



Council of the Cherokee Nation

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

Legislation Text

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An Act

LEGISLATIVE ACT 6-91

AN ACT RELATING TO CHEROKEE NATION OF OKLAHOMA LAW REGARDING TRIBAL ELECTION RULES AND REGULATIONS: AMENDING AND ADDING NEW ITEMS: AND DECLARING AN EMERGENCY BE IT ENACTED BY THE CHEROKEE NATION:

CHAPTER 1

General Provisions

Section 10-1-1. Purpose.

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

Section 10-1-2. Authority.

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

Section 11-1-3. 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 6, Sections 4 and 5 of the Constitution and Section 6-1-3 of this code.

Section 11-1-4. Representation by District.

There shall be established nine (9) representative districts within the historical boundaries/jurisdiction of the Cherokee Nation of Oklahoma. These districts include only that portion of any existing county which lies within the historical boundary of the Cherokee Nation of Oklahoma and are established as follows:

District 1 (Cherokee County) District 2 (Adair County) District 3 (Sequoyah County)

District 4 (McIntosh, Muskogee & Wagoner Counties)

District 5 (Delaware and Ottawa Counties)

District 6 (Mayes County) District 7 (Rogers County)

District 8 (Tulsa and Washington Counties)

District 9 (Craig and Nowata Counties)

The names of these districts shall be determined by popular vote in the 1991 Cherokee Tribal Election by the eligible voters of the respective district.

Eligible voters from Districts 6, 7, 8 and 9 shall elect one representative each to the council. Eligible voters from Districts 2, 3, 4 and 5 shall elect two representatives each to the council. District 1 shall elect three representatives to the council.

Apportionment of representation shall be attained by first dividing the combined total population of all tribal members residing within the historical boundaries of the Cherokee Nation of Oklahoma by fifteen (15). This figure must then be divided into the total population of all tribal members residing within each district. The resulting percentage will determine the number of representatives per district. All percentage points .5 or higher will be rounded upward to the nearest whole number and all percentage points less than .5 will be rounded downward to the nearest whole number.

Section 10-1-5. Voting by District.

Every Cherokee tribal member registered to vote, who resides within the historical boundaries of the Cherokee Nation of Oklahoma, shall have the right to vote for the candidate or candidates of his or her choice in each election for the district representative or representatives of his or her choice who are candidates for tribal council within that member's district. Said voting member cannot vote for a prospective district representative who is a candidate for office in a district other than the district where the voter is registered to vote. All tribal members who reside within the historical boundaries of the Cherokee Nation must be registered to vote in the district of their residence.

Every Cherokee tribal member registered to vote, who resides outside the historical boundaries of the Cherokee Nation, shall have the right to vote for the candidate or candidates of his or her choice for each election for the district representative or representatives of his or her choice who are candidates within the district that he or she has chosen. These voting members may choose any district in which to register to vote but may only vote one ballot in each council election and must vote for the candidate or candidates for tribal council within the district which the voter has selected.

CHAPTER 2

Supervisory Bodies

Section 10-2-1. Tribal Election Commission.

(a) There shall be a Tribal Election Commission composed of five (5) members, two (2) appointed by the Council, two (2) appointed by the Chief and one (1) by those four (4), who shall have the sole responsibility and explicit authority for the conduction of all elections conducted by the Cherokee Nation of Oklahoma and shall serve for a period from the day of appointment until six (6) months following the general election or as extended by the council. Said Tribal Election Commission shall be selected and confirmed by the Tribal Council no later than the fourth quarterly council session preceding the election year or the December monthly session proceeding the election year, whichever is appropriate. No elected official of the Cherokee Nation of Oklahoma or tribal employee shall serve on the Tribal 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 Tribal Election Commission.

