Committee: Tribal Council		Author: Diane Barker-Harrold, Todd Hembree and Harvey Chaffin
Date: 4-28-16	Committee Date: 5-16-16	Sponsor (s): Victoria Vazquez 4

An Act

Legislative Act 12-16

AN ACT AMENDING LA-04-14 REVISING TITLE 26 ("ELECTIONS") OF THE CHEROKEE NATION CODE ANNOTATED

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

Title 26 of the Cherokee Nation Code Annotated, Entitled "Elections" is hereby revised as 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.

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
LA. 12-87 Eff. May 11, 1987
L.A. 23-87 Eff. June I1, 1987
L.A. 3-87 Eff. February 14, 1987
L.A. 4-87 Eff. Feb. 14, 1987
L.A. 7-97 Eff. May 12, 1997

L.A. 39-05 Eff. Nov. 14, 2005
L.A. 06-10 Eff. Feb. 16, 2010
L.A. 46-12 Eff. Dec. 10, 2012
L.A. 04-14 Eff. Feb. 10, 2014
L.A. 26-14 Eff. Sept. 15, 2014

§ 3. Authority.

This Title is enacted pursuant to Article IX, Section 1, of the Constitution of the Cherokee Nation ruled effective by the Cherokee Nation Supreme Court on July 26, 2003.

§ 3.1-A. Definitions.

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

A. **At-Large Registered Voter.** "At-Large registered voter" means a person who is a citizen of the Cherokee Nation, under the age of twenty-five (25) residing outside of the jurisdictional boundaries of the Cherokee Nation, who has not previously registered to vote, and fails to choose a single district upon the time of their first registration; and citizens age twenty-five (25) and older-residing outside of the boundaries not registered to vote at the time of the first election to fill At-Large Council seats pursuant to Article VI § 3 of the Cherokee Nation Constitution.

B. **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.

C. **Candidate.** "Candidate" means a person who has raised funds and/or accepted in-kind contributions in excess of One Thousand Dollars ($1,000.00)filed or has filed and is qualified to run in an election to hold elective office in the Cherokee Nation, in accordance with Chapter 4 Sections 31-34 of this Act and in accordance with the Cherokee Nation Constitution.

D. **Citizen of the Cherokee Nation.** "Citizen of the Cherokee Nation" means a person enrolled as a citizen of the Cherokee Nation pursuant to 11 C.N.C.A. §§ 11-14.

E. **Computer Technology.** "Computer technology" shall include electronic hardware and software.

F. **Constitutional Amendment.** "Constitutional amendment" means Constitutional amendment(s) proposed by the Cherokee Nation Council that are submitted to the registered voters of the Cherokee Nation for the purposes of voting on said amendment(s) at a special or general election pursuant to Article XV Section 2 of the Cherokee Nation Constitution and Article XV Section 3 which gives the right of the people to propose Constitutional Amendments.

G. **Council.** "Council" means the Council of the Cherokee Nation.

H. **Council Member.** "Council member" means a member of the Council of the Cherokee Nation.

I. **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.

J. **Election Commission.** "Election Commission" means the Cherokee Nation Election Commission created pursuant to Article IX, Section 1 of the Cherokee Nation Constitution.

K. **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.

L. **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.

M. **Election ~~Services~~Commission Office.** "Election ~~Services~~ Commission Office" means the Cherokee Nation Election ~~Services~~ Commission Office established under Section 14 of this Title and when Election ~~Services~~ Commission Office is in any of the following sections, it is referencing the Election Office.

N. **Elective Office.** "Elective office" means the office of Principal Chief, Deputy Principal Chief, and Tribal Council.

O. **Election Period.** "Election Period" shall include the primary election and the runoff election through the completion of any applicable challenge and/or certification proceedings.

P. **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 as provided by law 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, Sections 3 and 4 of the Cherokee Nation Constitution, and consideration of constitutional amendments pursuant to Article XV, Section 2 and Section 3 of the Cherokee Nation Constitution.

Q. **Initiative Petition.** "Initiative petition" means a petition submitted by the registered voters of the Cherokee Nation for purposes of proposing any legislative measure and constitutional amendment pursuant to Article XV, Sections 1, 3, 5 and 6 of the Cherokee Nation Constitution.

R. **Jurisdictional Boundaries.** "Jurisdictional Boundaries" means the boundaries described by the patents of 1838 and 1846 diminished only by the Treaty of July 19, 1866, and the Act of March 3, 1893, which encompasses all or portions of the northeastern fourteen counties of Oklahoma.

S. **Officer.** "Officer" means the Principal Chief and Deputy Principal Chief.

T. **Original Enrollee.** "Original enrollee" is as defined by 11 C.N.C.A. § 3 (L)~~4 .1~~, derived only through proof of Cherokee blood based on the final rolls.

U. **Precinct.** "Precinct" shall mean an official voting place within a district, as designated by the Election Commission.

V. **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.

W. **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.

X. **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, 3, 4, 5 and 6 of the Cherokee Nation Constitution.

Y. **Registration.** "Registration" means the act of registering to vote 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, in accordance with Article VI Section 3 of the Cherokee Nation Constitution.

Z. **Re-register.** "Re-register" means the act of changing a voter registration as a result of a change in residency for purposes of changing voting district or for other legitimate purposes.

AA. **Resident Registered Voter.** "Resident Registered Voter" means a person whose residence is inside of the jurisdictional boundaries of the Cherokee Nation at the time he or she registers to vote.

BB. **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.

CC. **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, Sections 2 and 4 of the Cherokee Nation Constitution, election by the Council to fill Council vacancies pursuant to Article VI, § 13 of the Cherokee Nation Constitution, election of the Principal Chief pursuant to Article VII, Section 5 of the Cherokee Nation Constitution.

