

An Act

LEGISLATIVE ACT NO. 39-05

AN ACT AMENDING LA#7-97; REVISING TITLE 26 (“ELECTIONS”) OF THE CHEROKEE NATION CODE ANNOTATED

BE IT ENACTED BY THE CHEROKEE NATION:

Section One. Title 26 Of The Cherokee Nation Code Annotated, Entitled “Elections” Is Hereby Revised In Its Entirety And Is Hereby Enacted As Follows:

TITLE 26 ELECTIONS

CHAPTER 1 General Provisions

§ 1. Purpose

This title is adopted for the purpose of conducting all Cherokee Nation elections, for Principal Chief, Deputy Principal Chief, Council, Constitutional amendments, initiatives and referenda of the Cherokee Nation.

§2. Legislative History

L.A. 9-85 Eff. July 13, 1985
L.A. 35-89 Eff. Sept. 9 1989
L.A. 6-91 Eff. March 9, 1991
L.A. 2-87 Eff. Feb. 14, 1987
L.A. 12-90 Eff. Nov. 13, 1990
L.A. 5-87 Eff. Feb. 14, 1987
L.A. 8-87 Eff. Feb. 26, 1987
L.A. 11-87 Eff. March 14, 1987
L.A. 6-87 Eff. Feb. 14, 1987
L.A. 9-87 Eff. Feb. 26, 1987
L.A. 14-87 Eff. March 14, 1987
L.A. 7-87 Eff. Feb. 14, 1987
L.A. 12-87 Eff. May 11, 1987
L.A. 23-87 Eff. June 11, 1987
L.A. 3-87 Eff. February 14, 1987
L.A. 4-87 Eff. Feb. 14, 1987

§3. Authority.

This title is enacted pursuant to Article IX, Section 1 of the Constitution for the Cherokee Nation approved by referendum on June 26, 1976.

§ 3-A. Definitions. For purposes of this Title, the following terms shall be defined as follows:

1. Affiliation. Registration The act of registering in a resident voter’s home district, or in the case of a non-resident voter, the act of registering in the district of choice.
2. Ballot box. “Ballot box” means the locked box or electronic counting device in which ballots are inserted when votes are cast or any transfer case used for ballots inserted in an electronic counting device.
3. Candidate. "Candidate" means a person who has filed to run in an election to hold elective office in the Cherokee Nation.

4. Computer Technology. "Computer technology" shall include computer hardware and software.
5. Council. "Council" means the ~~Cherokee Nation~~ **Council of the Cherokee Nation**.
6. Council member. "Council member" means a member of the ~~Cherokee Nation~~ **Council of the Cherokee Nation**.
7. Counting device. "Counting device" means an electronic device used for the purpose of accepting and counting ballots and for all other legitimate purposes related to the conduct of an election.
8. Election Commission. "Election Commission" means the Cherokee Nation Election Commission.
9. Election Outcome. "Election outcome" means the determination of the candidate winning an election for office; and the determination of the passage or failure of an initiative or referendum question.
10. Election Results. "Election results" means the number of votes in favor of each candidate for office; and the number of votes in favor of and opposed to each constitutional amendment or initiative or referendum question.
11. Election Services Office. "Election Services Office" means the Cherokee Nation Election Services Office established under Section 14 of this Title.
12. Elective Office. "Elective office" means the office of Principal Chief, Deputy Principal Chief, and Council member.
13. **Election Period. "Election Period" shall include the primary election and the runoff election.**
14. General Election. "General Election" means a regular election for offices of the Principal Chief and Deputy Principal Chief and for seats on the Cherokee Nation Council starting in the year 1979 and occurring every four years thereafter on a date certain; provided that elections for the following purposes may also occur during a general election: consideration of referendum and initiative petitions pursuant to Article XV, Section 4 of the Cherokee Nation Constitution, and consideration of constitutional amendments pursuant to Article XV, Section 2 of the Cherokee Nation Constitution.
15. Initiative Petition. "Initiative petition" means a petition submitted by the registered voters of the Cherokee Nation for purposes of proposing any legislative measure pursuant to Article XV, Sections 1, 3, 5 and 6 of the Cherokee Nation Constitution.
16. Jurisdictional boundaries means the boundaries described by Treaty and Agreements with the United States and the Cherokee Nation which covers all or portions of fourteen counties of the Northeastern part of Oklahoma hereafter.
17. ~~Member Citizen~~ of the Cherokee Nation. "~~Member Citizen~~ of the Cherokee Nation" means a person enrolled as a ~~member citizen~~ of the Cherokee Nation pursuant to 11 C.N.C.A. §§ 11-14.
18. "Non-resident registered voter" means a person who is a ~~member~~ and citizen of the Cherokee Nation whose residence is outside the ~~historical~~ **jurisdictional** boundaries of the Cherokee Nation at the time of any election.
19. Officer. "Officer" means the Principal Chief and Deputy Principal Chief.
20. Original Enrollee. "Original enrollee" is as defined by 11 C.N.C.A. § 4 J, derived only through proof of Cherokee blood based on the final rolls.

21. Precinct. "Precinct" shall mean an official voting place within a district, as designated by the Election Commission.
22. Precinct Board. "Precinct Board" means a Cherokee Nation Election Precinct Board for each precinct, appointed by the Election Commission and exercising the duties set forth in Section 12 C of this Title.
23. Primary Election. "Primary election" means the initial submission of candidates or measures to a vote of the people during a general election or a special election, prior to a runoff election.
24. Referendum Petition. "Referendum petition" means a petition submitted by registered voters of the Cherokee Nation for purposes of submitting to a vote of the people all or a portion of a Council enactment pursuant to Article XV, Sections 1, 4, 5 and 6 of the Cherokee Nation Constitution.
25. Re-register ~~affiliation~~. "Re-register ~~affiliation~~" means the act of changing a voter registration ~~affiliation~~ as a result of a change in residency for purposes of changing voting districts or for other legitimate purposes.
26. Resident Registered Voter. "Resident Registered Voter" means a person whose residence is inside of the ~~historical~~ **jurisdictional** boundaries of the Cherokee Nation at the time he or she ~~registered~~ registers to vote.
27. Runoff Election. "Runoff election" means the election of one of the two candidates for an executive office or Council seat who had the highest number of votes at the primary election; a runoff election may occur during a general or special election.
28. Special Election. "Special election" means an election specially set on a date other than the date certain established for general elections, for one or more of the following purposes: consideration of referendum and initiative petitions when special election is required by the Council or Principal Chief pursuant to Article XV, Section 4 of the Cherokee Nation Constitution, consideration of constitutional amendments when special election is required by the Council pursuant to Article XV, Section 2 of the Cherokee Nation Constitution, election by the Council to fill Council vacancies, election by the Council of the Deputy Principal Chief pursuant to Article VI, Section 4 of the Cherokee Nation Constitution, and election of Principal Chief and Deputy Principal Chief in the event of a vacancy in both offices as provided in Article VI, Section 5 of the Cherokee Nation Constitution.

§ 4. Tenure of Elected Officials.

Tenure of the Principal Chief, Deputy Principal Chief, and Council members shall be a term of four (4) years from the date of August 14, 1979, and each August 14 every four (4) years thereafter except for vacancies that are filled in accordance with Article VI, Sections 4 and 5 of the Constitution, 19 C.N.C.A. § 3. The terms of Council members shall be staggered as set forth herein.

§ 5. Representation by District.

- A. District Boundaries. There shall be established nine (9) representative districts within the ~~historical boundaries~~ **jurisdictional boundaries** of the Cherokee Nation. These districts include only that portion of any existing county which lies within the ~~historical~~ jurisdictional boundary of the Cherokee Nation and is established as follows:

- District 1: Cherokee (Cherokee County)
- District 2: Trail of Tears (Adair County)
- District 3: Sequoyah (Sequoyah County)
- District 4: Three Rivers (McIntosh, Muskogee & Wagoner Counties)
- District 5: Delaware (Delaware and Ottawa Counties)
- District 6: Mayes (Mayes County)
- District 7: Will Rogers (Rogers County)
- District 8: ~~Olagah~~ Keeler (Tulsa and Washington Counties)
- District 9: Craig (Craig and Nowata Counties)

~~B. District Name Selection. The names of these districts were determined by popular vote in the 1991 Cherokee Nation election by the eligible voters of the respective district.~~

~~B. Number of Representatives for Each District. The number of representative from each district will be determined by apportionment as defined in the following paragraph. Pursuant to apportionment conducted in 1990, eligible voters from District 6, 7, 8, and 9 shall elect one representative each to the Council. Eligible voters from District 2, 3, 4 and 5 shall elect two representatives each to the Council by casting votes for up to two candidates, provided that if only one vote is cast, that vote will still be counted. District 1 shall elect three representatives to the Council by casting votes for up to three candidates, provided that if less than three votes are cast, the votes cast will still be counted.~~

C. Apportionment. Apportionment of representation having been first conducted in 1990, shall be conducted every twelve years thereafter, and shall be concluded no later than June 30 of the year preceding a regular election year. Apportionment shall be conducted by the Election Commission and approved by the Council by amendment of this Section. Said apportionment shall be attained by first dividing the combined total population of all ~~members~~ citizens of the Cherokee Nation residing within the ~~historical~~ jurisdictional boundaries of the Cherokee Nation by fifteen (15). This figure must then be divided into the total population of all ~~members~~ citizens of the Cherokee Nation residing within each district. The resulting percentage shall determine the number of representatives per district. All percentage points .5 or higher shall be rounded upward to the nearest whole number and all percentage points less than .5 shall be rounded downward to the nearest whole number.

~~D. Council Persons Elected by District. In Council Districts that have two or more Council seats by apportionment, each apportioned seat shall be designated numerically. Candidates shall select the seat in which they wish to run for office. Each seat shall be elected separately in staggered fashion for a four (4) year term as set forth in this Act.~~

~~E. Staggered Terms. The Cherokee Nation Tribal Council seats shall be elected in staggered terms. In order to achieve this, beginning in the 2007 Election, the Council seats shall be elected as follows:~~

~~District 1 — Cherokee: (Cherokee County)
Seat 1 — 6 year term
Seat 2 — 4 year term~~

~~District 2 — Trial of Tears: (Adair County)
Seat 1 — 6 year term
Seat 2 — 4 year term~~

~~District 3 — Sequoyah: (Sequoyah County)
Seat 1 — 6 year term
Seat 2 — 4 year term~~

~~District 4 — Three Rivers (McIntosh, Muskogee & Wagoner)
Seat 1 — 6 year term~~

~~District 5 — Delaware: (Delaware County)
Seat 1 — 6 year term
Seat 2 — 4 year term~~

~~District 6 — Mayes: (Mayes County)
Seat 1 — 6 year term
Seat 2 — 4 year term~~

~~District 7 — Will Rogers: (Rogers County)
Seat 1 — 6 year term~~

~~District 8 — Keeler (Tulsa and Washington Counties)
Seat 1 — 6 year term
Seat 2 — 4 year term~~

District 9 — Craig: (Craig and Nowata Counties)
Seat 1 — 6 year term

Beginning with the 2011 Election the seats that were elected to a four (4) year term shall hold an election for another four (4) year term and an election shall be held for those seats every four (4) years thereafter. Beginning in the 2013 election the seats that were elected to (6) six year term shall hold an election for a four (4) year term, and an election shall be held for those seats every four (4) years thereafter.