- (b) It shall be the responsibility of the Tribal Election Commission to provide the various Tribal Election Precinct officials with the proper instruction for performing their duties.
- (c) The Tribal Election Commission shall elect a chairman from its own membership.
- (d) It shall be the duty of the Tribal Election Commission to prepare the official ballot or ballots.
- (e) The Tribal Election Commission shall be responsible for the storage of and safekeeping of all election ballots and allied documents after the close of the election.
- (f) The Tribal Election Commission shall be empowered to develop regulations necessary to conduct tribal elections. Said regulations shall be approved by the Tribal Council no later than the March monthly session of the year of the election.
- Section 10-2-2: Tribal Election Precinct Boards.
- (a) There shall be an Election Precinct Board, consisting of not more than ten (10) persons: inspector, judge, clerk, and counters, appointed by the Tribal Election Commission to conduct the election at the voting places in each of the districts- inclusive of:
- District 1: Cherokee County District 2: Adair County District 3: Sequoyah County
District 4: McIntosh, Muskogee & Wagoner Counties
District 5: Delaware and Ottawa Counties
District 6: Mayes County District 7: Rogers County District 8: Tulsa and Washington Counties
District 9: Craig and Nowata Counties
and other places specified by the Tribal Election Commission. No elected official of the Cherokee Nation of Oklahoma or tribal employee shall serve on an Election Precinct Board. 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 Precinct Board.
- (b) The Board shall have the following specific duties:
- (1) To ascertain that the name of each person offering to vote is on the official voting list, for the particular voting ' place.
 - ◆ (2) To see that only one ballot is cast by the voter himself; that the voting list is checked; and that the voter countersigns his name or makes his mark on the register of persons voting. A voters mark must be witnessed by the Precinct Inspector 'and one other Precinct Official who will write their initials beside the mark.
 - (3) To decide any challenge of the right of a person to . vote.
 - (4) To keep the ballot boxes locked at all times except when the ballots are being counted.
 - (5) To count the ballots cast and to make a tally thereof.
 - (6) To make a certified election return and post a copy thereof on the exterior of the voting place.
 - (7) To preserve spoiled and mutilated ballots.
 - (8) To return all of the ballot boxes after counting and lock, seal, and mark the boxes with the name of the voting place and date of election.
 - (9) To return the unused ballots, spoiled and mutilated ballots, and locked and sealed ballot boxes to the Tribal Election Commission immediately following the election.
- (c) No member of the Election Precinct Board shall leave the voting place during voting hours. If it becomes necessary for any Election Precinct Board Member to leave voting places or premises, said member cannot return to voting place.

CHAPTER 3

Qualifications and Registration of Voters

Section 10-3-1. Eligibility to vote generally.

All enrolled citizens of the Cherokee Nation of Oklahoma whose names appear on the Dawes Commission Roll or who have a lineal ancestor whose name appears on that Roll, who are eighteen (18) years of age or older and who possess a Certification of Degree of Indian Blood, and are registered to vote as provided herein shall be entitled to vote in all elections and referenda of the Cherokee Nation.

Section 10-3-2. Registration of voters.

Those persons whose names appear on the Cherokee Registry and are registered to vote in a district provided that person shall be eighteen (18) years of age or older as of the first day of business in March of the election year shall be afforded the right to vote in all Cherokee tribal elections.

Section 10-3-3. Preparation of list of qualified voters; obtaining of list by candidates for elective offices duplication of list.

The Cherokee Tribal Registrar shall prepare a list of qualified voters and be responsible for preparing and presenting a list of tribal members who would be eighteen (18) years of age or older as of the first day of business in March of the election year to be used by the Tribal Election Commission for conducting tribal elections. Each candidate for an elective office of the Cherokee Nation shall have the opportunity to secure a list of tribal members who are eligible to vote in tribal elections or a list of one registered voter per household. This list shall be available for order by the candidate on the day of his/her filing for office. A list so ordered shall be delivered to the candidate within five (5) working days of the order. Listings will be produced in mailing label format, on plain paper, or on gummed labels. Listings should be delivered to the candidate in the sequence the orders were received. Said list may be obtained for a fee of \$200 per list, and a separate charge will be required for a list of labels to be paid to the Tribal Election Commission, Tahlequah, Oklahoma. Duplication of this list shall be prohibited.

CHAPTER 4

- Qualifications of and Piling by Candidates

Section 10-4-1. Qualifications of candidates for elective office - Generally.

Each candidate who desires to run for an elective tribal office within the Cherokee Nation of Oklahoma shall meet the general qualifications provided in this chapter as well as the specific qualifications provided in the Constitution of the Cherokee Nation of Oklahoma in Article III, Sections 1 and 2; Article V, Section 3; Article VI, Sections 2 and 3; and Article IX, Sections 1, 2 and 3 and the tribal election laws.