DD. **Political Purposes.** "Political Purposes" means actions or activities designed to influence the success or defeat of a candidate or elective office or any ballot measure.

§ 4. Tenure of Elected Officials.

Tenure of the Principal Chief, Deputy Principal Chief, and Council members shall be a term of four (4) years pursuant to Article VI, Section 3 and Article VII Section 1 of the Constitution, except for vacancies that are filled in accordance with Article VI Section 13 and Article VII Section 5 of the Cherokee Nation Constitution.

§ 5. Reserved.

§ 6 – 10 Reserved for Future Use.

CHAPTER 2
Supervisory Bodies and Election~~Services~~ Commission Office

§ 11. Cherokee Nation Election Commission.

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. Pursuant to the constitution of the Cherokee Nation, Article IX, Section 1, the Election

Commission shall be an autonomous and permanent entity, which shall be an independent commission in the performance of its statutory authority to govern the conduct of all elections and in the performance of such authority shall not be subject to direction, supervision, intervention or interference or of any other type of influence by the Executive Office or the Cherokee Nation Council. The Election Commission shall be subject to the Constitution of the Cherokee Nation and laws of the Cherokee Nation pursuant to its Constitutional independent and autonomous status. The Election Commission shall develop policies and procedures concerning personnel, contracting and meeting requirements which shall be exclusive and controlling as to the Election Commission. Such policies must include provisions relating to Cherokee preference in contracting, hiring and promotion. Such policies and procedures shall be implemented within 90 days of the passage of this Act.

A. Term. Each Election Commissioner shall serve a term as set forth below. ~~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.~~

1. Staggered Terms: Beginning with the appointment of an Election Commissioner in October 2011, the Tribal Council shall appoint one (1) member to a four (4) year term and one (1) member to a six (6) year term. The Principal Chief shall appoint one (1) member for a four (4) year term and one (1) member for a six (6) year term. The members shall then select a person to be the fifth member of the Election Commission for a four (4) year term to be confirmed by the Principal Chief and Tribal Council. Thereafter all appointments shall be for a four (4) year term.

2. Holdover Clause: Members of the Election Commission shall remain in office until their successor is duly appointed and confirmed.

3. Vacancies. In the case of death, removal or resignation of a Commissioner the Branch of Government which made the appointment shall select the replacement, who shall~~will~~ serve the remainder of the term.

B. Qualifications. No 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, 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.

C. Duties. The Election Commission shall have the responsibility of conducting all general and 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, approve and maintain correct and accurate minutes of its deliberations, and rules and regulations of the Commission which shall be regularly posted on the Cherokee Nation website;

3. Hire independent legal counsel 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 facsimile 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 of voters, provided that nothing herein shall affect the Validity of registration 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 voter lists and shall use all efforts to diligently use certified sources; such as 911, County Treasurer's and the County Assessor's web sites, Cherokee Nation Registrar's office and the Cherokee Nation tag office to update said list with correct address and phone numbers where the Election Commission does not currently have an accurate address.

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. Approve the number and location of precincts at least forty-five (45) days in advance of the election, and said locations shall be published in the Cherokee Phoenix and shall be posted on the official web site of the Cherokee Nation after their selection.

9. Provide the various Precinct Board officials with the proper instruction and training for performing their duties. All Precinct Board Officials are required to attend the mandatory training to work in any election.

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~~93 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;

a. Prepare and order the official ballot or ballots prior to the applicable election;

b. Issue ballots and all support materials to hold an election;

c. Be responsible for the storage and safekeeping of all election ballots and related documents after the close of the election pursuant to procedures established by the Election Commission;

d. Engage in any other activities for the performance of its responsibilities as required by the provisions of this Title.

e. 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.

f. A~~Investigate and~~ udit all financial reports and disclosures required by this Act, and to report any violations to the Cherokee Nation Attorney General ~~and/or Cherokee Nation law enforcement~~. Further the Election Commission has the authority to assess any ~~fines,~~penalties or other sanctions authorized by this Act. Any accusations concerning campaign activities shall be reported to the Cherokee Nation Attorney General for investigation. Should the Cherokee Nation Attorney General find merit, a report to the Cherokee Nation Election Commission will be made for possible assessment of penalties and/or disqualification under procedures found at Title 26 § 38 of the Cherokee Nation Code Annotated.

D. Meetings. The Election Commission shall conduct business in open meetings at the Election ~~Service~~ Commission Office or other public location designated by the Commission, pursuant to policies and procedures developed by the Election Commission, provided that the Commission may attend work sessions in which the duties of the commission are performed, such as reviewing candidate eligibility packets, financial filings, locating and securing precincts, registering voters, assisting in day-to-day operations of the Election Commission Office, preparing election supplies and other miscellaneous duties and may engage in work sessions where no policy decisions were required by a vote of the commission that any action requiring the vote of the body shall be referred to the Commission in an open meeting.

E. Compensation. The Election Commission members shall receive stipends or compensation for their services in accordance with their itemized budget approved by the Council.

F. Removal of Election Commission Members. An Election Commission member may be removed from office for committing any of the following acts:

1. willful neglect of the duties prescribed in this act;
2. corruption in office;
3. ~~Habitual drunkenness~~acting in his or her official capacity while under the influence of alcohol or un-prescribed narcotics;
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 Cherokee Nation Supreme Court in accordance with its Rules and Procedures. If the Cherokee Nation Supreme Court finds that a commissioner has committed an act that would warrant removal that member shall be removed as a Commissioner.

§ 12. Precinct Boards.

