open to inspection

202. Secretary of State not to hold other position which would conflict with duties

§ 201. Books of the Secretary of State's office open to inspection

The books, papers and transactions of the Secretary of State's office shall at all times be open to the inspection of the Executive, Legislative and Judicial officers of the Nation.

§ 202. Secretary of State not to hold other position which would conflict with duties

The Secretary of State shall not, during his term of office, accept, or be elected or appointed to any other office or position of trust or profit, whereby he may be prevented from exercising a uniform and uninterrupted supervision of the office.

## CHAPTER 6

### OFFICE OF THE TREASURER [RESERVED]

## CHAPTER 7

### MARSHAL SERVICE

#### Section

401. Short title

402. Purpose

403. Definitions

404. Appointment of Marshal

405. Duties and authority of the Office of the Marshal

406. Vacancy in office of Marshal

407. Compensation of Marshal

408. Deputy Marshals-Delegation of authority

409. References in Cherokee Nation Code Annotated to peace officers, etc.

410. Reserve force Deputy Marshals

§ 401. Short title

This act shall be known and may be cited as the Cherokee Nation Marshal Act.

LA 17-07, eff. April 23, 2007.

## § 402. Purpose

The purpose of this act is to prescribe by law the duties and authority of the Cherokee Nation Office of Marshal as required by the Cherokee Nation Constitution drafted in 1999 and ratified in 2003. The Council recognizes the duties and powers delegated to the Office of the Marshal by said Constitution and finds that nothing herein shall be construed to diminish or abridge those duties and powers delegated to the Office of the Marshal by said Constitution.

LA 17-07, eff. April 23, 2007.

## § 403. Definitions

A. "Administration" means the Executive Branch of Cherokee Nation as provided for in Article VII of the Cherokee Nation Constitution.

B. "Agency" means commissions, departments, government-owned companies, or other instrumentalities of Cherokee Nation.

C. "Council" or "Tribal Council" means the Council of Cherokee Nation as provided for in Article VI of the Cherokee Nation Constitution.

D. "Deputy Marshal" means a police officer, regardless of rank, employed by the Marshal Service and/or deputized by the Marshal.

E. "Government-owned company" means an entity wholly-owned by Cherokee Nation or any agency, instrumentality, or subdivision thereof.

F. "Marshal" or "the Marshal" means the "Office of Marshal" as created by the 1999 Cherokee Nation Constitution, Article VII, § 14.

G. "Marshal Service" means the Executive Branch agency developed, managed, directed, and overseen by the Marshal with further such oversight by the Principal Chief as provided in the Constitution of the Cherokee Nation and this Act.

H. "Nation" means Cherokee Nation.

I. "Person" means an agency, individual, corporation, estate, trust, general partnership, limited partnership, limited liability company, association, or any other legal, commercial, government-owned company, or governmental entity.

J. "State" means a state, territory, or possession of the United States, a federally-recognized Indian tribe, the District of Columbia or the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

LA 17-07, eff. April 23, 2007, LA 42-24, eff. November 15, 2024.

#### § 404. Appointment of Marshal

The Marshal shall be appointed by the Principal Chief and confirmed by the Council for a term of five (5) years. The Marshal shall be authorized to deputize law enforcement officers, as needed, for the effective enforcement of applicable laws within the Cherokee Nation Reservation. The Marshal shall be a Cherokee citizen possessing five years of experience in a supervisory capacity in law enforcement or equivalent combination of education and experience.

LA 17-07, eff. April 23, 2007, LA 42-24, eff. November 15, 2024.

#### § 405. Duties and authority of the Office of the Marshal

A. Pursuant to Article VII, Section 14 of the Cherokee Nation Constitution, the "duties and authority of the Marshal shall be prescribed by law." That section also empowers the Marshal to "deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation."

B. In addition to the duties prescribed by the Constitution, the duties and authority of the Office of the Marshal shall be to:

1. Plan, develop, implement and manage an overall law enforcement strategy for the effective enforcement of Cherokee Nation law. Such additional duties shall include, but not be exclusive to, budgetary fiscal management; the creation of job duties, job requirements, and training requirements of employees; the hiring, firing and disciplining of employees of the Office of the Marshal to effectively preserve and protect the peace, the people and the property of Cherokee Nation within the Cherokee Nation Reservation, provided: and

a. Consistent with the constitutional authority provided the Principal Chief, the "overall law enforcement strategy", as referenced in subsection (B)(1), shall be subject to approval of the Principal Chief and shall be summarized at least once per fiscal year within ninety (90) days of the commencement of the fiscal year, in a written report to the Principal Chief and which, upon his or her approval, shall be transmitted by the Principal Chief to the Speaker of the Council of the Cherokee Nation.