Section 10-4-2. Same - Principal Chief.

The qualifications for Principal Chief shall be:

- (1) The candidate for Principal Chief shall be a citizen of the Cherokee Nation of Oklahoma in accordance with the Constitution of the Cherokee Nation, Article //.
- (2) The candidate shall have been born within the boundaries of the United States of America, its territories or possessions.
- (3) The candidate shall have obtained the age of thirty (30) years at the time of the election.

- (4) The candidate shall be a member by blood of the Cherokee Nation of Oklahoma.
- (5) The candidate must file a certificate of degree of Indian blood from the Bureau of Indian Affairs prior to being certified as a candidate.
- (6) The candidate shall not have been convicted of or have pled guilty or have pled no defense to a felony under the laws of the United States of America or of any state, territory or possession thereof unless such person has received a pardon.
- (7) The candidate must certify that if elected Principal Chief, said candidate shall resolve all conflicting interests and that said candidate will automatically be disqualified in the event that any false or misleading information or statements are made in filing for this office.
- (8) No person shall be a candidate for an elected office who La an employee of the Cherokee Nation of Oklahoma.

Section 11-4-3. Sane - Deputy Principal Chief.

The qualifications for Deputy Principal Chief shall be the . same as for the office of Principal Chief.

Section 10-4-4. Sane - Tribal Council.

The qualifications for Council member shall be those in the Constitution of the Cherokee Nation, Article IX, Section 2, and the following qualifications and/or requirements approved by the

. Council:

(1) The candidate for Council shall be a citizen of the ' Cherokee Nation of Oklahoma in accordance with the Constitution of the Cherokee Nation, Article III.

(2) The candidate shall have been born within the boundaries of the United States of America, its territories or possessions.

(3) The candidate shall have obtained the age of twenty-five (25) years of age at the time of the election.

(4) The candidate shall be a member by blood of the Cherokee Nation of Oklahoma.

(5) The candidate must file a certificate of degree of Indian blood from the Bureau of Indian Affairs prior to being certified as a candidate.

(6) The candidate shall not have been convicted of or have pled guilty or have pled no defense to a felony charge under the laws of the United States of America or of any state, territory or possession thereof unless such person has received a pardon.

(7) The candidate must certify that if elected to the Council, said candidate shall resolve all conflicting interests and that said candidate will automatically be disqualified in the event that any false or misleading information or statements are made in filing for this office.

(8) No person shall be a candidate for an elected office who is an employee of the Cherokee Nation of Oklahoma.

Section 10-4-5. Filing fees generally.

A filing fee shall be charged each candidate filing for an elected office of the Cherokee Nation of Oklahoma. Such fees are to be filed and paid to the Tribal Election Commission, Cherokee Tribal 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

Section 10-4-6. Deadline for filing of candidacy; withdrawal of candidacy; refund of filing fee.

The filing date shall be the fourth Monday of March through the second Friday of April of the election year. The deadline for filing for an elected office of the Cherokee Nation of Oklahoma shall be publicized by the Tribal Election Commission. Any candidate who wishes to withdraw from the election shall have

, the opportunity to do so by providing a formal written notice to the Tribal Election Committee five working days after the deadline for filing. No refund of filing fee shall be permitted.

Any tribal member registered to vote shall have the right to contest the eligibility of any candidate to run for office. The protest must be received by the Commission in writing within three (3) working days after the deadline for filing. The decision of the Commission shall be final.

Section 11-4-7. Residency Requirements.

Qualified Tribal Council candidates shall have established a bonafide permanent residence within their respective districts 182 days prior to the beginning filing date of that particular election year. Proof of a bonafide permanent residence shall be regulated by the Tribal Election Commission.

Section 10-4-8. Establishment of Residency.

Proof -of a bonafide permanent residence, necessary to qualify as a Tribal Council candidate, shall be established by the following test:

(a) 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 returning.

(b) Verification of residence may be shown by one or more of the following documents, provided always that such documents show an address in excess of 182 days:

1. Current driver's license(s).
2. Utility bill or bills. 2,2
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.

CHAPTER 5

Conduct of Elections

Section 10-5-1. Official election dates.