A. Establishment of Precinct Boards. There shall be a Precinct Board consisting of not more than twelve (12) people but, adequate in number to carry out the provision of this Act for each precinct defined in Section 3.1(V) ~~A (19)~~ of this Title, and for any other places specified by the Election Commission. Each Precinct Board shall be appointed 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 person who is related within the first degree by either consanguinity or affinity to an 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 degree by either consanguinity or affinity to a candidate for office shall serve on a Precinct Board.

C. Duties. Each Precinct Board shall attend a mandatory training to be held by the Commission prior to the election. The Precinct Board shall oversee the conduct of elections at its assigned precinct within a district, including the following specific duties:

1. Ensure that the identity of each person attempting to vote is established either through personal knowledge, or photo ID or by viewing some current form of government issued ID card or the voter's ID card issued by the Cherokee Nation Election Commission or other methods of identification.

2. Ensure that the name of each person attempting to vote is on the Precinct Voters Signature Book at the particular precinct where each person is attempting to vote;

3. Ensure that the voter countersigns his name or makes his mark on the Precinct Voters Signature book 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 his or her initials beside the mark;

4. Ensure that only one ballot is cast by the voter at the precinct;

5. Make a final decision for the Election Commission regarding questions of

eligibility of a person to vote pursuant to the procedure for challenged ballots set forth in Section 64 of this Title;

6. 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. Count the ballots cast and make a tally thereof, provided that counting and tallying may be made manually or by an electronic counting device as directed by the Election Commission;

8. Make precinct certified election returns to include the number of votes cast in that precinct and a vote tally, and post a copy thereof on the exterior of the precinct; or, if there is a machine malfunction, ballots may be secured, brought to the Election Commission Office and manually counted before the Election Commission and results shall be posted at the Election ~~Services~~ Commission Office.

9. Preserve mutilated ballots;

10. Return all of the ballot transfer cases after counting and lock, seal, and mark the ballot transfer cases with the name of the precinct and date of election;

11. Return the unused ballots, spoiled and mutilated ballot envelope, locked and sealed ballot transfer cases to the Election ~~Services~~ Commission Office immediately following the election; and

12. Report conduct which, based on actual observation or information from another person, appears to the precinct Board Member to violate Section 52 of this Act to the Cherokee Nation Election Commission and the CNEC will report the Incident to the appropriate Cherokee Nation authorities.

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 his or her services as prescribed by the Election Commission.

§ 13. Oath.

Each Election Commission member, each member of the Election ~~Services~~ Commission 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 Election Commission [or ~~Election Services or~~ Precinct Board] 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~~ Commission Office.

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

B. Staff. All Election staff, excluding members of the Election Commission, shall be deemed employees of the Election Commission and shall be interviewed and hired by the Election Commission and shall be under the direct supervision of the Election Commission all of which are subject to policies and procedures created by the Election Commission, and will receive the same benefits as Cherokee Nation employees by way of a MOU between the Election Commission and the Cherokee Nation.

C. Director of Election ~~Services~~ Commission Office. The Director of the Election ~~Services~~ Commission Office shall be hired independently by Election Commission and shall be experienced in conducting elections and the use of modern, reliable technology, and secure voting.

D. Administrator. The Administrator of the Election Commission Office shall be a Cherokee Tribal citizen who is independently hired by the Election Commission using objective standards developed by the Election Commission The Administrator shall be under the direct supervision of the Election Commission.

E. Other Staff Members. All other employees as determined needed by the Election Commission to conduct their ~~C~~constitutionally required duties.

§ 15. Record Retention

The Election Commission Office, at the direction of the Election Commission, shall develop policies and procedures with respect to record retention. Said policies shall:

A. Permit the destruction of paper records relating to the conduct of an election not less than one (1) year after the disposition of a final appeal arising out of any election held under this title, including but not limited to ballots, provided: Original election certification records shall be maintained for a period of at least five (5) years after said disposition of a final appeal and may be maintained longer at the direction of the Election Commission.

B. Require said destruction of paper records to occur only after public notice of said destruction is given by the commission at a regular or special Election Commission meeting.

§16 – 20 Reserved for Future Use.

CHAPTER 3
Qualifications and 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 any election held by the Cherokee Nation:

1. The person shall be a citizen of the Cherokee Nation eighteen (18) years of age or older as of the date of any election; and

2. A person shall be registered to vote no later than the last business day in March of the election year. Provided that Tribal citizens that are seventeen (17) years old and can show that their birth date is on or prior to the date of the primary election shall be allowed to register to vote. (except for Original Enrollees as provided in this Chapter.);

   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 an At-Large voter as defined herein he/she shall be affiliated with a district pursuant to Article VI § 3 of the Cherokee Nation Constitution.

3. Any person who voted in the last primary, general or special election shall be deemed eligible to vote unless the Commission has notice that they have relinquished their citizenship. The Election Commission shall maintain the list of eligible voters.

B. Original Enrollees. An original enrollee who is not on the 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 complete a voter registration form and maybe 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 for a Council seat for the district in which the voter resides, and cannot vote for a candidate for a Council seat for any other district except as provided for in Section 21 (C) 4.

2. At-Large Registered Voters. Every At-Large Registered Voter shall be registered to vote in the At-Large District, unless said voter has elected to remain a voter in a district pursuant to Article VI Section 3 of the Cherokee Nation Constitution. Provided, when redistricting occurs, At-Large Registered Voters who elected to remain a voter within a district pursuant to Article VI Section 3 of the Cherokee Nation Constitution, shall be notified by regular mail notifying the voter of his/her right to choose a new district that was part of their original district. The At-Large Registered Voter shall have ninety (90) days from the date of the notice to notify the Election Commission of their choice of a new district. If, after the expiration of the ninety (90) day period, the voter shall be assigned to the appropriate district based on the precinct chosen at the time of registration.