b. "Budgetary fiscal management", as referenced in subsection (B)(1) shall be consistent with all laws, policies, processes, and procedures required generally of Executive Branch departments as prescribed by the Principal Chief or his or her designee, including the Treasurer of the Cherokee Nation.

c. Any authority granted as it relates to "employees", as referenced in subsection (B)(1), including hiring, firing, and/or changes to an employee's terms and conditions of employment shall be subject to the policies, processes, and procedures as prescribed by the Principal Chief through Cherokee Nation Human Resources policies and procedures.

d. Nothing contained herein shall be construed to increase or diminish the constitutional authority granted to the Principal Chief or the Office of the Marshal, as a constitutional officer within the Executive Branch.

2. Deputize officers as needed to carry out the law enforcement activities of Cherokee Nation and authorize those deputies to carry firearms, wear prescribed uniforms, badges and credentials, execute or serve warrants, summons and other orders relating to a crime committed, investigate criminal offenses using all applicable laws and regulations, make an arrest with a warrant or without a warrant if the offense is committed in the deputy's presence or the offense is a felony and the deputy has reasonable grounds to believe the person being arrested has committed the felony and perform any other law enforcement-related duty;

3. Attend upon the courts, obey the court's orders, to serve all summons and other processes which may be placed in his hands according to the tenor of the mandates therein contained, and to take all necessary and lawful measures in the execution of the judgment of the courts committed to him to execute and to arrest and cause to be tried, all persons who may be charged with criminal offenses and to provide for bailiff services and protection of the court;

4. Promulgate such rules, regulations, policies and procedures as the Marshal deems necessary to fulfill the duties of the Office and the rules of conduct of employees of the Marshal Service, which may include rules for conduct and corresponding disciplinary actions for breaches of conduct which are to be reviewed annually and kept compliant with new enforcement codes and case laws;

5. Recommend to the Principal Chief a law enforcement strategy, requirements, standards, qualifications, compensation and budget that is compliant to Cherokee Nation laws and regulations and which meet or exceed prevailing standards for law enforcement professionals and law enforcement agency peers, including but not limited to that set forth under federal law, regulation and policy for law enforcement officers for the Bureau of Indian Affairs; When an arrest shall be made of a person charged with a crime, the Marshal or Deputy shall notify the Judge having jurisdiction of the case of such arrest without delay; provided, that any accused person shall be allowed to give bail for his appearance at court at the time set for his trial by giving bond to the Court, the amount to be fixed

by the Judge presiding in that case.

6. Conduct, in coordination with the Cherokee Nation Human Resources Department and the Principal Chief and consistent with paragraph 5, above, market study report with respect to compensation for Marshal Service staff on no less than a bi-annual basis, with said inaugural report due no later than December 31, 2025, which shall include in said inaugural report a "Special Addendum on Marshal Service Retirement," examining present and potential future retirement benefits for Marshal Service Staff that meets the purposes and policies of this Act, including paragraph 5, above.

7. Recommend to the Principal Chief that the Nation enter written agreements, renegotiate agreements, or withdraw from agreements with other law enforcement agencies and jurisdictions as the Marshal deems necessary to extend police protection for Cherokee Nation property and citizens across jurisdictional lines and shall perform all functions and duties as needed;

8. Board and care for prisoners of Cherokee Nation and negotiate and enter contracts therefor;

9. Coordinate investigations with the Cherokee Nation Office of Attorney General and other applicable federal and state prosecuting attorney's office to provide for effective enforcement of applicable laws;

10. Preserve the peace, protect the property of Cherokee Nation and the property of those living within the Nation's jurisdiction and protect the people within the Cherokee Nation Reservation;

11. Maintain responsibility for and have charge over all Cherokee Nation police functions within the Cherokee Nation Reservation to prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to the knowledge of the Marshal;

12. Designate an individual to act as Marshal in the absence of the Marshal so long as said designation does not exceed one month, subject to the authority of the Principal Chief to designate an Acting Marshal pursuant to this Act;

13. Keep a complete office file of all cases and investigations handled by the Marshal Service on behalf of the Cherokee Nation;

14. Oversee the Security Department of the Executive Branch of the Nation, not to include those security departments operated by the Nation's government-owned companies;

15. Establish, oversee, regulate and license registered security officers and promulgate such rules, regulations and policies as necessary;

16. Perform all other duties and functions which may be prescribed by Cherokee law, rule or regulation.

LA 17-07, eff. April 23, 2007. Amended LA 35-12, eff. October 19, 2012, LA 42-24, eff. November 15, 2024.