The following dates are the official dates pertaining to the elections of the Cherokee Nation of Oklahoma:

- (1) Registration of voters. The cut-off date for registration to vote shall be no later than 5:00 p.m. on May 24th of the election year. All registrations must be in the hands of the Tribal Election Commission by said date and time.
- (2) Filing of candidates.' Candidates may file for office . from the fourth Monday of March through the second Friday of April of the election year.
- (3) General election. The general election for tribal offices shall be the third Saturday in June of the election year.
- (4) Run-off election. The run-off election shall be the third Saturday in July of the election year.
- (5)Swearing in of elected officials. The swearing in of : the tribal elected officials, i.e., Principal Chief, Deputy 'Principal Chief, and Council, shall be August 14 of the election . year. ♦

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* section 11-5-2. Special elections.
◆ Special elections shall be called by the Council for specifically stated purposes.
Section 10-5-3. Electioneering.

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No person shall be allowed to electioneer within three hundred (300) feet of the entrance to any polling location while an election is in authorized progress, nor shall any person or persons, except election officials and other persons authorized by law, be allowed to approach the ballot box while an election is in progress. No printed material other than that provided by the Election Commission shall be publicly placed or exposed within three hundred (300) feet of the entrance to any polling location while an election is in progress. The Tribal Election Commission shall be charged with the responsibility of developing the policies on electioneering with the approval of the Council.

Section 10-5-20. Voting places and hours; notice.
Voting places, with the approval of the Council, shall be provided by the Tribal Election Commission and shall be open during the hours from 7 a.m. to 7 p.m. on the day of the election. Proper notice of the election shall be given by the Tribal Election Commission.

Section 10-5-21. Manner of voting generally.

(a) Voting shall be by secret ballot.

(b) Except as otherwise provided, any registered voter may vote by appearing at his prescribed voting place, announcing to the Election Board his name and address and by signing the appropriate documents and by marking and placing in the ballot box the ballot which shall be handed to him.

(c) Any registered voter who will be unable to vote, in person may vote by absentee ballot as prescribed herein.

Section 10-5-22. Voting by persons with physical disabilities or language barriers.

If a voter presents himself and states that he, because of a physical disability or infirmity or language barrier, is unable to mark his ballot, the inspector must 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)."

Once a voter has been sworn, he should be permitted to be assisted by any person of his choice, at least eighteen (18) years of age, in voting his ballot. Such assistance should be given in a voting booth, witnessed by the precinct inspector.

Section 10-5-23. Watchers.

Candidates for the office of the Principal Chief, Deputy Principal Chief, and each candidate for the Council may submit two names as their designated watchers at each polling place. The selection of the watchers and their designated polling place shall be by random drawing of names submitted by candidates for each respective district to be assigned within those districts. The Tribal Election Commission shall have the sole authority to determine the number of watchers in any given polling place. No candidate for any elected office in the Cherokee Nation shall be a watcher.

Section 10-5-40. Allowance of absentee voting.

Absentee voting shall be allowed upon written request by a registered, voter of the Cherokee Nation of Oklahoma. Such request shall be made to the Tribal Election Commission of the Cherokee Nation of Oklahoma.

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◆! Section 10-5-46. Furnishing of instructions for voting.

The Tribal Election Commission shall prescribe instructions for voting by absentee ballots. A copy of said instructions shall be mailed to each voter requesting an absentee ballot.

Section 10-5-47. Form of absentee ballots.

Absentee ballots shall be identical to the regular ballots used in poll voting but shall be stamped absentee ballot and have the date of issuance thereon.

Section 10-5-48. Return of ballots.

A voter shall be required to mark his ballot in ink; seal the ballot in the plain opaque envelope; fill out completely and sign the statement; seal the plain opaque envelope inside the envelope bearing the statement; and return both envelopes, sealed inside the return envelope, by the United States mail to the Tribal Election Commission or as otherwise provided in section 10-5-50 of this Code.

Section 10-5-49. Handling of returned absentee ballots generally.