3. Re-registration for Purposes of Changing District and/or Precinct. A resident registered voter who has moved to a new district and who wishes to change precinct within their district, shall 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 form shall be delivered to the Election ~~Services~~ Commission Office ~~by 5:00 p.m.~~ on or before said day in order to be valid for said election year.

4. Effect of Failure to Re-register. Any registered voter who fails to change his or her voting district and/or precinct by re-registering with 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 for Council within the district in which the person was registered to vote as of said date.

5. At-Large Voters who have previously chosen districts. At-Large registered voters who have previously selected a district within the jurisdictional boundaries in accordance with the Cherokee Nation Constitution (Art. VI, Se. 3,) may select, at the time of the 2013 election, a district that was subsequently part of their original district.

D. Voter Address. Voters giving a Post Office Box Address or a Rural Route Address must include driving directions and/or location of residence that is sufficient to allow the Election Commission to determine their district of residence.

§22. Registration Process.

A. Ongoing Process. The Election ~~Services~~ Commission Office shall conduct registration of voters on an ongoing basis. This process shall include periodic publicity and community outreach efforts by the Election ~~Services~~ Commission Office. The Election ~~Service~~Commission Office shall publish information promoting voter registration at least four (4) times annually, in the Cherokee Phoenix and Cherokee Nation web sites.

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 person whose names appear on the voters list.

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

A. Data Base. The Cherokee Nation Election ~~Services~~ Commission Office shall establish and maintain an independent database. The Election ~~Services~~ Commission Office shall have access to information maintained by the Cherokee Nation Registrar by computer modem, including without limitation the following information: citizenship verification, deaths, new citizens, and address changes.

B. Lists. The Election ~~Services~~ Commission Office database shall include the: Voters List, that includes the names and the district and precinct of each registered voter who is eligible to vote in an upcoming election. 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. The Election Commission shall designate those addresses on the lists that do not appear to be the current addresses for designated voters.

C. List Information. Each list specified in Sub-section 2 of this Section shall contain the following information for each voter listed: name, last known registered address, date of birth, last known phone number, social security number or other identifying number, date of

citizenship enrollment, dates of voter registration and re-registration, voting district and precinct, the voter's participation in past elections and any other information deemed relevant by the Election ~~Services~~ Commission Office; provided that any list released pursuant to Section 25 of this Title shall exclude the voter's date of birth, social security number or any other identifying number.

D. Maintenance. Each list as it existed as of a specific election date shall be maintained by the Election ~~Services~~ Commission Office for at least five (5) years following December 31 of the year the specific election occurred.

§ 24. Removal of Names from the Voter Lists.

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

§ 25. Obtaining List; Duplication of List.

The most recent voter list shall be made available to all citizens of the Cherokee Nation, subject to the provisions of the Cherokee Nation Freedom of Information Act. The voter list shall be made available on paper, computer diskette, gummed labels, electronically, or any other method available. The Election Commission may charge a nominal fee 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.

§ 26 through 30. Reserved.

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 VI, Section 3, Article VII, Sections 2 and 3, and Article IX, Section 2:

1. The candidate shall be a citizen of the Cherokee Nation, in accordance with Article IV of the Constitution of the Cherokee Nation and shall be a citizen by blood of the Cherokee Nation.

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 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 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.

4. Any outstanding fines imposed by the Election Commission during a previous Cherokee Nation Election must be paid before a person can be eligible to run as a candidate for an elective office in a subsequent election.

B. Prerequisites for Filing. In addition to the general eligibility qualifications set forth in subsection 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 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 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.

3. 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 as set forth in Article VII of the Constitution 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 jurisdictional boundaries of the Cherokee Nation for no less than 270 days immediately preceding the day of the general 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 jurisdictional 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 for no less than 270 days immediately preceding the day of the general 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. This section shall apply to "At-Large" district candidates, and thereby shall require that they establish a bona fide permanent residence located outside the jurisdictional boundaries of the Cherokee Nation no less than 270 days immediately preceding the day of the general election to which he or she is seeking election.

§ 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, the candidate has the intention to return.

B. Verification. Verification of residence may be shown by at least three (3) of the following documents, provided always that such documents show one or more addresses within the required geographic area for a continuous period of 270 days for the time-period outlined in the requirements for each elective office.

1. Current driver's license(s), Utility bill or bills.
2. Income tax return from the preceding year.
3. State or county voter's registration.
4. Homestead exemption.
5. 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~~ Commission Office, Tahlequah, Oklahoma. The fees shall be as follows:

Office of the Principal Chief	$2,500.00
Office of the Deputy Principal Chief	$2,000.00
Office of the Council	$ 500.00

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; Withdrawal of Candidacy.

A. Filing Period. The filing date shall be for a four (4) day period commencing at 8:00 a.m. on the first Monday of February of the election year and ending at 5:00 p.m. on the first Thursday following the first Monday of February. The deadline for filing for an elective office of the Cherokee Nation shall be publicized by the Election Commission.

B. Certifications and Acknowledgments. 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 citizenship card issued in his or her name in accordance with Articles IV, VI, VII of the Constitution~~.~~ and Title 11 of the Cherokee Nation Code Annotated~~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, voting board member or a voting commission member 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.

E. A person who has become a candidate according to Section 3.1 (C) of this Title, and fails to actually file as a candidate for office, shall be assessed a civil penalty equal to the filing fee of said office unless said civil penalty is waived by the Election Commission for good cause.

§ 37. Challenges.