#### § 406. Vacancy in office of Marshal

A. In case of vacancy in the position of Marshal by reason of removal, death, resignation or disability lasting for more than six (6) months, the Office of the Marshal shall be filled by appointment by the Principal Chief with confirmation by the Council. Such appointment shall be to serve out the term of the prior appointment; provided, however:

1. In the event of said vacancy in the Office of the Marshal, the Principal Chief is further authorized to declare such vacancy, in writing, and appoint an Acting Marshal for the period of the vacancy not to exceed one year from the declaration of vacancy. The Acting Marshal shall possess all of the constitutional and statutory qualifications required of, and all of the authority afforded to, the Office of the Marshal during the period of acting service, but shall possess the title "Acting Marshal of the Cherokee Nation."

LA 17-07, eff. April 23, 2007, LA 42-24, eff. November 15, 2024.

#### § 407. Compensation of Marshal

The compensation of the Marshal shall not be decreased during his or her term, except that the Principal Chief is authorized to set a new level of compensation for any act Marshal under this Act or any Marshal confirmed to complete a term under this Act, consistent with Cherokee Nation Human Resources policies and procedures.

LA 17-07, eff. April 23, 2007, LA 42-24, eff. November 15, 2024.

#### § 408. Deputy Marshals-Delegation of authority

A. Pursuant to Article VII, Section 14, of the Cherokee Nation Constitution, the Marshal is empowered "to deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation." The Marshal may from time to time make such provisions as he or she considers appropriate

authorizing the performance of any function of the Marshal by any other officer or employee of the Marshal Service.

B. The Marshal is authorized to develop the organizational structure of the Marshal Service, including any special teams, squads or units as the Marshal deems necessary to perform the duties imposed upon the Marshal.

LA 17-07, eff. April 23, 2007.

§ 409. References in Cherokee Nation Code to peace officers, etc.

All references in current statutes to peace officers, sheriffs, deputy sheriffs, marshals, policemen, or constables are hereby deemed references to the Marshal and those individuals deputized by the Marshal, and all references to the Director of the Marshal Service shall be deemed references to the Marshal.

LA 17-07, eff. April 23, 2007.

§ 410. Reserve force Deputy Marshals

A. The Marshal may appoint as many reserve force Deputy Marshals as are necessary to preserve the peace and dignity of the Cherokee Nation. A current list of each person holding such appointment shall be maintained by the Marshal and shall be available to the public.

B. Reserve force Deputy Marshals may perform duties which encompass a particular act or a series of acts at the Marshal's discretion.

C. The Marshal or a Deputy Marshal shall accompany a reserve force Deputy Marshal in the performance of all duties assigned to such reserve force Deputy Marshal unless such reserve force Deputy Marshal has completed the required one-hundred-sixty (160) hour basic police course. Such reserve force Deputy Marshals shall complete a one-hundred-sixty (160) hour basic police course within twelve (12) months after they have been commissioned as an individual reserve force Deputy Marshal.

D. Reserve force Deputies may receive compensation for their services. The Marshal may pay reserve force Deputies for travel expenses. The Marshal Service may pay for additional training courses attended by reserve force Deputies.

E. A reserve force Deputy Marshal shall be authorized to serve civil process.

LA 17-07, eff. April 23, 2007, LA 42-24, eff. November 15, 2024.

## CHAPTER 8

### DELEGATE TO CONGRESS

#### Section

501. Short title

502. Purpose

503. Definitions

504. Qualifications for the delegate to Congress

505. Selection

506. Term of office

507. Duties and authority of the office

508. Vacancies in office

509. Funding

510. Removal from office

§ 501. Short title

This act shall be known and may be cited as the Delegate To Congress Act.

LA 14-07, eff. April 19, 2007.

§ 502. Purpose

The purpose of this act is to prescribe by law the duties and authority of the Delegate to the United States House of Representatives (Congress) as required by the Cherokee Nation Constitution drafted in 1999 and ratified in 2003. The Council recognizes the duties and powers delegated to the Office of the Delegate to Congress by said Constitution and finds that nothing herein shall be construed to diminish or abridge those duties and powers delegated to the Office of the Delegate by said Constitution.