Ballots must be marked, sealed in the inner envelope and mailed in the pre-addressed outer envelope so as to reach the Tribal Election Commission. Any ballot received at the Tribal Election Commission's post office box in Tahlequah, Oklahoma, prior to close of business on election day shall be valid. Upon receipt of the absentee ballot by the Tahlequah Post Office it shall be placed in the absentee ballot boxes designated and placed in the post office for said ballots. The ballot boxes shall be secured with three locks. The keys to the said ballot boxes will be kept in a safe deposit box at Banc First in Tahlequah or First State in Tahlequah until the day before election day.

At such day the keys will be obtained by the designated persons of the Tribal Election Commission. Three names will be designated to sign the signature card for the safe deposit box. The Tribal Election Commission shall designate three members of said Commission to sign the card plus an alternate in case someone is absent.

◆ Section 10-5-50. Absentee voting in person.

Any voter who has requested and received an absentee ballot who chooses to vote in person must bring his/her absentee ballot to the Tribal Election Commission in Tahlequah before 7:00 p.m. on election day.

Section 10-5-51. Furnishing to polling places of list of - voters requesting absentee ballots.

The Tribal Election Commission shall compile and provide a list of, all voters who requested an absentee ballot to each polling place within their chosen district, together with other

"election materials and equipment.

Section 11-5-52. Crediting of absentee voters.

On the Monday after election day, the chairman of the Tribal Election Commission shall cause each voter who cast an absentee ballot to be credited with voting in said election on his registration form in the appropriate registry.

Section 10-5-41. Requests for absentee ballots generally.

A registered voter of the Cherokee Nation of Oklahoma who swears or affirms that he or she will be unable to vote in person may make a written request to the chairman of the Tribal Election Commission for an absentee ballot. The request must contain the following information:

- (1) Name.
- (2) Date of birth.
- (3) Address.
- (4) Tribal member registration number.
- (5) Signature.

Section 10-5-42. Time for filing of requests for absentee ballots; furnishing of ballots generally.

(a) Requests for absentee ballots by mail shall be accepted from the third Monday of April until the third Friday in May of the election year. Said ballots shall be returned to the person requesting the ballot beginning the third Thursday of May to the first Friday in June of the election year. Registered voters may make their requests in person at the Tribal Election Commission's office at the tribal office in Tahlequah, Oklahoma, until 4:30 p.m. on the Wednesday preceding the general election.

(b) In the event of a run-off, all persons who previously received an absentee ballot for the general election shall be provided an absentee ballot for the run-off election.

Section 10-5-43. Procedure upon rejection of application for absentee ballot.

In the event a voter's application for an absentee ballot is rejected for any reason, the Chairman of the Tribal Election Commission shall immediately notify said voter in writing of the rejection and the reason therefore.

Section 10-5-44. Transmittal of ballots to voters generally; preparation of record of ballots issued.

When such application is received by the Tribal Election Commission, it shall be the duty of the Tribal Election Commission to verify the registration of said voter and to transmit the ballot which said voter requested after verification

, of the voter's registration. A record shall be made of all

; absentee ballots issued, with the name, date of birth, voter's registration number, date of issuance and address of the voter to whom it was issued.

Section 10-5-45. Material to accompany ballots generally. Said ballots must be accompanied by:

- (1) A plain opaque envelope in which voted ballots must be placed by the voter.
- (2) An envelope bearing an affidavit stating that the voter is qualified to vote, that he has personally marked the ballots, and that he has not exhibited the marked ballot to any other person.
- (3) A return envelope addressed to the Tribal Election Commission.

Section 11-5-53. Counting of absentee ballots,- Selection of counters

The, Tribal Election Commission shall submit names for absentee counters to the Tribal Council at the regular Council Session in April preceding the election. The Council shall approve or disapprove the names presented.

Section 10-5-54. Same - Absentee Ballot Counting Procedure.

(a) At 7:00 a.m. or after on the day of the election, said . absentee counters shall meet to count absentee ballots in the . manner hereafter prescribed.

(b) The ballot box containing the properly executed envelopes bearing affidavits shall be opened and said envelope; bearing affidavits removed. -

(c) Examination of affidavits will be on the day of the election by the Tribal Election Commission. Any ballots rejected due to error in the affidavit shall be attached to the affidavit without opening. Said rejected affidavits and ballots shall be strung, labeled and placed in a separate locked box.

(d) The plain opaque envelopes shall be placed in a ballot box locked with three locks.