A. Third Party Challenge of Eligibility. Any citizen of the Cherokee Nation registered 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) business days after the close of the filing period. The hearing shall be conducted in conformance with rules and regulations adopted by the Election Commission for said proceedings. Said 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. Candidate Eligibility Determination Appeals to Cherokee Nation Supreme Court. An appeal of any decision of the Election Commission concerning a candidate's eligibility shall be filed with the Cherokee Nation Supreme Court in writing no later than five (5) business days after receipt of Election Commission's 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 permitted to file an appeal. The Election Commission chairperson shall deliver copies of each notice of appeal and all related documents to the Cherokee Nation Supreme Court in a timely manner as directed by the Court.

C. Notice and Scheduling of Hearing. The Cherokee Nation Supreme Court shall issue notice of a hearing date within three (3) business days of the Court's receipt of an appeal of an Election Commission finding of a candidate's eligibility or ineligibility. The hearing shall be held no later than ten (10) business 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) business days from date of the originally scheduled hearing.

D. Conduct of Hearing; Decision. At the Cherokee Nation Supreme Court hearing, the candidate who is the subject of the challenge, the third party challenging the finding of eligibility and the Election Commission may each present testimony of witnesses, evidence and legal arguments. The Election Commission may be represented by the Election Commission's independent counsel. No other attorney shall appear on behalf of the Cherokee Nation or the executive or legislative branches at the government's expense. The other parties to the proceedings may be represented by counsel at their own expense. The decision of the Cherokee Nation Supreme Court shall be served on the parties no later than five (5) business days following the date of the hearing. The decision of the Cherokee Nation Supreme Court regarding a candidate's eligibility shall be final.

§ 38. Interference with and improper influences of the Election Commission and Violation of Contribution and Expenditure Requirements.

A. After a hearing held in conformance with the regulations adopted by the Election Commission, any candidate found to be directly or indirectly interfering or attempting to interfere with the Election Commission's performance of its duties, or improperly influencing or attempting to influence the Election Commission while it is performing its duties, shall be

disqualified by the Election Commission from running for elected office of the Cherokee Nation for the duration of the upcoming election period.

B. After a hearing held in conformance with the regulations adopted by the Election Commission, any person who is a citizen of the Cherokee Nation or a member of any other federally recognized Indian Tribe found to be directly or indirectly interfering or attempting to interfere with the Election Commission's performance of its duties, or improperly influencing or attempting to influence the Election Commission while it is performing its duties, shall be deemed to have committed a crime and may be referred to the Attorney General of the Cherokee Nation for prosecution.

C. Said regulations shall provide the candidate and/or citizen with reasonable notice of the charges and the opportunity to respond at a hearing before the Election Commission, and shall specify the manner in which the charges shall be presented and by whom. Any candidate disqualified from holding office and/or citizen referred for prosecution pursuant to this Section may appeal the Election Commission's disqualification decision and/or referral for prosecution decision by filing a written appeal with the Cherokee Nation Supreme Court in conformance with the requirements of Section 37 ~~2~~(B) of this Title.

§ 39 and 40. Reserved.

CHAPTER 5
Disclosure of Campaign Finances

§ 41. Definitions.

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

A. Campaign contribution. "Campaign contribution" means a contribution in money or goods or services 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 or on behalf of a ballot measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. A candidate that withdraws from an election or fails to file, must report their contributions, any excess contributions beyond expenses must be forwarded to the Election Commission or returned to contributors by the end of the applicable election period.

B. Campaign expenditure. "Campaign expenditure" means an expenditure of money or services incurred by any person in connection with a campaign for an elective office or on behalf of a ballot measure. Whether an expenditure is incurred before, during or after an election does not affect its status as a campaign expenditure. A candidate that withdraws from an election or fails to file must report their contributions, any excess contributions beyond expenses must be forwarded to the Election Commission or returned to the contributors by the end of the applicable election period.

C. Financial Agent. "Financial agent" means the person or persons designated and authorized by a candidate to accept contributions and pay obligations related to the candidate's campaign pursuant to Section 42 of this Title.

D. Report. "Report" means a financial disclosure report required by this Chapter.

E. 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.

F. Loans. "Loan" shall be any payment made from the candidate's own funds for campaign purposes, or any funds obtained by loan to the candidate from a bank, savings and loan association or credit union on his or her own behalf, and shall be considered as contributions.

G. In-Kind Contribution. "In-Kind Contribution" shall mean any campaign contribution of a good or service rather than a money donation. In-Kind contributions shall be reported as such, and the report shall include the name of the donor, his or her address, ~~employer and~~ occupation, and the fair market value of the good or service contributed.

§ 42. Designation of Financial Agent Filing; Penalty.

A. No later than the filing date for an election, each candidate shall file with the Election Commission a statement of designation, containing the names and addresses of every person authorized as the candidate's financial agent by or through whom said 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 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 said statement, the Election Commission shall find the candidate in violation of this Section and shall assess the candidate a fine in an amount no less than one hundred dollars ($100.00) and no more than five hundred dollars ($500.00).

B. Any person, person or entity who files a ballot measure which shall include but not be limited to initiative question, referendum questions or constitutional amendments shall register a financial agent with the Election Commission and shall follow the financial disclosure requirements set forth in this Title.

C. The Election Commission may, at their discretion, hold a training session for all candidates and all financial agents and make it mandatory.

§ 43. Restrictions Related to Contributions.

A. Contributors Limited to Individual Natural Persons. Contributions may only be made by individual 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-thousand dollars ($5000.00) in cash or in kind to any one candidate during an election period. Personal funds of a candidate expended for campaign purposes are not subject to a Five Thousand Dollar ($5,000.00) limit but should be included in the expense report of the candidate.

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 person. ~~, unless the other person'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.

E. Every person shall provide their name, address, ~~telephone number, type of employment~~ and occupation ~~employers name~~ with every contribution made to a candidate or on behalf of a ballot measure. The Candidate or his or her financial agent shall forward this information to the Election Commission.