CHAPTER 2

Supervisory Bodies and Election Services Office

§ 11. Cherokee Nation Election Commission.

- A. Election Commission; Establishment and Appointment. There shall be a Cherokee Nation Election Commission. The Election Commission shall be composed of five (5) members, two (2) appointed by the Council, two (2) appointed by the Principal Chief and one (1) selected by those four appointees who shall be confirmed by the Principal Chief and the Council. The Election Commission shall have the sole responsibility and explicit authority for the conduct of all Cherokee Nation elections, including activities described in Sub-section D of this Section. It shall be an independent commission in the performance of its statutory authority and in the performance of such authority shall not be subject to direction or supervision or of any other type of influence by the Executive Office or the Cherokee Nation Council.
- B. Term. The Election Commission shall be appointed as soon as practical, preferably within six months following the expiration of the term of the Election Commission which served the prior general election. Each Election Commission member shall serve a term commencing with the day of appointment, and ending on October 1 of the general election year for which he or she served as an Election Commissioner. A person appointed or selected to fill a vacancy on the Election Commission shall serve only the remaining term of the vacant position.
- C. Qualifications. No elected official of the Cherokee Nation, ~~(no former elected official of the Cherokee Nation)~~, no person who is related within the third degree by either consanguinity or affinity to an elected official, no employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, ~~or former elected official~~, no person who has been convicted of a felony, no person who has ever plead no contest or guilty to a felony without said matter being expunged from court records, or convicted of a crime in any Tribal Court of any Federally recognized Indian Tribe that would be considered a Felony in State or Federal Court. shall serve on the Election Commission. No candidate or regular employee of a candidate for office or person who is related within the third degree by either consanguinity or affinity to a candidate for office shall serve on the Election Commission.
- D. Duties. The Election Commission shall have the responsibility of conducting all general and special elections to elect the Principal Chief, Deputy Principal Chief, and Council members. The Election Commission shall also have the responsibility of conducting special elections. The Election Commission shall also engage in the following activities in the performance of its responsibilities:
1. Elect a chairperson, vice-chairperson/parliamentarian, and a secretary/treasurer from its own membership;
 2. Publish a schedule for its regular meetings, establish an agenda for each meeting in accordance with Robert's Rules of Order, and approve and maintain correct and accurate minutes of its deliberations;
 3. Hire independent legal counsel ~~during the general election year, as needed~~, who shall not be employed in any other manner by the Cherokee Nation or any agency or enterprise of the Cherokee Nation;

4. Use available technology, including without limitation telefax machines and computer technology; provided that computer technology may include any necessary accompanying consultant services related thereto, in the conduct of elections; and provided further that selection of computer hardware, computer software and computer consultant services and related costs shall be approved by the Principal Chief and the Council;
 5. Oversee the registration ~~affiliation~~ of voters, provided that nothing herein shall affect the validity of registration ~~affiliation~~ of voters during any period between expiration of the term of one Election Commission and the seating of the next Election Commission;
 6. Maintain ~~current-list~~ voter lists and shall use all efforts to diligently update said list with correct address and phone numbers .
 7. Develop rules and regulations necessary to conduct Cherokee Nation elections, provided that such rules and regulations shall be published and transmitted to the Council no later than 90 days before the first day of filing for the election for which said rules and regulations are intended to apply, unless a shorter time is prescribed by the Council for purposes of a special election; Said rules are to be published in the Cherokee Phoenix and on the official web site of the Cherokee Nation as soon as practicable after transmittal to the Council.
 8. ~~Evaluate and determine~~ **Approve** the number and location of precincts and notify the Council of the identity of such sites no later than 90 days before the first day of filing before the election. Said locations are to be published in the Cherokee Phoenix and on the official web site of the Cherokee Nation as soon as practicable after transmittal to the Council.
 9. Provide the various Precinct Board officials with the proper instruction and training for performing their duties;
 10. Determine the eligibility of all candidates for office pursuant to Section 36 C of this Title and have the first authority to consider challenges to candidate eligibility;
 11. Conduct all election recounts pursuant to Section 94 of this Title;
 12. Conduct all general and special elections by secret ballot, provided that elections by the Council to fill vacant Council seats shall be by public roll call vote;
 13. Prepare and order the official ballot or ballots;
 14. Issue ballots, ~~tally sheets~~ and all support materials to hold an election;
 15. Be responsible for the storage of and safekeeping of all election ballots and allied documents after the close of the election pursuant to procedures established by the Election Commission; and
 16. Engage in any other activities for the performance of its responsibilities as required by the provisions of this Title.
 17. Provide written reports and recommendations not less than a monthly basis to the Council and Principal Chief through the Rules Committee on activities of the Commission related to the conduct of elections. The Chairman or his/her designee shall give said report no less than on a monthly basis.
 18. Investigate and audit all financial reports and disclosures required by this Act, and to report any violations to the Cherokee Nation prosecutor and/or law enforcement. Further the Election Commission has the authority to assess any fines, penalties or other sanctions authorized by this Act.
- E. Meetings. The Election Commission shall conduct business in open meetings at the Election Services Office or other public location designated by the Commission,

provided that the Commission may go into Executive Session for purposes of discussing personnel matters, any pending litigation and issues related to design and ordering of the official ballots. No vote shall be taken in Executive session, and all votes shall be public and recorded in the official minutes of Election Commission. Meeting minutes shall be prepared by designated Election Services Office staff, setting forth Election Commission members present, and a summary of items discussed and action taken by vote of the Election Commission, and said minutes shall be subject to approval of the Commission.

- F. Compensation. The Election Commission members shall receive stipends or compensation for their services in accordance with their itemized budget approved by the Council.
- G. Removal of Election Commission Members. An Election Commission member may be removed from office for committing the following:
- 1) willful neglect of the duties prescribed in this act;
 - 2) corruption in office;
 - 3) drunkenness;
 - 4) incompetency, misfeasance, or malfeasance of office;
 - 5) for any conviction involving moral turpitude committed while in office;
 - 6) for campaigning for any candidate or measure or who otherwise improperly interferes with or attempts to improperly interfere with the conduct of any election;
 - 7) violation of any law of the Cherokee Nation that would be a felony in the State of Oklahoma;

A petition for removal of an Election Commissioner may be brought by a majority vote of the Tribal Council or the Principal Chief. An Election Commissioner accused of violating the provisions of this Act shall be given notice of the hearing and charges and an opportunity to respond to the charges. The hearing shall be before the Judicial Appeals Tribunal in accordance with its Rules and Procedures. If the Judicial Appeals Tribunal finds that a commissioner has committed an act that would warrant removal, that member shall be removed as a Commissioner, then the Council shall vote at regular session to remove said commissioner consistent with the findings of the Judicial Appeals Tribunal.

§ 12. Precinct Boards.

- A. Establishment of Precinct Boards There shall be a Precinct Board, consisting of not more than ~~ten (10)~~ **twelve (12)** persons but adequate in number to carry out the provision of this Act, for each precinct defined in Section 2-A(18) of this Title, and for any other places specified by the Election Commission. Each Precinct Board shall be appointed ~~approved~~ by the Election Commission. The responsibilities of each Precinct Board official shall be established by the Election Commission, and may include titles such as inspector, judge, clerk and any others position titles deemed necessary by the Election Commission.
- B. Qualifications. No elected official of the Cherokee Nation, ~~no former elected official of the Cherokee Nation,~~ no person who is related within the first ~~third~~ degree by either consanguinity or affinity to an elected official ~~or former elected official,~~ and no employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, shall serve on a Precinct Board. No candidate or regular employee of a candidate for office or person who is related within the first ~~third~~ degree by either consanguinity or affinity to a candidate for office shall serve on a Precinct Board.
- C. Duties. Each Precinct Board shall oversee the conduct of elections at its assigned precinct within a district, including the following specific duties:
1. To ascertain that the identity of each person offering to vote is established either through personal knowledge or photo ID;

2. To ascertain that the name of each person offering to vote is on the ~~Qualified~~ Voter List for the particular precinct;
 3. To see that the voter countersigns his name or makes his mark on the register of persons voting, provided that the mark of a voter who makes his or her mark on the register shall be witnessed by the Precinct Inspector and one other Precinct Official who shall write their initials beside the mark;
 4. To see that only one ballot is cast by the voter himself;
 5. To make a final decision for the Election Commission as to any question of eligibility for a person to vote pursuant to the procedure for challenged ballots set forth in Section 64 of this Title;
 6. To ensure that the ballot boxes are locked at all times except when the ballots are being counted; or if counting devices are used, to ensure that said devices are not subject to tampering and that transfer cases are secured;
 7. To count the ballots cast and to make a tally thereof, provided that counting and tallying may be made manually or by electronic counting device;
 8. To make a precinct certified election return and post a copy thereof on the exterior of the precinct;
 9. To preserve ~~spoiled and~~ mutilated ballots;
 10. To return all of the ballot boxes after counting and lock, seal, and mark the boxes with the name of the precinct and date of election; and
 11. To return the unused ballots, spoiled and mutilated ballots, and locked and sealed ballot boxes to the Election Services Office immediately following the election.
- D. Presence During Voting Hours. No member of a Precinct Board shall leave the precinct during voting hours. If it becomes necessary for any Precinct Board Member to leave the precinct or premises, said member cannot return to the precinct.
- E. Compensation. Precinct Board members shall receive such stipends or compensation for their services as prescribed by the Election Commission.

§ 13. Oath.

Each Election Commission member, each member of the Election Services Office staff and each Precinct Board member, before entering upon the duties of his or her respective positions, shall take and subscribe to the following oath or affirmation: ~~"I do solemnly swear or affirm that I will faithfully execute the duties of the Cherokee Nation Election Commission [or of the Election Services Office Staff] [or of the Precinct Board] and will uphold and enforce the election laws and other applicable laws of the Cherokee Nation, and the Constitution of the Cherokee Nation. I further swear or affirm that I will do everything within my power to serve the Cherokee people by carrying out the duties of the Election Commission in a responsible, impartial and unbiased manner."~~ **"I do solemnly swear, or affirm that I will faithfully execute the duties of the Election Commission of the Cherokee Nation in a responsible, impartial and unbiased manner, and will, to the best of my ability, preserve, protect and defend the Constitutions of the 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 the Cherokee Nation."**

§ 14. Election Services Office.