LA 14-07, eff. April 19, 2007.

§ 503. Definitions

For purposes of this act:

1. "**Administration**" shall mean the Executive Branch of Cherokee Nation as provided for in Article VII of the Cherokee Nation Constitution.
2. "**Council**" or "**Tribal Council**" shall mean the Council of Cherokee Nation as provided for in Article VI of the Cherokee Nation Constitution.
3. "**Delegate**" shall mean a person appointed by the Principal Chief and confirmed by the Council as provided for in Article VI of the Cherokee Nation Constitution.
4. "**Nation**" shall mean Cherokee Nation.

LA 14-07, eff. April 19, 2007.

## § 504. Qualifications for the Delegate to Congress

The Delegate shall be:

1. a citizen of Cherokee Nation;
2. a citizen of the United States of America;
3. twenty-five (25) years of age as of the date of the selection;
4. on the date of confirmation, a candidate for no other office.

LA 14-07, eff. April 19, 2007.

## § 505. Selection

The Constitution, Article VI, Section 12, provides that the Cherokee Delegate shall be "appointed by the Principal Chief and confirmed by the Council."

LA 14-07, eff. April 19, 2007.

## § 506. Term of office

The term for the Cherokee Delegate shall coincide with the term of the Office of the Principal Chief.

LA 14-07, eff. April 19, 2007.

## § 507. Duties and authority of the office of the Delegate to Congress

The duties and authority pursuant to Article VI, Section 12 of the Cherokee Nation Constitution and applicable federal law or House Rule respectively, of the Delegate shall be as follows:

1. Endeavor to participate in Congressional activities;
2. Advocate the best interests of the Cherokee People at all times;
3. Make regular reports to the Council and Principal Chief on Congressional activities and administrative matters relating to federal law and policy; and
4. Produce an annual report to the Cherokee People.

LA 14-07, eff. April 19, 2007.

#### § 508. Vacancies in office

The Principal Chief may, in case of a vacancy by reason of removal, death, resignation or permanent disability of the Delegate, appoint a successor with confirmation by the Council to fill the vacancy to serve the remainder of the term or until the disability be removed.

LA 14-07, eff. April 19, 2007.

#### § 509. Funding

The Principal Chief shall submit an annual budget to the Council to fund the office of the Delegate to Congress to include the Delegate's salary, benefits, and expenses, including an office and staff until such time as the position is funded by the United States House of Representatives.

#### § 510. Removal from office

The Delegate to Congress shall be subject to removal from office for cause in accordance with Article VI, Section 9 and Article XI of the Constitution of the Cherokee Nation.

LA 14-07, eff. April 19, 2007.

## CHAPTER 8A

## SECRETARY OF VETERAN'S AFFAIRS

### Section

550. Establishment and selection

551. Term of office

552. Vacancy in office

553. Removal from office

### Historical and Statutory Notes

#### 2019 Legislation

LA 13-19, Section 2, provides:

"Section 2. Purpose. To establish a new cabinet secretary known as the Secretary of Veterans Affairs."

#### § 550. Establishment and selection

A. There is hereby created a cabinet secretary known as the Secretary of Veterans Affairs. The Secretary must be a citizen of the Cherokee Nation. The Principal Chief shall prescribe the duties and responsibilities of the Secretary of Veterans Affairs.

B. The Secretary of shall be appointed by the Principal Chief and confirmed by the Tribal Council in accordance with Article VII, Section 12 of the Cherokee Nation Constitution.

LA 13-19, eff. September 6, 2019.

§ 551. Term of office

The term for the Secretary of Veteran's Affairs shall coincide with the term of the Office of the Principal Chief.

LA 13-19, eff. September 6, 2019.

§ 552. Vacancy in office

The Principal Chief may, in the case of a vacancy by reason of removal, death, resignation or permanent disability of the Secretary, appoint a successor with confirmation by the Council to fill the vacancy to serve the remainder of the term or until the disability be removed.

LA 13-19, eff. September 6, 2019.

§ 553. Removal from office

The Secretary shall be subject to removal from office for cause in accordance with Article VI, Section 9 of the Constitution.

LA 13-19, eff. September 6, 2019.