§ 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 knowingly solicit or accept a contribution or make any 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 that 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. No candidate or financial agent shall accept anonymous contributions exceeding one thousand dollars ($1000.00) in aggregate per election period. The recipient of total anonymous contributions of more than one thousand dollars ($1000.00) shall not keep the amount which is in excess of one thousand dollars ($1000.00) but shall, within two (2) business days of receipt of the contribution that causes the total anonymous contributions to exceed one thousand dollars ($1000.00), turn it over the Election Commission for immediate deposit to 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 ($100.00) 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 that the candidate or his or her financial agent knows to have been made in violation of this Section or Section 43 of this Title; nor shall any candidate, financial agent or citizen offer or provide something of value intended to influence the vote of a voter of the Cherokee Nation; and no candidate, financial agent or citizen shall solicit or accept campaign funds or contributions that violates Sections 43 and 44 of this Title.

§ 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 and subject to disqualification by the Election Commission as provided under Section 38 of this Title.

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 (6) months of the final election date, upon a finding of a violation(s) by said Court, plus reasonable ~~attorneys~~attorney's fees incurred in the suit. Reasonable ~~attorneys~~attorney's fees incurred in a suit brought under this subsection 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 certified monthly and final financial disclosure report on forms provided 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.

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 Office ~~at the Election Services Office~~ beginning with a report for the month that the candidate filed for office. The report shall comprise of the entire previous month, beginning on the first day of the month and ending on the last. The report shall be due on the 15th day of the following month. In the event that the Election Commission has not received a monthly report by the 15th 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 the candidate can show extenuating circumstances for his or her failure to file a report or the filing of an incomplete report by the 15th day of the month following the month in which it was due; failure to meet the deadline for any two monthly reports; or failure to pay a fine by the date of election, the candidate shall be disqualified from the election by the Election Commission after notice and hearing. Said disqualification may be appealed to the Cherokee Nation Supreme Court. The Election Commission shall expedite all such proceedings.

C. Time of Filing Final Report; The candidate or his financial agent 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 his or her 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~~ Commission 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 for a reasonable fee for search and/or making copies of such reports.

§ 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, and shall not be considered as contributions. All expenditure from loans shall specify the name of the lending institution, the date and amount of the loans. The candidate may reimburse his or her personal funds from campaign contributions in the amount of the reported loan(s).

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/or 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 or his or her financial agents. A candidate or a candidate's financial agent 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 is convicted of a criminal violation under this subsection, 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. If the candidate has been elected and sworn into office, such conviction may be grounds for removal under Article XI of the Cherokee Constitution.

§ 48 - 50. Reserved.

CHAPTER 6
Conduct of Elections

ARTICLE I. GENERAL PROVISIONS

§ 51. Official Election Dates; Notice.

A. General election. The general primary election for elective offices shall be the ~~fourth~~ first 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 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 ~~§~~Section 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, 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. 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.

A. Electioneering Near Polling Area: 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 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.

B. Obstructing or Impeding Voter Access to Polling Place: No person shall be allowed to impede or obstruct voters attempting to access polling places while an election is in progress, including, but not limited to, by obstructing or impeding any entrances or exits utilized by vehicles occupied by voters traveling to or traveling from the polling place.

C. Enforcement, Notice to Law Enforcement and Regulations: Persons engaged in the conduct proscribed in paragraphs A and B above, shall be subject to removal by local law enforcement and/or the Cherokee Nation Marshal Service at the request of the appropriate official, including but not limited to any precinct official. The Election Commission shall notify appropriate law enforcement departments of the provisions set forth in Section §52(A) and Section §52(B) of this Title~~Act~~.

D. Employee Solicitation: Use of official website of the Cherokee Nation, the Cherokee Nation intranet, employee address list or~~,~~ office phone extensions for political purposes is prohibited. Any candidate, other person, corporation or legal entity that violates this section shall be assessed a civil penalty per occurrence.

E. 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 Section 52 of this Title shall be guilty of a crime.

§ 53. Watchers.

A. Primary Election. Each Candidate in a primary election for the office of the Principal Chief, Deputy Principal Chief, and for the Council may submit one (1) ~~one~~ name and up to two (2) ~~two~~alternates as their designated watchers at each precinct and in person absentee voting within a time to be prescribed by the Election Commission. Each Candidate may also submit one (1) ~~one~~ watcher name and two (2) ~~two~~ alternate names for the Absentee ballot affidavit examinations.

B. Runoff Election. In the event of a runoff election, candidates in the runoff election may submit one (1) ~~one~~ watcher name and up to two (2) alternate watcher names ~~-~~as their designated watchers at each precinct within five (5) business days from date of certification of results of the primary election.

C. Selection of Watchers. No candidate for any elective office in the Cherokee Nation, as defined in Section 3.1 (C) shall be a watcher and no one in an elective office for the Cherokee Nation ~~, as defined in Section 3-A(13)~~ of this Code shall be a watcher if they are currently serving in that elective office capacity during an election. In addition, no former tribal councilor, former Principal Chief or former Deputy Principal Chief shall serve as watchers in any Cherokee Nation Elections. 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 shall have the sole authority to determine the number of watchers in any given precinct. The selection of six (6) ~~six~~ absentee watchers and two (2) ~~two~~

alternate watchers shall be made for each day that absentee declarations are examined prior to and on the day of the election. 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 six (6) ~~six~~ names from the list of names submitted by the candidates pursuant to Sections 53 (A) and 53 (B) of this Act~~subsections A and B of this Section~~ until the names of six (6) ~~six~~ watchers and two (2) ~~two~~ alternate watchers have been drawn. All names for consideration must have come from the list submitted by the Candidate when the Candidate filed for office.