(e) The ballot box shall be shaken to mix the plain opaque envelopes, after which said box shall be opened, the envelopes removed and the ballots counted according to law.

(f) No member of the absentee counters shall leave the counting place during counting hours without the permission of the Tribal Election Commission, chairman or his designee. If it becomes necessary for any absentee counter to leave the premises, said counter cannot return to the premises.

Section 10-5-55. Retention of materials.

All materials used for procuring and casting an absentee ballot shall remain under the control of the Tribal Election Commission for a period of one (1) year after the day of the election.

Section 10-5-56.-Absentee watchers.

The selection of the absentee watchers shall be by random drawing of five (5) names from the balance of names submitted by the candidates in section 10-5-23 of this Code until five (5) names have been drawn. No candidate for any elected office in ,r the Cherokee Nation shall be a watcher.

Section 11-5-70. Counting of ballots; certification of results; preparation of consolidated return of election results; disposition of ballots.

(a) The ballots 'cast shall be counted and tallied by the Election Precinct Board after 25 or more votes have been cast on the, day of the election. Absentee ballots shall be counted on election day in accordance with Section 10-5-54 of this Code.

(b),Results of the voting shall be made by certified return to the ♦Election Commission and a copy of the return shall be posted on the exterior of the voting place.

(c) The Election Commission shall immediately after the election prepare a consolidated return of the election results and post said results at the election headquarters.

(d) After counting, all ballots cast shall be placed in ballot boxes, locked, sealed, and marked with the name and voting place and the date of the election by the Election Commission. All unused and spoiled or mutilated ballots shall also be given to the Election Commission. The Election Commission shall store the ballots, upon approval of the Council, in such a manner that will insure the safekeeping of said ballots.

(e) On Friday following the election, the Election Commission shall certify and transmit to the office of the Area Director of Bureau of Indian Affairs, Muskogee Area Office, Muskogee, Oklahoma, the names of all elected candidates, provided a petition of contest has not been filed or a recount requested. All candidates not involved in that recount or protest will be certified. Certification of the candidate in question will be made following determination of said protest or recount.

Section 10-5-71. Recounts.

The Tribal Election Commission shall have the sole responsibility and explicit authority to conduct any recount. Only candidates for office may ask for a recount. A candidate requesting a recount shall petition the chairman of the Tribal Election Commission. A non-refundable fee of \$500 per polling location will be charged the candidate requesting the recount. A non-refundable fee of \$500 will be charged for absentee ballots recount. The time limit for filing for a recount shall be from the first working day following the posting of the election results and shall continue for five (5) working days. Persons working on recounts will be appointed by the Tribal Election Commission. Recounts shall be conducted in the presence of the Judicial -Appeals Tribunal. No tribal employees or tribal officials will be used for recounts.

The actual recount of ballots shall be conducted by the Tribal Election Commission. The recount shall be conducted in Tribal Council chambers or other appropriate facilities as determined by the tribal election commission and it shall be the duty, of the Judicial Appeals Tribunal to attend and, in conjunction with said Tribal Election Commission, conduct such recount. It shall be the exclusive and sole duty of said

Judicial Appeals Tribunal to hear evidence as to whether the

ballots have been preserved in the manner and by the officers -prescribed by law, and as to whether they are the identical v ballots cast by the voters, and that they have not been exposed to the reach of unauthorized persons, as to afford a reasonable opportunity for their having been changed or tampered with. The judgment of said Court upon such question shall be final and

conclusive. If the Court cannot determine that the ballots have been properly preserved, then no recount shall be conducted. If

the judgment of the Court is that the ballots have been properly " preserved, then the actual, physical recount of the ballots shall r be conducted immediately thereafter under the exclusive : supervision of the Tribal Election Commission. Once the actual

physical-recount is commenced under the supervision of the Tribal

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.

Section 10-5-72. Runoffs.

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 the votes cast for the respective office, a simple majority meaning over 50 percent or any fraction thereof.

In the council election for those districts with one seat there shall be a runoff between the two candidates receiving the most votes unless one candidate should obtain a simple majority of the votes cast for the respective district, a simple majority meaning over fifty (50) percent or any fraction thereof.

In the council election for those districts with two seats⁴ 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.

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.