## CHAPTER 9

### IMPEACHMENT PROCEDURES FOR ELECTED AND APPOINTED OFFICIALS

#### Section

601. Short title

602. Purpose

603. Definitions

604. Grounds for impeachment

605. Initiation of impeachment

606. Presentation of impeachment

607. Presiding Office of the Court of Impeachment

608. Oath-Concurrence of Councilors

609. Judgment-Criminal liability

610. Designation of offense

611. Court of Impeachment

612. Hearing and summons

613. Powers of Court of Impeachment-Orders and judgments-Power to enforce

614. Costs-How paid-Cost of accused if acquitted

615. Expenses-How paid

§ 601. Short title

This act shall be known and may be cited as the Impeachment Procedures for Elected and Appointed Officials Act of 2011.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

## § 602. Purpose

The purpose of this act is to establish procedures for impeachment of the Principal Chief, the Deputy Principal Chief, Tribal Council Members, Attorney General or Marshal, hereinafter "Officials."

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

## § 603. Definitions

A. **"Articles of Impeachment"** means the written accusations of one or more of the grounds for impeachment, prepared and sworn to by the Special Prosecutor, after his or her investigation and determination that probable cause exists that an impeachable offense has occurred.

B. **"Corruption in office"** means the act of an official or fiduciary person who unlawfully and wrongfully uses his or her station or character to procure some benefit for himself or herself or for another person, contrary to duty and the rights of others.

C. **"Habitual drunkenness"** means one who frequently and repeatedly becomes intoxicated by excessive indulgence in intoxicating liquor so as to acquire a fixed habit and an involuntary tendency to become intoxicated as often as the temptation is presented even though he remains sober for days or even weeks at a time.

D. **"Impeachment"** means the prosecution through the Special Prosecutor of an elected official, under the Constitution, for willful neglect of duty, corruption in office, drunkenness, incompetency, or any conviction involving moral turpitude committed while in office.

E. **"Incompetency"** means lack of ability, legal qualification or fitness to discharge a required duty.

F. **"Moral turpitude"** means an act of business, vileness or depravity in private and social duties which man owes to his fellow man.

G. **"Office of honor, profit or trust"** means, for the purposes of this act, an elected position or a position appointed by the highest governing body of a tribe; such an office does not include employment, contract services or consulting agreements.

H. **"Official"** means the Principal Chief, Deputy Principal Chief and all Members of the Tribal Council, Attorney General and Marshal, including those individuals who have been appointed to serve the remainder of a term of office that has been vacated for any reason.

I. **"Presiding Judge"** means the Chief Justice of the Supreme Court of Cherokee Nation, or if he or she cannot serve, another Justice of the Supreme Court of Cherokee Nation, who will preside over the impeachment proceedings.

J. **"Special Prosecutor"** means an attorney admitted to practice law before the highest Court of the State of which he or she is a resident, and shall not be an employee, contractor or official of Cherokee Nation.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 604. Grounds for impeachment

A. Officials shall be liable and subject to impeachment for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction of a felony, or a crime under the laws of Cherokee Nation that if committed in some other jurisdiction would be a felony, or a misdemeanor involving moral turpitude or offenses against Cherokee Nation committed while in office.

B. **"Willful neglect"** within the meaning of this act shall include the filing of frivolous allegations of impeachment under 51 CNCA § 605. The filing of allegations of impeachment that fails to achieve approval of at least a simple majority of the Council or to any committee or subcommittee to which the impeachment allegations are assigned, pursuant to 51 CNCA § 605, shall create the rebuttable presumption that such allegations were frivolous.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 605. Initiation of impeachment

A. **Initiation by Council.** The Council, upon allegations of an impeachable offense or offenses committed by any official may, by a vote of two-thirds (2/3) of the body, appoint a Special Prosecutor and give the Prosecutor the charges which have been alleged. The Special Prosecutor shall investigate those charges and any other transactions which are grounds for impeachment. If such investigation gives the Prosecutor probable cause to believe that activities constituting grounds for impeachment have been committed, he or she shall draft Articles of Impeachment for presentment to the Supreme Court of Cherokee Nation. In conducting this investigation the Special Prosecutor shall have the power of subpoena, the power to compel evidence and witnesses and shall have the

cooperation of all entities of Cherokee Nation.

B. Recommendation by Principal Chief. The Principal Chief, upon allegations of an impeachable offense or offenses committed by any official, may appoint a Special Prosecutor and give the Prosecutor the charges which have been alleged. The Special Prosecutor shall investigate those charges and any other transactions which are grounds for impeachment. If such investigation gives the Prosecutor probable cause to believe that activities constituting grounds for impeachment have been committed, he or she shall draft allegations of impeachment for recommended action by the Council of Cherokee Nation pursuant to subsection (A) of this section by filing said allegations with the Speaker of the Council. In conducting this investigation the Special Prosecutor shall have the power of subpoena, the power to compel evidence and witnesses and shall have the cooperation of all entities of Cherokee Nation.