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. A watcher is an observer only. Watchers are permitted to talk with the Inspector or a member of the Cherokee Nation Election Commission only. The watcher may notify Inspector/ Commissioner if they notice any kind of irregularity at which point Inspector/Commissioner corrects the issue. A watcher is not permitted to bring a cell phone or any other electronic devices, or make or receive phone calls. A watcher may not leave the building from 7AM until after 7 PM. If the watcher leaves, the watcher shall not return. The watcher shall remain at the precinct until all the work has been completed and the Inspector is ready to return the election materials to the Election Commission. A watcher may ask a precinct worker to call the Election Commission to voice any complaints, questions or allegations of improprieties to the commission.

§ 54 through 60. Reserved.

ARTICLE 2. VOTING GENERALLY

§ 61. Precinct and Hours; Notice.

The Election Commission shall establish the location of each precinct in accordance with Section 11 (C) (8) of this Title and the autonomous nature of the Election Commission~~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. 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. In considering the location of precincts the Election Commission shall, whenever practicable, locate precincts on Indian Country as defined under Federal Law, thereby allowing Cherokee Nation legal jurisdiction over said areas.

§ 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:

1. Any voter may vote by utilizing an in-person absentee ballot at the Election Commission Office located at Tahlequah, Oklahoma during hours to be set by the Commission, which shall be at least from 9:00 a.m. to 5:00 p.m. on a minimum number of days immediately preceding any election provided for by this Title~~Act~~ and at any other locations or times that the Election Commission deems necessary and appropriate. 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.

2. 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 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 is registered to vote and completes a voter registration application ~~a~~ for a residence address within the district and signs a statement swearing or affirming that the voter is currently eligible to vote in said precinct and has not already cast a regular or absentee ballot for said election. Voter will sign a Challenged Ballot Roster and the Ballot issued to the voter will be listed in the Ballot Issued Column. WARNING: the Challenged voter will NOT sign the Voters Precinct Signature Book.

B. Preservation and Counting. Each Voted challenged ballot shall be placed in a secrecy envelope by the voter and then placed in the Challenged Ballot Affidavit, which has been completed by the Inspector and signed by the voter. The Inspector will attach the voter registration application to the Challenged Ballot Affidavit. Challenged ballots shall not be counted at the time the ballots are cast, but shall be maintained in a separate Bag marked "challenged ballot Bag" 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, counted, and secured in a container in the Vault. All counted Challenged Ballots will be totaled with other votes before certification of the election. If the person was not entitled to vote, the ballot will not be counted. If the Voter was not entitled to vote, the Un-opened Challenged Ballots will be secured in the Vault separate from the County Challenged Ballots.

§ 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 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 (Voter signs the Spoiled/Mutilated Ballot Envelope) 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 the ballot or ballots in his or her presence and placed destroyed ballot in the Spoiled/Mutilated Ballot Envelope 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 countable by the counting device, the voter will follow Section 65 "Spoiled Ballots" procedure.

§ 67 through 70. Reserved.

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 3.

§ 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 citizenship registration number; and
5. Handwritten signature or copy of original signature.

Provided that if the Cherokee Nation Citizenship Number is not provided with the request and there is sufficient information on the absentee application to identify the person as a registered voter, the application will be processed. All applications without sufficient information to clearly identify the registered voter may be returned for additional information.

§ 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~~ Commission Office from the first Monday in~~February~~ January until the~~second~~ third Friday in ~~May~~April of the election year. Absentee ballots shall be mailed to persons requesting the ballot in a two- day period starting on the last Tuesday in April~~May~~ of the election year and ending on the Wednesday immediately following said Tuesday.

B. Runoff. In the event of a runoff, the Election ~~Services~~ Commission Office shall automatically send an absentee ballot to all registered voters who were sent an absentee ballot for the General election, except for registered voters whose absentee ballots in the General election 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~~Commission Office by the ~~last~~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 fourth ~~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 signature for each election date shall be accepted.

D. Incapacitation of Registered Voter. A registered voter who becomes physically incapacitated after 5:00 p.m. on Saturday preceding an election and is unable to vote in person at the appropriate precinct on the day of the election may make a written request for an absentee ballot. The request shall be signed by the voter, or signed by a witness at the voter's direction if the voter is unable to sign his or her name, and shall be transmitted to the Election Commission Office. The person transmitting said request on behalf of the voter may be anyone of the voter's choosing at least eighteen (18) years of age; provided, said person is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. The person becomes the voter's agent for the purposes of voting by absentee ballot. The voter's request must be accompanied by a sworn statement by a duly licensed physician. Expected or likely hospitalization or home confinement for physical incapacity or childbirth on election day is sufficient cause to entitle voter to vote absentee pursuant to this section. The statement must attest to the fact that the voter is in fact unable to vote in person at the appropriate precinct on the day of the election because of a physical incapacity and that said physical incapacity originated after 5:00 p.m. on Saturday preceding an election. Upon receipt of voter's request and accompanying sworn statement, the Election Commission Office shall issue to the voter's agent the appropriate ballots and envelopes required for voting by incapacitated voters. The ballots must be returned by the agent to the Election Commission Office no later than 7:00 p.m. on the day of the election. No person may be the agent for more than one voter at any election. Upon return of the absentee ballots, the Election Commission Office shall cause said ballots to be processed in the same manner as is prescribed for other absentee ballots.