In any council election race where there has been a runoff without a winner the winner shall be determined by the toss of a coin, drawing of straws or pulling of a name from a hat. The method shall be determined by the Tribal Election Commission.

Section 10-5-90. Procedure for election contests generally.

In the event a candidate contests the correctness of the announced results of an election by alleging fraud or any other irregularities, the chairman of the Election Commission shall set a hearing in the same manner as provided for recounts.

Provisions for service of notice shall be the same as for recounts.

Section 10-5-91. Proceedings on petitions alleging fraud.

When a petition alleging fraud concerning poll voting is filed, said petition must be accompanied by a cash bond of five thousand dollars (\$5,000.00). The same amount must accompany a petition alleging fraud concerning absentee voting.

Said petitions shall be conditioned upon payment of any and all

, liabilities or judgments arising from the contest so filed. In

! said petition, contestant must allege that fraud occurred in certain polling locations or in the casting of absentee ballots.

l.- He must further allege the name of the polling locations wherein such fraud occurred, the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud. If such a. petition is filed in the manner herein provided, the Chief Justice of the Judicial Appeals Tribunal, or such other justice as the Chief Justice may assign, shall hear and determine said issue without delay or continuance of more than five (5) days. On the day of the hearing, the contested may file an

answer to such petition or may file a cross-petition, setting forth in detail, as required of a petitioner herein, such claim of fraud. The decision of said justice shall be final as to any changes in the total votes, and a copy of such judgment and decision shall be furnished to the Election Commission. In any

case where fraud is proven on the part of a candidate, he shall be declared ineligible for the office for which he was a candidate. In all cases where a petition is filed which alleges fraud, but after hearing said allegations are not reasonably sustained by competent evidence, the contestant shall be civilly liable in damages to the contested for all damages sustained, including a reasonable attorney fee and all reasonable and proper costs of conducting such contest.

Section 11-5-92. Proceedings on petitions alleging irregularities other than fraud.

(a) When a petition alleging irregularities other than fraud¹ is filed, said petition must allege a sufficient number of irregularities and of such a

nature as to:

(1) Prove that the contestant is lawfully entitled to be certified as a candidate, or to have his name appear on the runoff ballot; or

(2) Prove that it is impossible to determine with mathematical certainty which candidate is entitled to be certified as a candidate or to have his name appear on the runoff ballot.

(b) If such allegations are not made, the petition shall be deemed frivolous by the presiding justice and shall be dismissed. Said petition when concerning poll voting shall be accompanied by a non-refundable fee in the form of either a cashier's check or certified check in the amount of five hundred dollars (\$500.00). The same amount must accompany a petition concerning absentee voting. Said petition must set forth specific allegations of irregularities in certain polling locations or in the casting of absentee ballots. If said petition is filed in the manner herein provided, the justice shall hear and determine said issue in the same manner herein provided for a petition alleging fraud. Fees shall be used to defray actual costs.

Section 10-5-93. Proceedings where determination of contest impossible.

In the event, after a hearing is conducted, it is deemed impossible to determine who should be certified as the successful candidate, or which candidates are entitled to have their names appear on the runoff election ballot, the justice shall notify the chairman of the Election Commission of same. It shall then be the duty of the Election Commission chairman to 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 10-5-72 of this Code.

Passed by the Cherokee Nation Tribal Council on this 9th day of March, 1991.

John A. Ketcher, President Cherokee Nation Tribal Council

Approved and signed by the Principal Chief this 9th day of MARCH, 1991.

Wilma P. Mankiller, Principal Chief Cherokee Nation of Oklahoma

Gary Chapman, Secretary/Treasurer Cherokee Nation of Oklahoma

YEAS AND NAYS AS RECORDED:

AMON A. BAKER	YES		STANN HUMMINGBIRD, JR.	YES	
SAM ED BUSH		YES	ROBERT MCSPADDEN		ABSENT
JOE BYRD		YES	PATSY MORTON	YES	
GARY CHAPMAN	YES		JEFF MUSKRAT	YES	
SAM DAUGHERTY		YES	HAROLD PHILLIPS		YES
JAMES EAGLE		YES	GOODLOW PROCTOR		ABSENT
BETTY BUCKHORN		YES	WOODROW PROCTOR		ABSENT
JOE GRAYSON, SR.		YES			