- A. Permanent Office. The Election Services Office shall be maintained on a full-time basis with a permanent staff and /or temporary staff as necessary to conduct any election. The site of the Election Services Office shall be at a location apart from Cherokee Nation W. W. Keeler Building conducive to maintenance of strong security measures.

- B. Staff. All Election Services Office staff, excluding members of the Election Commission, shall be deemed employees of the Cherokee Nation, shall receive all benefits of Cherokee Nation employees, and shall be subject to all applicable Cherokee Nation human resources policies and procedures.
- D. Administrator. The Administrator of the Election Services Office shall a be Cherokee Tribal ~~member~~ citizen and independently hired by the Election Commission using objective standards developed by the Election Commission and in accordance with Cherokee Nation human resources policies and procedures, provided that nothing herein shall be construed to authorize the removal or replacement of the person serving in said position at the time of enactment of this law or serving in said position at any time when new Commissioners take office. The Administrator shall be under the direct supervision of the Election Commission at all times said body is in existence; provided that during periods of time in which no Election Commission is in existence, the Administrator shall maintain independence and report to the Council and the Principal Chief through the Rules Committee ~~be under the direct supervision of the Council Rules Committee~~. The Administrator shall have exclusive authority over the day to day operations of the Election Services Office, including without limitation: direct supervisory authority over the Election Services Office staff; authority over procurements, including the ordering of routine supplies; responsibility for budget preparation; and preparation of financial reports for the Election Commission and the Election Services Office.

CHAPTER 3 Qualifications and Affiliation Registration of Voters

§ 21. Eligibility to Vote.

- A. Basic Requirements Subject to the limitations contained herein, any person who meets the following requirements shall be entitled to vote in elections for Principal Chief, Deputy Principal Chief, Council and referenda of the Cherokee Nation:
1. The person shall be a member citizen of the Cherokee Nation eighteen (18) years of age or older as of the date of any election called ~~or date first business day in March of the year of the election or referenda~~; and
 2. A person shall be registered to vote no later than the last business day in ~~April~~ March of the election year. Provided that Tribal ~~members~~ citizens that are seventeen (17) years old and can show that their birth date is prior to the date of the primary election shall be allowed to register to vote.
 - (A) If said person is a resident voter as defined herein he/she shall affiliate with the district in which he or she resides.
 - (B) If said person is a non-resident voter as defined herein he/she shall affiliate with a district of his or her choice.
 3. All persons who voted in the last primary or general election shall be deemed eligible to vote unless they have relinquished their citizenship. The Election Commission shall maintain this list and shall make every effort to publish the list throughout the Cherokee Nation, including but not limited to publishing this list in a newspaper of general circulation within each voting district.
- ~~B. Inactive Voters. A person whose name appears on the Inactive Voter List as set forth in Section 23 B of this Title shall not be eligible to vote in an election unless he or she has re-registered to vote affirmed his or her district and precinct affiliation on or before the first business day in March of the election year or referenda.~~
- B. Original Enrollees. An original enrollee who is not on the Qualified Voter List at a precinct but who appears at the precinct with proof that he or she is an original enrollee and that his or her place of residence was within that district prior to the date of the election ~~as of the first business day in March~~ complete an ~~application for voter registration~~ a voter registration affiliation form and shall be allowed to cast a ballot immediately thereafter.

C. Voting by Districts.

1. Resident Registered Voters. Every resident registered voter shall be registered to vote in the district of his or her residence. A resident registered voter shall have the right to vote only for the candidate or candidates for a Council seat or seats for the district in which the voter resides, and cannot vote for a candidate or candidates for a Council seat or seats for any other district.
2. Non-resident Registered Voters. Every non-resident registered voter shall be registered to vote in only one district and precinct which he or she has selected. A non-resident registered voter shall have the right to vote only for the candidate or candidates for a Council seat or seats for the voter's registered district.
3. Re-registration ~~affiliation~~ for Purposes of Changing District And/Or Precinct. A resident registered voter who has moved to a new district or who wishes to change precinct, and a non-resident registered voter who wishes to change district and/or precinct, may re-register for a new district and/or precinct on or before, but not after, the last business day in March of the election year, in order to effect a change of voting district and/or precinct for said election year; provided that the new registration ~~affiliation~~ form shall be delivered to the Election Services Office on or before said day in order to be valid for said election year.
4. Effect of Failure to Re-register. Any resident or non-resident registered voter who fails to change his or her voting district and/or precinct by re-registering ~~affiliating with~~ for a new district and/or a new precinct on or before the last business day in March of the election year must vote during the current election year for the candidate or candidates for Council within the district in which the person was ~~affiliated~~ registered to vote as of said date.

§ 22. ~~Affiliation~~ Registration Process

- A. Ongoing Process The Election Services Office shall conduct registration- ~~district and precinct affiliation~~ of voters on an ongoing basis. This process shall include periodic publicity and community outreach efforts by the Election Services Office.
- B. Cards. The Election Services Office shall issue voter identification cards to ~~registered~~ voters. Whenever possible, the card should be in a picture ID format. The card may be used as a convenient means of identification of persons whose names appear on the Qualified Voters List., but possession of a voter identification card shall not constitute proof of eligibility to vote in an election absent appearance of the person's name on the Qualified Voter List.

§ 23 Voter Data Base; Coordination with Registrar; Preparation of List of Voters. ~~Preparation of List of Qualified Voters; Registration Data Base; Coordination with Registrar; Qualified Voter List.~~

- A. Data Base. The Cherokee Nation Election Services Office shall establish and maintain an independent database which shall ~~not~~ be accessible by the Cherokee Nation Registration Department or any other entity, for voter registration ~~affiliation~~ purposes. The Election Services Office shall have access to information maintained by the Cherokee Nation Registrar by computer modem, including without limitation the following information: membership citizenship verification, deaths, new ~~members~~ citizens, and address changes.
- B. Lists. The Election Services Office database shall include the ~~following two lists~~:
 1. Qualified Voters List, listing by district registered voters eligible to vote in an upcoming election; provided that said list may be separated into a listing of such persons who have applied for absentee ballots and those who have not applied for absentee ballots; and provided further that the Election Services Office ~~may~~ shall designate on the list those addresses which do not appear to be current addresses for designated voters.

~~2. Inactive Voters List, listing inactive voters whose names have been removed from the Qualified Voters List pursuant to Section 24 A of this Title; and~~

- C. List Information. Each list specified in Sub-section B of this Section shall contain the following information for each voter listed: name, last known address, date of birth, last known phone number social security number or other identifying number, date of citizenship enrollment, dates of voter registration ~~affiliation~~ and re-registration ~~affiliation~~, voting district and precinct, the voter participation in past elections and any other information deemed relevant by the Election Services Office; provided that any list released pursuant to Section 25 of this Title shall exclude the voter's date of birth and social security number.
- D. Maintenance. Each list as it existed as of a specific election date shall be maintained by the Election Services Office for at least one year following December 31 of the year in which the specific election occurred.

§ 24. Removal of Names from Voter Lists.

~~A. Inactive Voters. A registered voter who fails to vote in any two consecutive special, general or runoff elections occurring on or after January 1, 1995 shall be deemed an "Inactive Voter." The Election Services Office shall remove such persons from the Qualified Voter List. The Election Services Office shall send notice of the removal to the registered voter at his or her last known address. The notice shall include a statement that the inactive voter must re-register ~~affiliate with a district and precinct~~ to vote as of the date specified in Section 21 A of this Title in order to be eligible to vote at a general or special election.~~

A. Deceased, Relinquished and Disenrolled Persons. The Election Services Office shall remove deceased citizens and persons who have been disenrolled from the Qualified Voter List, upon receipt of satisfactory evidence of the death or disenrollment as specified by the Cherokee Nation Registration Department.

§ 25. Obtaining of List; Duplication of List.

The voter list shall be made available to all citizens of the Cherokee Nation. The voter list shall be made available on paper, computer diskette, gummed labels, or any other method available. The Election Commission may charge a nominal amount to cover the costs of duplication of the voter list, provided that the voter list shall be subject to inspection free of charge during the business hours of the Election Commission. ~~(It shall be a criminal act to use this list for any purpose other than campaign or other official purposes related to an election concerning the Cherokee Nation punishable by six (6) month imprisonment and/or one thousand (1,000) dollar fine.~~

CHAPTER 4 Qualifications of and Filing by Candidates

§ 31. General Qualifications of Candidates for Elective Office - Generally; Certifications and Acknowledgments.

A. General Qualifications. Each candidate who desires to run for the elective Cherokee Nation office of Principal Chief, Deputy Principal Chief or Council Member shall meet the following general eligibility requirements consistent with the Constitution of the Cherokee Nation, Article V, Section 3, Article VI, Sections 2 and 3, and Article IX, Sections 1 and 2:

1. The candidate shall be a citizen of the Cherokee Nation, in accordance with Article III of the Constitution of the Cherokee Nation and shall be a member by blood of the Cherokee Nation.
2. ~~The candidate shall have been born within the boundaries of the United States of America, its territories or possessions.~~

2. The candidate shall not have been convicted of or have pled guilty or no defense to a felony charge under the laws of the United States of America, or of any state, territory or possession thereof, ~~or of a federally recognized Indian tribe, or convicted of a crime in any Tribal Court of any Federally recognized Indian Tribe that would be considered a felony in State or Federal Court,~~ unless such person has received a pardon from an authorized official of the jurisdiction in which the candidate was convicted or pled guilty or no defense to said felony charge; provided that for purposes of this Section, a deferred sentence and/or an expungement of a felony record shall not constitute a pardon or affect or erase the existence of a felony conviction, a guilty plea to a felony charge, or a plea of no defense to a felony charge.
3. The candidate shall not hold any office of honor, profit or trust in any other tribe of Indians, either elective or appointive, if elected to the Cherokee Nation office which he or she is seeking.

B. Prerequisites for Filing. In addition to the general eligibility qualifications set forth in Sub-Section A herein, a candidate must not be in violation of any of the following at the time of filing:

1. The candidate shall not be an employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, as of the date of filing or at any time thereafter ~~if elected until after the election and certification of election results;~~ provided, that an incumbent serving in an elective office shall not be deemed to be an employee for purposes of this Section.
- ~~2. The candidate shall not have served as a member of the Cherokee Nation Election Commission within the two year period preceding the primary election date.~~
2. The candidate may not file to run for an office if he or she has already filed to run for another office in the same election, unless the prior filing is withdrawn.