C. Filing of impeachment allegations. The filing of impeachment allegations pursuant to subsection (A) or (B) shall be done in writing to the Speaker of the Council with a copy sent to the official accused of the impeachable offense(s). Said allegations shall be set forth in a statement reciting the basis for the allegation and signed by the official making the allegation under penalty of perjury. The impeachment allegations shall be assigned by the Speaker of the Council to the Rules Committee, and then to such subcommittee that the Rules Committee shall deem warranted.

D. Council to control impeachment proceedings, alternative disposition of allegations. The Council shall at all times control the impeachment proceedings, including but not limited to during the investigation stage, by reserving the right to direct the Special Prosecutor to suspend or terminate his or her investigation by majority vote of the Council. Termination of the investigation may be done for any reason, including, but not limited to, resignation of the official subject of the impeachment allegations or based on a determination by the Council that some other disposition of the allegation, such as censure, is warranted.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 606. Presentation of impeachment

The Special Prosecutor shall present the Articles of Impeachment to the Supreme Court of Cherokee Nation by filing the same in the office of the Clerk.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 607. Presiding Officer of the Court of Impeachment

When sitting as a Court of Impeachment, the Tribal Council shall be presided over by the Chief Justice of the Supreme Court of Cherokee Nation, or if he is absent or disqualified, then by one (1) of the Associate Justices of the Supreme Court of Cherokee Nation.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 608. Oath-Concurrence of Councilors

When the Tribal Council is sitting as a Court of Impeachment the Councilors shall be on oath or affirmation, impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds ( $\frac{2}{3}$ ) of the members of the Tribal Council and unless it is found, by clear and convincing evidence, that one or more of the grounds for impeachment exist.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 609. Judgment-Criminal liability

An officer who is convicted of impeachment shall be removed from office, but this shall not prevent punishment of any such officer on either civil or criminal charges growing out of the same matter.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 610. Designation of offense

The Articles of Impeachment shall state with reasonable certainty the offense in office for which the officer is impeached and if there be more than one, they shall be stated separately and distinctly.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 611. Court of Impeachment

When Articles of Impeachment shall be presented, the Cherokee Nation Council shall, within ten (10) days thereafter, organize as a Court of Impeachment and may for the purpose of conducting the business of such Court, appoint a Clerk. The Clerk shall issue all process and keep a record of the proceedings of such Court. It may employ such stenographic, clerical and other help as may be

required.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

§ 612. Hearing and summons

The Tribal Council, when sitting as a Court of Impeachment shall appoint a day for hearing the impeachment and the accused shall be required by summons by the Clerk to appear on that day. The summons shall be served by delivering a copy of the same and of the Articles of Impeachment to the accused, in person if found, or by leaving the copies at his residence with some member of his family over sixteen (16) years of age.

At said hearing the accused shall have the right to have an attorney present, at his or her own expense, present evidence, object to evidence presented, call witnesses on his or her behalf, confront and cross-examine witnesses and do any other action deemed necessary by the Presiding Judge to ensure due process.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

§ 613. Powers of Court of Impeachment-Orders and judgments-Power to enforce

The Tribal Council, sitting as a Court of Impeachment shall, through the Presiding Justice, have the power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts and judgments to preserve order, grant continuances that are for good cause and not for the purposes of delay and to punish in a summary way contempts of, and disobedience to, its authority and to make all orders, rules and regulations which it may deem essential or necessary for the orderly transaction of its business.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

§ 614. Costs-How paid-Costs of accused if acquitted

A. If the accused is acquitted, he or she shall be entitled to costs, including attorney fees, to be taxed by the Clerk and paid by Cherokee Nation out of any funds available, and if convicted, he or she shall pay the costs, unless the Supreme Court of Cherokee Nation otherwise directs.

B. Personal liability, treble damages. If an official is convicted of impeachment based on the earlier

filing of frivolous allegations of impeachment under 51 CNCA § 604(B), such convicted official shall be liable for up to triple the amount of any cost, including attorney fees, borne by the accused official subject to said earlier allegations of impeachment, as determined by the Court of Impeachment, unless the Supreme Court of Cherokee Nation otherwise directs.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

#### § 615. Expenses-How paid

This act shall be used as authorization to expend funds for the purposes of implementing the procedures and requirements mandated herein.