C. Other Qualifications. In addition to the requirements set forth in this Section, each candidate shall meet any other applicable requirements as set forth in the Constitution of the Cherokee Nation and this Chapter.

§ 32. Special Qualifications for Principal Chief and Deputy Principal Chief.

In addition to the general qualifications set forth in Section 31 of this Title, the qualifications for Principal Chief and Deputy Principal Chief shall be as follows:

- A. Age. The candidate shall have obtained the age of thirty (30) years at the time of the election.
- B. Residence. The candidate shall have established a bona fide permanent residence within the historic boundaries of the Cherokee Nation for no less than 270 immediately preceding the day of the general primary election in which he or she is seeking election. Proof of a bona fide permanent residence shall be regulated by the Election Commission. If elected to office, the candidate shall continuously maintain a bona fide permanent residence within the historic boundaries. Failure to meet this requirement shall subject the person to disqualification and removal from office.

§ 33. Special Qualifications for Council.

In addition to the general qualifications set forth in Section 31 of this Title, the qualifications for Council member shall be as follows:

- A. Age. The candidate shall have obtained the age of twenty-five (25) years of age at the time of the election.
- B. Residence. The candidate shall have established a bona fide permanent residence in the district for which he or she is a candidate immediately preceding the day of the general primary election in which he or she is seeking election. Proof of a bona fide permanent

residence shall be regulated by the Election Commission. If elected to office, the candidate shall maintain a bona fide permanent residence in the district which he or she represents. Failure to meet this requirement shall subject the person to disqualification and removal from office.

§ 34. Establishment of Residency.

Proof of a bona fide permanent residence, necessary to qualify as a candidate for Council, Principal Chief, and Deputy Principal Chief shall be regulated by the Election Commission, subject to the following definitions and requirements:

- A. Definition. Residence is synonymous with the term domicile or abode and means a place where the candidate has a true, fixed and permanent home, and to which, whenever absent, there is the intention of the person returning.
- B. Verification. Verification of residence may be shown by one or more of the following documents, provided always that such documents show one or more addresses within the required geographic area for a continuous period in excess of 270 days:
 - 1. Current driver's license(s).
 - 2. Utility bill or bills.
 - 3. Income tax return for the preceding year.
 - 4. State or county voter's registration.
 - 5. Homestead exemption.
 - 6. A bona fide document evidencing such verification.

§ 35. Filing fees generally.

- A. Amount; Payment. A filing fee shall be charged each candidate filing for an elected office of the Cherokee Nation. Such fees are to be filed and paid to the Election Commission by cash, cashier's check, money order, **or valid check** at the Cherokee Nation Election Services Office, Tahlequah, Oklahoma. The fees shall be as follows:

Office of the Principal Chief	\$750
Office of the Deputy Principal Chief	\$500
Office of the Council	\$250

- B. No Refund. No refund of filing fee shall be permitted for any reason even if the candidate withdraws voluntarily or is disqualified under the provisions of this law.

§ 36. Filing of Candidacy; ~~Certification of Eligibility~~; Withdrawal of Candidacy

- A. Filing Period. The filing date shall be for a ~~eight~~ **four (4)** day period commencing at 8:00 a.m. on the first Monday of March of the election year and ending at 5:00 p.m. on the **first Thursday following the first Monday** ~~second Wednesday~~ of March. The deadline for filing for an elected office of the Cherokee Nation shall be publicized by the Election Commission.
- B. Certifications and Acknowledgments. In order to be eligible to run for elective office, each prospective candidate shall submit an application established by the Election Commission, which at a minimum shall contain the following:
 - 1. Proof of citizenship and membership by Indian blood consisting of his or her certificate of degree of Indian blood card and a Cherokee Nation membership card issued in his or her name in accordance with Article III of the Constitution and C.N.C.A. Title 11;
 - 2. Proof of residency;
 - 3. Proof of age;
 - 4. Certification that at time of filing that he or she is not an employee of the Cherokee Nation, including any corporation, agency or other entity which is at least fifty-one

percent owned by the Cherokee Nation, and acknowledgment that he or she understands that should he or she become an employee during the election process, he or she shall be automatically disqualified as a candidate;

5. Certification that if elected to office, said candidate shall resolve all conflicts of interest as defined by Title 28 of the Cherokee Nation Code Annotated;
 6. Acknowledgment that said candidate shall be automatically disqualified in the event that any false or misleading information or statements are made in filing for office; and
 7. Such other documents, certifications and acknowledgments required by regulation of the Election Commission.
- C. Background Checks and Eligibility Certification. The Election Commission shall conduct background checks and review all information necessary for a determination of eligibility pursuant to regulations prescribed by the Commission. The Election Commission shall issue an official letter certifying the eligibility of each candidate or denying said eligibility, within twelve (12) working days after the close of the filing period.
- D. Withdrawal of Candidacy. Any candidate who wishes to withdraw from the election shall have the opportunity to do so by providing a formal written notice to the Election Commission ten (10) working days after the deadline for filing.

§ 37. Challenges.

- A. Third Party Challenge of Eligibility. Any member of the Cherokee Nation registered **eligible** to vote shall have the right to contest the eligibility of any candidate to run for office. The protest shall be received by the Election Commission in writing within five (5) working days after the close of the filing period. The hearing shall be held in conformance with rules and regulations adopted by the Election Commission for the conduct of proceedings before the Election Commission. Such rules and regulations shall provide the candidate reasonable notice of the challenge and the opportunity to respond at a hearing before the Election Commission.
- B. Eligibility Determination Appeals to Judicial Appeals Tribunal. An appeal of any decision of the Election Commission concerning eligibility shall be filed with the Judicial Appeals Tribunal in writing within five (5) days after receipt of Election Commission notice of denial or approval of eligibility for candidacy. Only the person denied eligibility or the person who originally filed a protest challenging the person's eligibility shall be allowed to file such an appeal. The Election Commission chairperson shall deliver copies of each appeal notice and related documents to the Judicial Appeals Tribunal in a timely manner as directed by the Tribunal.
- C. Notice and Scheduling of Hearing. Within three working days of receipt by the Judicial Appeals Tribunal of an appeal of an Election Commission finding of candidate eligibility or ineligibility, the Tribunal shall issue notice of the hearing date to the parties, said hearing to be held no later than ten (10) working days from date of issuance of said notice. The hearing may be continued to a later designated date for good cause, provided that said date shall not be more than ten (10) working days from date of the originally scheduled hearing.
- D. Conduct of Hearing; Decision. At the Judicial Appeals Tribunal hearing, the candidate who is the subject of the challenge, the third party challenging the finding of eligibility and the Election Commission may present testimony of witnesses and other evidence, as well as legal arguments. The Election Commission may be represented by the Election Commission's independent counsel; provided that no other attorney shall appear on behalf of the Cherokee Nation or on behalf of the executive or legislative branches at government expense; and provided further that the other parties to the proceedings may be represented by counsel at their own expense. The decision of the Appeals Tribunal shall be served on the parties no later than five days following the date of the hearing. The decision of the Judicial Appeals Tribunal regarding candidate eligibility shall be

final.

§ 38. Disqualification of Candidate-Interference with and improper influences of the Election Commission.

Any candidate who directly or indirectly interferes or attempts to interfere with the Election Commission in the performance of its duties, or who improperly influences or attempts to influence the Election Commission in performing its duties, shall be ~~permanently~~ disqualified by the Election Commission from ~~holding any running for~~ elected office of the Cherokee Nation after hearing held in conformance with regulations adopted by the Election Commission for the conduct of proceedings before the Election Commission **for the duration of the upcoming election period**. Such regulations shall provide the candidate reasonable notice of the charges and the opportunity to respond at a hearing before the Election Commission, and shall specify the manner in which such charges shall be presented and by whom. Any candidate disqualified from holding office pursuant to this Section may appeal the Election Commission's disqualification decision by filing a written appeal with the Cherokee Nation Appeals Tribunal in conformance with the requirements of Section 37 B of this Title.

**CHAPTER 5
Disclosure of Campaign Finances**

§ 41. Definitions.

For purposes of this Chapter of Title 26, the following terms shall be defined as follows:

1. Campaign contribution. "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.
2. Campaign expenditure. "Campaign expenditure" means an expenditure ~~made~~ **incurred** by any person in connection with a campaign for an elective office. Whether an expenditure is ~~made~~ **incurred** before, during or after an election does not affect its status as a campaign expenditure.
3. Financial Agent. "Financial agent" means the person or persons designated and authorized by a candidate to accept contributions and ~~make expenditures~~ **pay obligations** related to the candidate's campaign pursuant to Section 42 of this Title.
4. Report. "Report" means a financial disclosure report required by this Chapter.
5. Legal Entity. "Legal Entity" means **any associations or groups comprised of any combination of individuals or corporations that expresses interest by political activities, financial contributions or other methods of either support for or opposition to any candidate for any office in any Cherokee Nation Election.**

§ 42. Designation of Financial Agent; Filing; Penalty

No later than the filing date for an election, each candidate shall file with the Election Commission a statement containing the names and addresses of every person authorized as the candidate's financial agent by or through whom such candidate has expended or proposes to expend money in defraying the expenses of his or her campaign, or a statement that the candidate has not authorized and will not authorize any person to act for him or her, but that the candidate will in person account for all money or other things of value expended in the interest of his or her candidacy. The candidate will be allowed to amend the designation any time prior to the opening of the polls on the day set for the election. Should the candidate fail to file such statement, the Election Commission shall find the candidate in violation of this Section and shall assess the candidate a fine of ~~not less than \$25 and not more than \$500~~ \$100, not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

§ 43. Restrictions Related to Contributions.

- A. Contributors Limited to Natural Persons. Contributions may only be made by natural persons. No corporation, partnership, and/or any other legal entity shall contribute to any Cherokee Nation campaign or candidate.
- B. Contribution Amount Limits. No person shall contribute more than ~~five hundred dollars (\$500)~~ **five-thousand dollars (\$5000)** in cash **or in kind contribution** to any one candidate during an election period, ~~or more than five-thousand dollars (\$5,000) in the aggregate, including cash contributions, for any one office during an election period.~~
- C. Contributions on Behalf of Another; Contributions in Name of Minor; Reimbursements. No person shall knowingly make or authorize a campaign contribution or political expenditure in the name of or on behalf of another, unless the other's name is provided in order for the proper disclosure to be made. No contributions shall be made in the name of a minor. No person shall directly or indirectly reimburse another for a contribution to a candidate.
- D. Prohibition Against Intimidation. No person, corporation or other legal entity shall use or threaten to use physical force, job discrimination, employment reprisal, employment reward, or financial reprisal to obtain money or any other thing of value for the purpose of influencing the result of an election or to assist an office holder.