LA 10-02, eff. March 15, 2002. Amended LA 05-12, eff. February 28, 2012.

### CHAPTER 10

#### EMPLOYEE ACCESS TO JUSTICE

##### Section

1001. Short title

1002. Purpose

1003. Definitions

1004. Termination or demotion for cause

1005. Pre-termination procedure; Notice of termination

1006. Pre-demotion procedure, notice of demotion

1007. Petition for wrongful termination or demotion

1008. Filing of petition

1009. Damages allowed, punitive damages disallowed

1010. Scheduling of hearing

1011. Time computations

1012. No waiver

1013. Provisions not cumulative

1014. Severability

1015. Effective Date

1016. Self-help contributions

Historical and Statutory Notes

2017 Legislation

LA 30-17, Section 2, provides:

"Section 2. Purpose. The purpose of this Act is to repeal and replace Chapter 10 of Title 51 of the Cherokee Nation Code Annotated."

§ 1001. Short title

This act shall be known and may be cited as the Employee Access to Justice Act of 2017.

LA 30-17, eff. November 21, 2017.

§ 1002. Purpose

The purpose of this act is to expedite the judicial review of employment terminations and involuntary demotions by employees of the Cherokee Nation and included entities as defined herein while providing due process and for cause removal protections guaranteed by the Cherokee Nation Constitution.

LA 30-17, eff. November 21, 2017.

§ 1003. Definitions

As used in the Employee Access to Justice Act:

A. **"Act"** shall mean the Employee Access to Justice Act.

B. **"Cause to Terminate"** or **"Cause to Demote"** shall have the meaning as set forth in the policies and procedures of the Cherokee Nation and included entities, or as defined herein, or by the Human Resource Director and approved by the Principal Chief or included entities' CEO.

C. **"Demotion"** or **"Demoted"** or **"Demote"** shall mean involuntary reduction in base pay of an employee within the Cherokee Nation or included entities.

D. **"Demoted Employee"** shall mean an employee who received an involuntary reduction in base pay.

E. **"District Court"** shall mean the trial court of Cherokee Nation.

F. **"Employee"** shall mean a person who has been directly employed by the Cherokee Nation or included entities on a regular, permanent, full-time basis for at least one (1) continuous year immediately prior to termination or involuntary demotion. This term shall not include part-time, seasonal, temporary, or limited-term contract employees, regardless of the length of the contract.

G. **"Executive Director"** shall mean the managing director of a department or agency of the Cherokee Nation or included entities.

H. **"Former Employee"** shall mean an employee who was involuntarily terminated from employment.

I. **"Human Resources Director"** shall mean the Human Resources Director of the Cherokee Nation or included entities, or his or her designee.

J. **"Included Entities"** shall mean any company, corporation, or other for profit business entity owned by the Cherokee Nation, including but not limited to Cherokee Nation Businesses, LLC, Cherokee Nation Entertainment, LLC, and Cherokee Nation Industries, LLC. This term shall not include specialized authorities and entities created by the Legislature, such as, but not limited to, the Arkansas Riverbed Authority.

K. **"Parties to Suit"** may include a former or demoted employee and the Cherokee Nation or the applicable included entity from which the employee was terminated or demoted.

L. **"Termination" or "Terminated"** shall mean the involuntary severance of an employee from employment. This term shall not include current employees who resign their employment, employees who are separated due to lack of work, lack of funds or downsizing, employees who failed to report for their scheduled shift for three (3) consecutive days without notifying their supervisor or Human Resources representative, or employees who do not return to work after a job-protected leave expires.

LA 30-17, eff. November 21, 2017.

#### § 1004. Termination or Demotion for Cause

A. An employee of the Cherokee Nation or included entities may only be terminated or demoted for cause.

B. Cause to terminate or demote, shall be determined in accordance with Cherokee Nation or included entities' policies and procedures or by the Human Resources Director.

LA 30-17, eff. November 21, 2017.

§ 1005. Pre-Termination Procedure; Notice of Termination

A. An employee shall be given written notice of the charges against him or her or other reasons that are the basis of the cause to terminate employment.

B. An employee shall be afforded a pre-termination opportunity to respond to the charge against him or her and/or the reason(s) that are the basis of the cause to terminate.

C. An employee shall be given written notice describing the cause(s) for termination. Such notice shall include a statement apprising the employee of his or her right to seek redress through the District Court.

D. The termination shall take effect according to the written notice given to the employee.

LA 30-17, eff. November 21, 2017.