§ 44. Candidate Requirements related to Acceptance of Campaign Contributions and Expenditures

- A. Period for Acceptance of Campaign Contributions. No officeholder, no candidate, no potential candidate for elective office and no financial agent shall receive campaign contributions prior to the beginning of the six month period immediately preceding the primary or special election date for the office sought by said candidate or potential candidate, or past the date which is six months immediately following said primary or special election date. Unless otherwise provided all campaign contributions shall include the name, address, occupation and the amount given by the individual.
- B. No Personal Use of Contributions. No candidate or financial agent who receives a campaign contribution may convert the contribution to personal use, including any use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for elective office. **Left over contributions will be placed in an escrow account to be reserved for the cost of subsequent Cherokee Nation Elections.**
- C. Prohibition against Intimidation. No candidate or financial agent shall solicit or accept a contribution or make an expenditure by using anything of value secured by actual or threat of physical force, job discrimination, employment reprisal, employment reward, or financial reprisals;
- D. Prohibition related to Cherokee Nation Employees. No candidate or financial agent shall solicit a contribution from an employee of the Cherokee Nation, including an employee of any corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, in exchange for any advantage or promise of an advantage conditioned on making a contribution, or based on reprisal or threat of reprisal related to the failure to make a contribution.
- E. Anonymous Contributions. ~~Anonymous contributions are prohibited.~~ No candidate or financial agent shall accept anonymous contributions exceeding one thousand dollars (\$1000) ~~five-thousand dollars (\$5,000)~~ ~~(\$500)~~ in aggregate per election period. The recipient of total anonymous contributions of more than one thousand dollars (\$1000) ~~five-thousand dollars (\$5000)~~ ~~(\$500)~~ shall not keep the amount which is in excess of one thousand dollars (\$1000) ~~(\$5,000)~~ ~~\$500~~, but shall, within two (2) business days of receipt of the contribution which causes the total anonymous contributions to exceed one thousand dollars (\$1000) ~~(\$5000)~~ ~~\$-500~~, turn it over the Election Commission for immediate deposit to ~~the General Fund of the Cherokee Nation.~~ **an escrow account to be reserved for the cost of subsequent Cherokee Nation Elections.**

- F. Expenditure Records and Receipts. An expenditure of more than one hundred dollars (\$100) for campaign purposes shall be made by written instrument drawn upon the campaign account containing the name of the candidate and the name of the recipient.
- G. General Prohibition. No candidate or financial agent shall knowingly accept a campaign contribution or knowingly make or authorize political expenditures which the candidate or financial agent knows to have been made in violation of this Section or Section 43 of this Title.
- H. Campaign Materials. ~~All campaign signs and materials shall identify the candidate or legal entity paying for such material. Failure to do so shall result in a one hundred dollar (\$100) fine per occurrence.~~

§ 45. Sanctions for Violations of Contribution and Expenditure Requirements and Prohibitions

- A. Criminal Sanctions. Any candidate or other person who is a citizen of the Cherokee Nation or a member of any other federally recognized Indian tribe who has violated any requirement or prohibition in Sections 43 and 44 of this Title shall be guilty of a crime.
- B. Civil Damages. Any candidate, other person, corporation or other legal entity who or which has knowingly made or accepted a campaign contribution or made a campaign expenditure on behalf of a candidate in violation of Sections 43 and 44 of this Title shall be liable to the Election Commission and to any party whose name appeared on the ballot in opposition to said candidate in the amount of double the value of the unlawful contribution or expenditure. Said damages shall be payable to each plaintiff filing suit in the Cherokee Nation District Court within six months of the final election date, upon a finding of a violation or violations by said Court, plus reasonable attorneys fees incurred in the suit. Reasonable attorneys fees incurred in a suit brought under this Sub-section may be awarded to the defendant if judgment is rendered in defendant's favor.

§ 46. Financial Disclosure Report--Forms; Time of Filing; Corrections; Late Filing; Failure to File

- A. Report Forms; Certification. Each candidate filing for elective office of the Cherokee Nation shall file with the Election Commission a monthly and final financial disclosure report on forms approved by the Election Commission. The report shall include information for each of the financial agents named by the candidate pursuant to Section 42 of this Title. The Election Commission shall provide a reasonable number of such forms to the candidate at time to be determined by the Election Commission, ~~and shall provide additional forms if requested by the candidate.~~
- B. Time of Filing Monthly Report; Late Filing, Failure to File. Each candidate shall deliver a complete monthly financial disclosure report to the Election Commission at the Election Services Office beginning with a report for the month in which filing of **candidacy for office** occurred. The report shall be due on the 15th day and shall be delivered no later than the 20th day of the month following the month which is the subject of the report. In the event that the Election Commission has not received a monthly report by the 20th day of the month in which it was due, the Commission shall impose a fine in the amount of \$100 on the candidate, and shall send a notice of the failure to meet the deadline and notice of the fine to the candidate by certified mail return receipt requested. Unless upon the showing of extenuating circumstances failure to file a report or filing of an incomplete report by the twentieth day of the month following the month in which it was due, or failure to meet the deadline for any two monthly reports, or failure to pay a fine by the date of election shall result in disqualification of the candidate by the Election Commission after notice and hearing, provided that said disqualification may be appealed to the Judicial Appeals Tribunal. The Election Commission shall expedite all such proceedings. **Any outstanding fines from a previous Cherokee Nation Election must be paid before a person can be a candidate for a subsequent Cherokee Nation Election.**
- C. Time of Filing Final Report; Report by Person Not Designated as a Financial Agent. ~~The candidate or his financial agent, and any person not named in the candidate's report~~

~~who collected or expended any money or thing of value in connection with the candidacy of a candidate~~, shall file a final financial disclosure report no later than five (5) days prior to the date for swearing in of the successful candidates. The candidate receiving the highest number of votes in any Cherokee Nation Election shall not be eligible to take office until the final report is filed.

- D. Corrections; Revisions; Retention of Reports. The Election Commission shall give the candidate an opportunity to correct any deficiency or error in his or her reports. Any contributions received during the six months period following said election date shall be recorded on a revised final report to be filed no later than the first of the month following the expiration date of said six-month period. The reports shall be maintained by the Election Services Office, which shall preserve the reports in a secure location for at least five years, during which time they shall be a public record available for inspection and copying.

§ 47. Financial Disclosure Report--Contents.

- A. Contributions. With respect to contributions, the report shall include the name, occupation and mailing address of the source of each contribution.
- B. Expenditures. The report shall detail expenditures in categories set forth on the report form , excluding filing fees, any interest earned on contributions, candidate's costs for necessary personal travel within the boundaries of the Cherokee Nation, and candidate's subsistence expenses. Payment made by a candidate or his or her financial agent from the candidate's own funds shall be included as expenditures for purposes of this Subsection, and may be shown as a loan from the candidate or may include any funds loaned to the candidate by a bank, savings and loan association or credit union and on his or her own behalf, which shall not be considered as contributions. All expenditure from loans shall specify the name of the lending institution, the date of the loans and the amount of the loans. The candidate may reimburse his or her personal funds from campaign contributions in the amount of the reported loan or loans.
- C. Radio and Television Time. Where radio and television time is donated or offered on an equal basis to all qualified candidates for any particular office, said donation shall be reported by or on behalf of each candidate receiving the same, without assigning any cash value thereto.
- D. No Financial Activities. If there has been no financial activity subject to the reporting requirements of this Section for the reporting period, the candidate and his or her financial agents shall so certify on the report.
- E. Certification; Criminal Sanctions for Misrepresentation. Each financial disclosure report shall be certified by the candidate ~~and~~ or his or her financial agents. A candidate or a candidate's financial agent ~~or any other person~~ who certifies a report and therein knowingly fails to fully disclose the information required in this Section as to any gift, promise, treat, reward, favor, or anything of value given or expended, is guilty of a crime. If a person convicted of a criminal violation under this Sub-section ~~received the highest number of votes in the election~~, then he or she shall not hold the office and shall be barred for a period of five (5) years from holding any elective office of the Cherokee Nation. Where any person who has received the highest number of votes for any office is disqualified from holding said office, a special election shall be held to elect another person to hold such office.

CHAPTER 6 Conduct of Elections

ARTICLE 1. GENERAL PROVISIONS

§ 51. Official Election Dates; Notice

- A. General election. The general primary election for elective offices shall be the fourth Saturday in June of the election year.

- B. Runoff election. The runoff election for a general election shall be the fourth Saturday in July of the election year.
- C. Special Election; Special Dates and Procedures. A special election shall be called in accordance with the Constitution ~~by the Council~~ for a specifically stated purpose or purposes. The Council shall determine the date for the primary election, and if necessary the date for a runoff election. Special elections shall be conducted in compliance with this Title, provided that the deadlines established in this Title for the following purposes may be changed and specially set by the Election Commission and confirmed by the Council to meet the particular needs related to a special election: the cut-off date for eligibility to vote in an election established in Section 21 of this Title, the deadline for providing voter lists to candidates established in Section 25 of this Title, the candidacy filing date established in § 36 of this Title, the swearing-in date established in Section 51 of this Title, the absentee ballot request deadline and absentee ballot issuance dates established in Section 73 of this Title, ~~the counter selection date established in Section 92 of this Title,~~ and any other date which requires special setting. Special elections for Constitutional provisions may be conducted, if authorized by the Council, by mail-in vote.
- D. Notice. Proper notice of each election date shall be given by the Election Commission.
- E. Swearing in of elected officials. The swearing in of the successful candidates for elective office shall be August 14 of the election year.

§ 52. Electioneering.

No person shall be allowed to electioneer inside any precinct or within three hundred (300) feet outside of the entrance to any precinct while an election is in authorized progress, nor shall any person or persons, except precinct officials and other persons authorized by law, be allowed to approach the ballot box while an election is in progress. Prohibited activities within the prescribed area by a candidate or other persons on election day which might reasonably be construed as electioneering shall include the following: wearing any article of clothing with any candidate's name or office on it or holding any article with any candidate's name or office on it; or distribution or display of any written materials, campaign literature or campaign items of any kind or nature within the prescribed area, other than that provided by the Election Commission. Persons engaging in electioneering shall be subject to removal by **local law enforcement** and/or the Cherokee Nation Marshal Service at the request of the appropriate official ~~precinct inspector~~. The Election Commission shall promulgate regulations governing electioneering.

§ 53. Watchers.

- A. Primary Election. Candidates in a primary election for the office of the Principal Chief, Deputy Principal Chief, and each candidate for the Council may submit up to four names as their designated watchers at each precinct within a time to be prescribed by the Election Commission.
- B. Runoff Election. In the event of a runoff election, candidates in the runoff election may submit up to four names as their designated watchers at each precinct within five (5) working days from date of certification of results of the primary election; ~~provided that a person who served as a watcher in the primary may not serve as a watcher in the runoff election.~~
- C. Selection of Watchers. No candidate for any ~~election~~ **elective** office in the Cherokee Nation shall be a watcher. The selection of the watchers and their designated precincts shall be by random drawing of names submitted by candidates for each respective district to be assigned within those districts. **The Election Commission may invite watchers for any precincts in any elections.** The Election Commission shall have the sole authority to determine the number of watchers in any given precinct. A selection of five absentee watchers and two alternate watchers shall be made for each day that absentee **declarations affidavits** are examined prior to election day and for election day. No person shall serve as an absentee watcher for more than one day. The selection of absentee watchers and alternates shall be by random drawing of five names from the balance of names submitted by the candidates pursuant to Sub-sections A and B of this

Section until the names of five watchers and two alternate watchers have been drawn.

- D. Duties of Watchers. Watchers shall be entitled to observe the ballot box, including a counting device and all printouts from the counting device, before the precincts are opened, during voting, and after the precincts are closed. Watchers may be commissioned to observe counting device testing and to accompany personnel assigned to repair or maintain machines during the period of the election. In such case, the watchers shall be limited to observing the repair or maintenance work being performed and making a written record of such work.

§ 54. ~~Ballot Box Key Depository.~~

~~The Election Commission shall maintain a safe deposit box or boxes at a secure facility in Tahlequah as a depository for ballot box keys. Three names shall be designated to sign the signature card for the safe deposit box. The Election Commission shall designate three of its members to sign the card, and shall designate a fourth member an alternate to serve in case of the absence or inability of one of the other members to sign the card.~~

ARTICLE 2. VOTING GENERALLY

§ 61. Precinct and Hours; Notice.

The Election Commission shall establish the location of each precinct. subject to approval by Council resolution. The Election Commission shall promulgate regulations listing the approved locations for precincts, provided that said regulatory provisions listing approved locations may be amended, **if needed.** ~~only with Council approval.~~ Each precinct shall be open during the hours from 7 a.m. to 7 p.m. on the day of the election. The Election Commission shall publicize the location of each precinct.

§ 62. Manner of Voting Generally

- A. Secret Ballot. Voting shall be by secret ballot.
- B. Procedure for Voting in Person. Except as provided in Section 78 of this Title or as otherwise provided, any registered voter may vote by appearing at his or her designated precinct, announcing to precinct officials his or her name and address, signing the registry, marking a ballot and placing in the ballot box **or counting device.**
- C. Absentee Ballot. Any registered voter may at his or her request vote by absentee ballot as prescribed in Article 3 of this Chapter.
- D. In person absentee voting:

Any voter may vote by an in-person absentee ballot at the Election Commission Office located at Tahlequah, Oklahoma from 9:00 a.m. to 5:00 p.m. on Wednesday, Thursday, and Friday immediately proceeding any election provided for by this Act. As part of the application for an in-person absentee ballot such voter shall swear or affirm that he or she has not voted a regular mail absentee ballot and that he or she will not vote at the regular polling place in the election for which the in-person absentee ballot is requested. Any voter who violates the provisions of this section shall be guilty of a crime.

The Election Commission shall develop rules and procedures to carry out the requirements of this section.

§ 63. Voting by Persons with Physical Disabilities or Language Barriers.

- A. Inability to Mark Ballot If a voter appears at his or her precinct and states that he or she, because of a physical disability or infirmity or language barrier, is unable to mark a ballot, the inspector shall recite the following oath: "Do you solemnly swear or affirm that you are unable to mark your ballot for voting because of a (name of appropriate disability)." After taking the oath, the voter shall be permitted to be assisted by any

person of his or her choice, at least eighteen (18) years of age, in voting his or her ballot.

- B. Inability to Enter Building If a voter is unable to enter the building due to physical disability or infirmity, he or she must send someone inside the precinct to inform a precinct official. Upon notification, the inspector shall go to the voter in the parking area of the precinct, and recite the following oath: "Do you solemnly swear or affirm that you are unable to enter the precinct because of a (name of appropriate disability)." A precinct official shall accompany the inspector with appropriate materials and a ballot, shall present the ballot to the voter after the voter has taken the oath. The voter may then mark his or her ballot, and return it to the precinct official, who shall deposit it in the ballot box or counting device inside without viewing the ballot.
- C. Witness. All special assistance described herein shall be witnessed by the precinct inspector.

§ 64. Challenged Ballots

- A. Voting Procedure. If the precinct ~~Qualified~~ Voter List does not contain a voter's name, or if a precinct official should challenge the voter's right to vote for other reasons, said voter shall be allowed to vote only if the voter completes a voter registration application ~~a voter affiliation form~~ for a residence address within the county and signs a ~~statement affidavit~~ swearing or affirming that the voter is currently ~~registered and~~ eligible to vote in said precinct and has not already cast a regular or absentee ballot for said election.
- B. Preservation and Counting. Each challenged ballot shall be placed in a secrecy envelope attached to the voter registration application ~~voter affiliation form~~ and ~~statement affidavit~~ executed by the voter. Challenged ballots shall not be counted at the time the ballots are cast, but shall be maintained in a separate box marked "challenged ballot box." Following the close of the election, precinct officials designated by Election Commission regulation shall determine whether the person who cast a challenged ballot was entitled to vote in the precinct where the ballot was cast. If the person was so entitled, the ballot will be opened and counted and returned to the challenged ballot box and totaled with other votes before certification of the election. If the person was not so entitled, the ballot will not be counted, but will be returned to the challenged ballot box.

§ 65. Spoiled Ballots

Should a voter spoil any ballot in his or her effort to mark the same, he or she shall fold the ballot and return it to the clerk. The clerk shall destroy ~~fold~~ said ballot or ballots in the presence of the voter and shall issue said voter another ballot in the same manner that the first one was provided. The voter shall execute a ~~statement affidavit~~ prescribed by the Election Commission in which the voter swears or affirms that he or she spoiled his or her original ballot or ballots, returned said ballot or ballots to the clerk, that the clerk destroyed ~~folded~~ the ballot or ballots in his or her presence and that he or she was issued a new ballot or ballots.

§ 66. Mutilated Ballots

In the event a ballot is mutilated by the counting device and thus not counted during the counting process, then two precinct officials shall be authorized to mark a substitute ballot in identical fashion, insofar as is possible. In the event a ballot is mutilated to such an extent that the two members cannot agree upon how it was marked, it shall be invalidated. Once so marked, the substitute ballot shall be entered for counting into the counting device. A written record of such action shall be made by the two precinct officials.

ARTICLE 3. ABSENTEE VOTING

§ 71. Allowance of Absentee Voting.

Absentee voting shall be allowed upon timely written request by a registered voter of the Cherokee Nation in compliance with the requirements of this Article.

§ 72. Requests for Absentee Ballots Generally.

A registered voter of the Cherokee Nation who is unable to vote in person at his or her precinct may request an absentee ballot from the Election Commission. The request shall be in writing, preferably on a form prescribed by the Election Commission, and shall contain the following information:

1. Name;
2. Date of birth;
3. Address;
4. Cherokee Nation membership registration number; and
5. Signature.

§ 73. Time for Filing of Requests for Absentee Ballots; Furnishing of Ballots Generally.

- A. Timelines. Registered Voters may request absentee ballots by mail or in person at the Election Services Office from the first Monday in February until the second Friday in May of the election year. Absentee ballots shall be mailed to persons requesting the ballot in a two-day period starting on the last Monday in May of the election year and ending on the Tuesday immediately following said Monday.
- B. Runoff. In the event of a runoff, the Election Services Office shall automatically send an absentee ballot to all registered voters who were sent an absentee ballot for the primary election, except for registered voters whose absentee ballots in the primary were returned unopened due to bad addresses. Absentee ballot requests for a runoff election by persons who did not vote by absentee ballot in the general election must be received by the Election Services Office ~~at least fourteen (14) days prior to the runoff election date~~ **by the third Monday of June of the election year**. Absentee ballots for a runoff shall be mailed to persons requesting the ballot during a two-day period starting on the last Monday in June of the election year and ending on the Tuesday immediately following said Monday.
- C. Limitation. No more than one absentee ballot request per individual Cherokee registry number ~~signature~~ for each election date shall be accepted.

§ 74. Procedure upon Rejection of Application for Absentee Ballot.

In the event an application for an absentee ballot is rejected for any reason, the Election Commission ~~chairperson~~ shall immediately notify said voter in writing of the rejection and the reason therefore.

§ 75. Transmittal of Ballots to Voters Generally; Preparation of Record of Ballots Issued.

When the Election Commission receives an absentee ballot request, it shall be the duty of the Election Commission to verify the registration ~~affiliation~~ of said voter and to transmit the ballot which said voter requested after said verification. A record shall be made of all absentee ballots issued, with the name, date of birth, voter's Cherokee Nation membership registration number, date of issuance and address of the voter to whom it was issued.

§ 76. Form of Absentee Ballots.

Absentee ballots shall be identical to the ballots used in precinct voting but shall be stamped absentee ballot.

§ 77. Material to Accompany Absentee Ballots Generally.

- A. Declaration Affidavit. Each absentee ballot or set of ballots shall be accompanied by a ~~declaration~~ affidavit containing statements that the voter is qualified to vote, that the voter has personally marked the ballots, or in the case of a disability or illiteracy, has caused the ballot to be marked in accordance with his or her wishes, and that he or she has not exhibited the marked ballot to any other person, and containing any other statements required by Election Commission regulations and designed to ensure the integrity of the absentee voting process;

- B. Secrecy Envelopes. Each absentee ballot or set of ballots shall be accompanied by envelopes designed to ensure the secrecy of the ballot, including an inner secrecy envelope for the ballot, designed to be devoid of any identifying information at the time of opening, and a return envelope addressed to the Election Commission.
- C. Instructions. Each absentee ballot or set of ballots shall be accompanied by instructions for voting by absentee ballot, prescribed by the Election Commission.

§ 78. Return of Absentee Ballots by Mail; Absentee Voting in Person; Early Voting in Person Allowed

A voter shall ~~be required to mark his ballot in ink; in permanent mark~~ seal the ballot in the secrecy envelope; fill out completely and sign the ~~declaration~~ affidavit or statement in the presence of a notary public; and return the documents in the return envelope via the United States mail to the Election Commission. Only those absentee ballots which are mailed to the Election Commission and which reach the Election Commission post office box in Tahlequah, Oklahoma no later than 7:00 p.m. on election day shall be counted; provided that personal delivery of an absentee ballot shall be accepted from the Wednesday prior to election day until election day only if the voter or a person designated by the voter delivers the ballot to the Election Services Office between the hours of 7:00 a.m. and 7:00 p.m. during those four days. Voting in person at a precinct by a voter who has requested and received an absentee ballot shall not be permitted; but a voter who claims he or she never received an absentee ballot may cast a challenged ballot as set forth in Section 64 of this Title.