§ 1006. Pre-Demotion Procedure, Notice of Demotion

A. An employee shall be given written notice of the charges against him or her or other reasons that are the basis of the cause to demote.

B. An employee shall be afforded a pre-demotion opportunity to respond to the charge against him or her and/or the reason(s) that are the basis of the cause to demote.

C. An employee shall be given written notice describing the cause(s) for demotion. Such notice shall include a statement apprising the employee of his or her right to seek redress through the District Court.

D. The demotion shall take effect according to the written notice given to the employee.

LA 30-17, eff. November 21, 2017.

§ 1007. Petition for Wrongful Termination or Demotion

A. A former employee aggrieved by a termination may file a petition for wrongful termination in the District Court as described herein.

B. A demoted employee aggrieved by an involuntary demotion may file a petition for wrongful demotion in the District Court as described herein.

C. A petition for wrongful termination or wrongful demotion shall be brought in the name of the former employee or demoted employee against either the Cherokee Nation or the included entity from which the employee was terminated or demoted.

D. Any petition for wrongful termination or wrongful demotion shall be limited to claims that the former employee or demoted employee was terminated or demoted without cause or denied due process of law.

LA 30-17, eff. November 21, 2017.

#### § 1008. Filing of Petition

A. A former employee may file a petition for wrongful termination, or a demoted employee may file a petition for wrongful demotion, with the clerk of the District Court within twenty (20) days of the effective date of termination or demotion. A file stamped copy of the same must be served upon the Human Resources Director and the Office of the Attorney General or Office of the Chief Legal Officer for included entities within five (5) days of filing.

B. The Attorney General or Chief Legal Officer shall file a response within twenty (20) days of receipt of service.

C. Any claim not timely filed shall be forever time-barred.

D. All filing fees under this Act shall be waived.

LA 30-17, eff. November 21, 2017.

#### § 1009. Damages Allowed, Punitive Damages Disallowed

A. Relief from a judicial finding of wrongful termination or wrongful demotion, shall be limited to the following:

1. Reinstatement of the employee to his or her former position, or a similar position at the same rate of base pay.

2. In the case of wrongful termination, an award of back-pay and benefits for the period of separation from employment, less any unemployment compensation or other wages that the former employee has received since termination. Provided that no such award shall exceed one (1) year of the former employee's salary and benefits.

3. In the case of wrongful demotion, an award of back-pay equivalent to the difference between the employee's former base pay and their current base pay from the time of the demotion. Provided that no such award shall exceed one (1) year of the employee's salary and benefits.

4. An award of reasonable costs and attorney's fees. Provided that in no event shall such an award of costs and attorney's fees exceed twenty percent (20%) of the amount of an award of back-pay and benefits.

B. Any award of punitive or exemplary damages against the Cherokee Nation or included entities is expressly disallowed.

LA 30-17, eff. November 21, 2017.

#### § 1010. Scheduling of Hearing

A. The District Court shall set a hearing on the merits of any timely-filed petition for wrongful termination or wrongful demotion within six (6) weeks of filing.

B. An extension of time by the District Court may only be had upon approval of all parties to suit or for good cause shown under extraordinary circumstances.

LA 30-17, eff. November 21, 2017.

#### § 1011. Time computations

In computing any period of time prescribed or allowed by this act, the day of the act, or event, from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the receiving office does not remain open for public business until 4:00 p.m., in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as defined by the Cherokee Nation, or any other day when the receiving office does not remain open for public business until 4:00 p.m.

LA 30-17, eff. November 21, 2017.

#### § 1012. No waiver

Nothing in this Act shall be deemed as a waiver of the Cherokee Nation's sovereign immunity, except as to the specific suit allowed herein, for any purpose.

LA 30-17, eff. November 21, 2017.

#### § 1013. Provisions Not Cumulative

The provisions of this Act shall not be cumulative to existing law and shall supersede any existing law in conflict therewith.

LA 30-17, eff. November 21, 2017.

#### § 1014. Severability

The provisions of this Act are severable and if any part of the provisions hereof, or their application to any person or circumstance, shall be held unconstitutional the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Act.

LA 30-17, eff. November 21, 2017.

#### § 1015. Effective Date

The provisions of this Act shall become effective thirty (30) days from and after the date of its passage and approval.

LA 30-17, eff. November 21, 2017.

#### § 1016. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Cherokee Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.

LA 30-17, eff. November 21, 2017.

## CHAPTER 11

### DRUG TESTING FOR ELECTED OFFICIALS (Repealed by LA 05-20)