Voters may also vote in person at the Election Commission ~~at in~~ Tahlequah, Oklahoma, from the Wednesday prior to Election Day until Election Day between the hours of 9:00 a.m. and 5:00 p.m.

§ 79. Handling of Returned Absentee Ballots Generally.

Upon receipt an absentee ballot shall be placed in a **secured** absentee ballot box located at the post office. ~~The absentee ballots shall be removed from the post office and taken to the Election Services Office by the Election Commission or their designees at the appropriate time to be verified and counted for the election. The ballot boxes each be secured with three locks. The keys to the said ballot boxes shall be kept in the Election Commission safe deposit box until the Monday before election day. On such day the keys shall be obtained by persons designated by the Election Commission.~~

§ 80. Handling of Spoiled Absentee Ballots.

Should a voter spoil an absentee ballot in his or her effort to mark the same, he or she may obtain a substitute ballot ~~only by personal appearance at the Election Services Office in Tahlequah, Oklahoma on election day between the hours of 7:00 a.m. and 7:00 p.m., in which case the substitute ballot shall be issued in accordance with Section 65 of this title.~~ **by calling the Election Services Office, properly identify him or herself and requesting a new ballot.** Any spoiled absentee ballot cast which is returned spoiled as to one race shall be examined to determine if it was correctly voted to the other races. If so, it shall be valid as to those races.

§ 81. Furnishing List of Voters Requesting Absentee Ballots to Precincts.

The Election Commission shall compile and provide a list of all voters who requested an absentee ballot to each precinct within their chosen district, together with other election materials and equipment.

§ 82. Crediting of Absentee Voters.

~~The Election Service Office shall maintain a registry On the Monday after election day, the Election Commission chairperson shall cause crediting each voter who cast an absentee ballot to be credited with voting in said election. in the appropriate registry.~~

§ 91. Processing of Absentee Ballot ~~Declarations~~ Affidavits

- A. Procedure. No earlier than 8:00 a.m. on the said Monday immediately preceding the day of the election, the Election Commissioners or the Commission's designees shall commence examination of the ~~declarations~~ affidavits accompanying the absentee ballots. The ballot box containing the envelopes containing the ~~declarations~~-affidavits and absentee ballots shall be opened and the said envelopes shall be removed. For each ~~declaration~~ affidavit verified as meeting the requirements of Section 77 of this title, the accompanying secrecy envelopes containing the absentee ballot shall be placed in a secured ballot box. Each ballot rejected due to error in the ~~declaration~~ affidavit shall be attached to the ~~declaration~~ affidavit without being opened. Said rejected ~~declarations~~ affidavits and ballots shall be labeled and placed in a separate locked box. The ~~locked rejected declarations and ballots~~ absentee ballot boxes shall be maintained at a secure location ~~under the control of the Election Commission for two years following the election.~~
- B. Watchers. Absentee ballot watchers selected in accordance with Section 53 of this Title shall be present at all times during processing of the said ~~declarations~~ affidavits.

§ 92. Counting of Absentee Ballots

- ~~A. Counters. The Election Commission shall submit names for any counters needed to conduct or oversee absentee ballot counting to the Cherokee Nation Council at the regular Council meeting in January preceding the election. The Council shall approve or disapprove the names presented.~~
- A. Procedure. Counting of the absentee ballots shall commence no earlier than 8:00 a.m. on the day of the election and shall continue until all such ballots have been counted. The ballot box shall be shaken to mix the envelopes, after which said box shall be opened, the envelopes removed, the ballots separated according to the office subject to the election if necessary for counting purposes, and the ballots counted according to law.
- ~~B. Presence of Counters. No member of the absentee counters shall leave the counting place during counting hours without the permission of the Election Commission chairperson or his designee. If it becomes necessary for any absentee counter to leave the premises, said counter cannot return to the premises.~~
- B. Watchers. Absentee ballot watchers selected in accordance with Section 53 of this Title shall be present at all times during counting of ballots.

§ 93. Counting; Certificate of Votes and Consolidated Return; Preservation of Materials; Certification of Results

- A. Counting. The ballots cast in person shall be counted and tallied by the counting device as the votes are cast on the day of the election. Absentee ballots shall be counted on election day in accordance with Section 92 of this title.
- B. Precinct Certificate of Votes; Consolidated Return. The Election Commission shall establish the number of printouts of results needed for certification purposes. After the last voter has voted, the inspector shall obtain the prescribed number of printouts of results from the vote data pack in the counting device. The inspector, judge and clerk shall each sign all printouts which shall be certificates that the results are true and correct. The precinct printed certificate of vote and electronic results of the vote data pack shall be official results of the precinct. The inspector shall cause one copy of each certificate to be posted on the door or entrance of the precinct and shall cause the original of each certificate to be transmitted forthwith to the Election Commission. The Election Commission shall immediately after the election prepare a consolidated return of the election results and post said results at the election headquarters.
- C. Preservation of Ballots and Other Election Materials. After certificates of vote have been printed, the ballot box shall be unlocked and all ballots and a copy of the signed precinct certificate of vote and a copy of the electronic results shall be placed in a transfer case. Said transfer case shall be sealed, and the inspector shall return it, along with all other election materials and the originals of the certificate of vote, forthwith to the Election

Commission. The Election Commission shall not disturb anything in the transfer case, and the case shall remain sealed at a secure location designated by and under the control of the Election Commission until opened by Election Commission order for recount purposes, or by order of the Judicial Appeals Tribunal if necessary in an election appeal proceeding filed pursuant to Section 101 of this Title. All ballots and other election materials shall be retained for a minimum period of two years from the date of the election at which they were cast, under the supervision the Election Services Office; provided that after said two year period, the ballots may be destroyed. by order of the Election Commission.

- D. Certification of Results. ~~When the election outcome is final for all elective offices, the Election Commission will notify After any recount pursuant to Section 94 of this Title, and no later than the third Friday following any primary election, the Election Commission shall certify and transmit to~~ **the appropriate office of the Bureau of Indian Affairs located at Muskogee Oklahoma of the election outcome by certified mail return receipt requested.** ~~office of the Area Director of the Bureau of Indian Affairs, Muskogee Area Office, Muskogee, Oklahoma, of the election outcome by certified mail return receipt requested. the names of all candidates whose seats are not the subject of a petition contesting the election outcome pursuant to Section 101 of this Title. After any recount pursuant to Section 94 of this Title, and no later than the third Friday following any runoff election, the Election Commission shall certify and transmit to the office of the said Area Director the names of all candidates whose seats are not the subject of a petition contesting the election outcome pursuant to Section 101 of this Title. In the event of a petition contesting the election outcome for a particular seat, certification of the elected candidate and transmittal to the Area Director shall be made following the determination of the protest. All certified election results shall be posted at the Election Services Office.~~

§ 94. Recounts.

- A. Person Authorized to Request Recount. In elections for office, only the defeated candidate shall be permitted to request a recount. For elections on issues or questions when no candidate is involved, recounts shall be authorized only when a registered voter who participated in the election presents a petition signed by a number of registered voters who participated in the election equal to one percent (1%) or more of the total votes cast for and against the issue.
- B. Request for Recount; Notice. A written request for recount of any election results, including appeals of special elections on constitutional amendments, must be filed with the Election Commission chairperson at the Election Services Office no later than 5:00 p.m. on the first Wednesday following the election. The person filing the request shall serve a copy of the request on other candidates for the race in which the person was a candidate. When possible, service shall be made by personal delivery or facsimile transmission on date of filing; but if such service is not possible, service shall be made by mailing on date of filing.
- C. Filing Fee When Recount Sought. The request for recount shall be accompanied by a fee in the amount of ~~500\$~~ **\$750** per district for which a recount is requested, and ~~\$500~~ **\$750** for recount of absentee ballots. Fees shall be paid by cash, cashier's check, money order, or check made payable to the Election Commission. Said fees shall be non-refundable if a recount is conducted. If a recount is not conducted due to a finding by the Judicial Appeals Tribunal that the ballots were not properly preserved, then the fee shall be refunded.
- D. Location of Recount. The recount shall be conducted in the Cherokee Nation Council chambers or other appropriate facilities as determined by the Election Commission.
- E. Time for Recount. The recount shall occur no later than the first Friday following the election date.
- F. Judicial Appeals Tribunal Determination Regarding Preservation of Ballots Prior to Recount. It shall be the duty of the Judicial Appeals Tribunal to attend all recounts. Prior to the recount, the Judicial Appeals Tribunal shall hear evidence as to whether the

ballots have been preserved by the Election Commission in the manner prescribed by law; whether they are the identical ballots cast by the voters; and whether the ballots have been exposed to the reach of unauthorized persons so as to afford a reasonable opportunity for tampering with or changing the ballots. The judgment of said Court upon such question shall be final and conclusive.

- G. Conduct of Recount. If the judgment of the Court is that the ballots have been properly preserved, then the actual, physical recount of the ballots shall be conducted immediately thereafter under the exclusive supervision of the Election Commission. The Election Commission shall conduct the recount, and shall select and supervise persons performing recount functions; provided that no employees of the Cherokee Nation, except for staff of the Election Commission, no employee of a corporation, agency or other entity which is at least fifty-one percent owned by the Cherokee Nation, and no Cherokee Nation official shall be used for a recount. The candidate seeking the recount and all other candidates for the elective office involved in the recount, or their designated representatives, shall be permitted to attend the recount. Once the actual physical recount is commenced under the supervision of the Election Commission, the Judicial Appeals Tribunal will limit its role to answering questions which arise concerning tribal law and insure that tribal law is followed.
- H. Automatic Appeal Where Recount Not Possible. If the Judicial Appeals Tribunal cannot determine that the ballots have been properly preserved, then no recount shall be conducted, and the fees paid by the candidate seeking the recount shall be refunded. The candidate may allege the failure of the Election Commission to properly preserve the ballots as partial grounds, but not the sole basis, for an election appeal, provided that the appeal is filed no later than the second Monday following the election date, and provided further that all other requirements of Section 101 of this Title shall be met.
- I. Recount Results. Following the recount, the Election Commission shall verbally announce the number of votes in favor of each candidate or referendum question, and the number of votes opposed to each candidate or referendum question. When the Election Commission prepares the final certificate of votes, the figures obtained during the recount shall be controlling over earlier figures if said earlier figures were different, and each member shall certify on the original certificate that a recount was held, the date of the recount, and that the Election Commission and the Judicial Appeals Tribunal confirmed the accuracy of the results. The certified recount results shall be the final official election results, and no further recounts shall be held.

§ 95. Runoffs.

- A. Principal Chief and Deputy Principal Chief. There shall be a runoff for the offices of Principal Chief and Deputy Principal Chief for the two top candidates in each of the respective offices unless one candidate for each of the respective positions should obtain a simple majority of votes, comprised of more than fifty (50) percent of the total votes cast for the respective office.
- B. Council Districts with One Seats. ~~In Council elections for those districts with one seat there shall be a runoff for the two top candidates for the particular seat unless one candidate should obtain a simple majority of votes, comprised of more than fifty (50) percent of the total votes cast for the respective seat. candidate receiving the highest number of votes shall be elected to the office. In any election that results in a tie there will be a runoff between those candidates only and the candidate who receives the highest number of votes in the general election will be elected without runoff and without the necessity of obtaining 50 percent of the votes cast in the general election.~~
- C. Council Districts with Two Seats. ~~In the Council election for those districts with two seats, the two candidates receiving the highest number of votes will be elected. If the candidates receiving the second highest number of votes are tied there will be a runoff between those candidates only and the candidate who received the highest number of votes in the general election will be elected without runoff and without the necessity of obtaining 50 percent of the votes cast in the general election.~~

There shall be a runoff between the three top candidates receiving the most votes unless

~~one candidate should obtain a simple majority of votes, comprised of more than fifty (50) percent of the votes cast for the respective district. If one candidate receives fifty (50) percent of the votes cast, he or she shall be elected and the runoff will be between the next two top candidates for the remaining seat.~~

- ~~D. Council Districts with Three Seats. In the Council election for those districts with three seats, the three candidates receiving the highest number of votes will be elected. If the candidates receiving the third highest number of votes are tied there will be a runoff between those candidates only and the candidates who received the highest and second highest number of votes in the general election will be elected without runoff and without the necessity of either candidate obtaining 50 percent of the votes cast in the general election.~~

~~There shall be a runoff between the four top candidates receiving the most votes unless one candidate should obtain a simple majority of votes, comprised of more than fifty (50) percent of the votes cast for the respective district. If one candidate receives fifty (50) percent of the votes cast, he or she shall be elected and the runoff will be between the next three top candidates of the remaining seats.~~

- E. Tied Council Runoff Elections. In any Council election race where a runoff results in a tie, the final winner shall be selected by lot. The Election Commission secretary shall, in full view of those present, clearly write or print the name of each tied candidate on separate pieces of paper which are identical in color and size, and fold each paper so that the names are not visible. The secretary shall place the papers in a container selected by the Election Commission. The Election Commission chairperson or his or her designee shall draw one paper and the name of the candidate on that paper shall be declared the winner. The secretary shall then expose the other name or names not drawn to all witnesses present. The drawing shall occur at a public Election Commission meeting in the presence of the candidates involved or their designees.

ARTICLE 5. CHALLENGES TO ELECTION RESULTS

§ 101. Procedure for Election Appeals Generally.

- A. Person Authorized to Appeal. In appeals of elections for office, only the defeated candidate shall be permitted to file an appeal. For elections on issues or questions when no candidate is involved, recounts shall be authorized only when a registered voter who participated in the election presents a petition signed by a number of registered voters who participated in the election equal to one percent (1%) or more of the total votes cast for and against the issue.
- B. Filing Fees. An appeal petition shall not be accepted for filing unless accompanied by a non-refundable fee in the form of either a cashier's check or money order in the amount of five hundred dollars (\$500.00). Fees shall be used to defray actual costs. Fees must be paid from personal or campaign funds, and may not be paid from funds of the Cherokee Nation nor any of its entities.
- C. Bond for Petition Alleging Fraudulent Voting. When a petition alleging fraudulent voting is filed, said petition must be accompanied by a cash bond of five hundred dollars (\$500.00) if fraudulent precinct voting is alleged, and a separate cash bond in the amount of one thousand dollars (\$1,000.00) if fraudulent absentee voting is alleged. Said bond shall be for purposes of guaranteeing payment of any and all liabilities or judgments arising from the contest so filed.
- D. Appeal Petition. An appeal petition challenging the validity of an election outcome, including appeals of special referendum elections, must be filed with the Judicial Appeals Tribunal no later than the second Monday following the election date which is the subject of the appeal. The petition must be in writing and must include the petitioner's name, address and Cherokee Nation registration number; the relief requested; and specific statement regarding each alleged violation of this Title herein or of any election procedures adopted by the Election Commission in force at the time of the alleged violation, including the date of the alleged violations, the identity of the person or persons involved in the alleged violations, and the precinct where the violation

occurred. If fraudulent voting is alleged, the petition shall also specify the specific acts constituting the alleged fraud, identify each precinct where the alleged fraud occurred, estimated number of fraudulent votes cast at each specified precinct location, and if fraudulent absentee ballot voting is alleged, shall also specify the specific acts constituting the alleged fraud, and estimated number of fraudulent votes cast by absentee ballot. If the appeal petition does not contain the required information, or if the allegations do not allege sufficient violations to affect an election outcome, the petition shall be deemed frivolous by the Judicial Appeals Tribunal and shall be dismissed.

- E. Answer; Scheduling of Hearing. The Election Commission shall file a complete copy of all documentation from the underlying proceedings, including a transcription with the Judicial Appeals Tribunal. The , Judicial Appeals Tribunal shall set the matter for hearing on a date no later than three (3) days from date of filing of the petition; provided that the hearing may be continued to a later designated date for good cause not more than three (3) days from date of the originally scheduled hearing. The Tribunal shall mail notice of hearing to the petitioner, the Election Commission and any other parties to the proceeding; provided that if possible a copy shall be personally delivered or sent by facsimile transmission on the date the notice is filed.

§102. Conduct of Appeal Hearings.

All election appeal hearings held by the Judicial Appeals Tribunal shall be governed by the following rules of procedure, which shall supersede all inconsistent general rules of procedure established by the Judicial Appeals Tribunal and which shall supersede all special rules established by the Judicial Appeals Tribunal specifically related to election controversies of any nature:

- A. Legal Counsel. The petitioner may be represented by counsel at his own expense; no Cherokee Nation funds shall be used for legal fees of a person challenging an election; and The Election Commission may be represented by its designated legal counsel.
- B. Hearing. . The Judicial Appeals Tribunal shall consider the record on appeal provided by the Commission, and may consider any additional evidence which it deems relevant to a determination on the merits. The Tribunal shall hear oral arguments consistent with the conduct of civil appellate proceedings A stenographic record of the proceedings and testimony shall be required.
- C. Burden of Proof. The decision shall require the invalidation of election results and a new election only if the petitioner proves beyond a reasonable doubt that substantial violations of this Title or of any election procedures adopted by the Election Commission in force at the time of the alleged violations occurred and that said violations affected or had a strong likelihood of affecting the election outcome.
- D. Decision. The Judicial Appeals Tribunal's decision may be verbally announced after the Tribunal retires and reaches its decision. The decision shall be placed in writing, and each Tribunal member shall indicate his agreement or disagreement with the decision by his signature in the appropriate place on the decision. The decision shall be issued no later than two (2) days following the date of the hearing and shall be served on the parties by mail, facsimile transmission or in person. The decision shall include appropriate relief based on the alleged violation. Such relief may include the following: validation or correction of voting results; validation or correction of election outcomes, including an order that the petitioner is lawfully entitled to have his or her name appear on the runoff ballot or an order certifying a candidate as the successful candidate; or invalidation of the election for a specific office or offices, and requirement of a new election, in those cases where it is impossible to determine the correct election outcome with mathematical certainty. In any case where fraud is proven on the part of a candidate, the candidate shall be declared ineligible for the office for which he or she was a candidate. The decision of the Judicial Appeals Tribunal shall be final.
- E. Civil Liability of Unsuccessful Petitioner Who Alleged Fraud. In all cases where a petition is filed which alleges fraud, but after hearing said allegations are not reasonably sustained by competent evidence, the petitioner shall be civilly liable in damages to the Election Commission and to any candidate affected by said claims if a party to the proceeding, and for all damages sustained, including a reasonable attorney fee and all

reasonable and proper costs of conducting such contest.

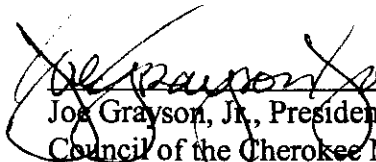
§ 103. New Election Where Determination of Contest Impossible.

In the event that on appeal the Judicial Appeals Tribunal rules that an election for a particular office or offices is invalid, the Election Commission chairperson shall notify the Principal Chief of said decision. The Principal Chief shall then order a new election as soon as is practical in the same manner as the contested election, with the identical candidates; provided that any candidate upon whom fraud has been proven shall not be a candidate in the new election; provided further, the above shall not apply to elections resulting in tie votes, which elections shall be determined as provided by Section 95 E of this Title.


SECTION TWO. SEVERABILITY. THE PROVISIONS OF THIS ACT ARE SEVERABLE AND IF ANY PART OR PROVISION HEREOF SHALL BE HELD VOID THE DECISION OF THE COURT SO HOLDING SHALL NOT AFFECT OR IMPAIR ANY OF THE REMAINING PARTS OR PROVISIONS OF THIS ACT.

SECTION THREE. IT BEING IMMEDIATELY NECESSARY FOR THE WELFARE OF THE CHEROKEE NATION, THE COUNCIL HEREBY DECLARES THAT AN EMERGENCY EXISTS, BY REASON WHEREOF THIS ACT SHALL TAKE EFFECT AND BE IN FULL FORCE AFTER ITS PASSAGE AND APPROVAL.


Enacted by the Council of the Cherokee Nation on the 14th day of November, 2005.


Joe Grayson, Jr., President
Council of the Cherokee Nation


ATTEST:


Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 17th day of November, 2005.


Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:


Callie Catcher, Secretary/Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Audra Smoke-Conner	<u>Yea</u>	Melvina Shotpouch	<u>Yea</u>
Bill John Baker	<u>Yea</u>	Meredith A. Frailey	<u>Yea</u>
Joe Crittenden	<u>Yea</u>	John F. Keener	<u>Yea</u>
Jackie Bob Martin	<u>Yea</u>	Cara Cowan	<u>Yea</u>
Phyllis Yargee	<u>Yea</u>	Buel Anglen	<u>Yea</u>
David W. Thornton, Sr.	<u>Yea</u>	William G. Johnson	<u>Absent</u>
Don Garvin	<u>Yea</u>	Charles "Chuck" Hoskin	<u>Yea</u>
Linda Hughes-O'Leary	<u>Absent</u>		