§ 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 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, the Election Commission shall, after verification of the requesting voter's registration, transmit the ballot to said voter. A record shall be made of all absentee ballots issued, with the name date of birth, voter's Cherokee Nation citizenship 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. Affidavit. Each absentee ballot or set of ballots shall be accompanied by an affidavit containing statements that the voter is qualified to vote, that the voter has personally marked the ballot(s), or in the case of a disability or illiteracy, has caused the ballot(s) to be marked in accordance with his or her wishes, that he or she has not exhibited the marked ballot(s) to any other person, and contain any other statements required by Election Commission regulations that are 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, as prescribed by the Election Commission.

D. Outer Envelope. Outer Envelope shall be used to return the Absentee ballot to the Cherokee Nation Election Commission Office.

§ 78. Return of Absentee Ballots

A. A voter shall mark his ballot in permanent black or blue ball point ink; seal the ballot in the secrecy envelope; fill out completely and sign the affidavit on the front of the affidavit envelope in the presence of a notary public; the affidavit envelope must be notarized and the notary seal affixed for the ballot to be counted; and return the documents inside the postage paid 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 during in person absentee voting as provided in Section 62 (D) of this Title and on Friday the day before election and election day from 7:00 a.m. to 7:00 p.m., only if the voter or person designated by the voter delivers the ballot to the Election Commission Office. Voting in person at a precinct by a voter who has requested an absentee ballot shall be permitted, however, that voter must cast a challenged ballot to allow the Commission to determine whether an absentee

ballot was cast. In the event that a valid absentee ballot was returned by the voter, the challenged ballot will not be counted. In the event that a valid absentee ballot was not returned by a voter, the challenged ballot will be counted.

B. ~~A voter shall mark his ballot in permanent black or blue ball point ink; seal the ballot in the secrecy envelope; fill it out completely and sign the affidavit or statement in the presence of a notary public; the envelope must be notarized and the notary seal affixed for the ballot to be counted; and return the documents in the return envelope via the United States mail in the postage paid return envelope 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 an absentee ballot shall be permitted, however, that voter must cast a challenged ballot to allow the Commission to determine whether an absentee ballot was cast. In the event that a valid absentee ballot was returned by the voter, the challenged ballot will not be counted. In the event that a valid absentee ballot was not returned by a voter the ch~~The Election Commission is authorized and directed to reach agreements with the appropriate jurisdictions to ensure free notarization of the ballots to the greatest extent possible.

§ 79. Handling of Returned Absentee Ballots Generally.

Upon receipt, an absentee ballot shall be placed in a secured absentee ballot box located at the U. S. post office. The absentee ballots shall be removed from the post office and taken to the Election ~~Services~~ Commission Office by members of the Election Commission or their designees at the appropriate time to be verified and counted for the election.

§ 80. Handling of Requested Absentee Ballots Not Received and Spoiled Absentee Ballots.

A. Should a voter request an absentee ballot and then not receive it, he or she may obtain an absentee ballot by contacting the Election Commission Office to inform them that their requested absentee ballot was not received. The Election Commission shall send a form to the voter by mail, e-mail, fax or the voter can pick one up in-person at the Election Commission Office. The voter shall then complete the form to request an absentee ballot and submit the request back to the Election Commission. The voter must wait seven (7) days from the day the ballots were first mailed before requesting a second absentee ballot. No replacement absentee ballot shall be mailed after Thursday prior to Election Day.

B. Should a voter spoil an absentee ballot in his or her effort to mark the same, he or she may obtain a substitute ballot by submitting a request in writing to the Election Commission Office, the form can be received by Fax, e-mail or in person. The request must have sufficient information to properly identify him or herself and request a new ballot. After the request is received and verified CNEC Office will send another ballot to the voter by mail.

C. Each absentee ballot card shall be considered as a separate ballot for each of the races for each elected official and any question presented. Any spoiled absentee ballot cast that is returned spoiled as to one race shall be examined to determine if it was correctly voted as to the other races. If so, it shall be valid as to those races.

§ 81. Voters Requesting Absentee Ballots at Precincts.

Voters who have requested Absentee ballots, will be identified by the statement "Absentee Ballot Requested" in the signature line in the Precinct Voters Signature Book.

§ 82. Crediting of Absentee Voters.

The Election ~~Service~~ Commission Office will scan the absentee envelope bar code for all absentee ballots returned in the mail or in-person drop off and shall maintain Voter History credit for each voter who has cast an absentee ballot with voting in said election.

§ 82 through 90. Reserved.

ARTICLE 4. COUNT AND RETURN OF VOTES – RECOUNTS AND RUNOFFS

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

A. Procedure. No earlier than 8:00 a.m. on the Monday immediately preceding the day of the election, the Election Commissioners or the Commission's designees shall commence examination of the affidavits accompanying the absentee ballots. The ballot box containing the envelopes containing the affidavits and absentee ballots shall be opened and the said envelopes shall be removed. The outer envelope bar code will be scanned on all absentee envelopes and prepared for affidavit verification. For each affidavit verified as meeting the requirements of Section 77 of this T~~t~~itle, the affidavit shall be removed and placed in the outer envelope, and the accompanying secrecy envelopes containing the absentee ballots shall be opened and the ballots ran through a secure voting machine ~~placed~~ into a secured ballot box provided the totaling of the voting machine shall not be completed until after the closing of the polls on election day. Each ballot rejected due to error(s) in the affidavit shall have a rejection reason attached to the affidavit without being opened. Said rejected affidavits and ballots shall be rejected in Chronicle, and labeled and placed in a separate locked box. The boxes containing the rejected absentee ballots shall be maintained at a secure location for two years following the election. A letter will be generated in Chronicle to the voter informing them that their ballot did not count and why, to be transmitted to the voter when election is certified.

B. Watchers. Absentee ballot watchers selected in accordance with Section 53 of this Title shall be present at all times during the processing of the aforementioned affidavits.~~**§ 92. Counting of Absentee Ballots.**~~

~~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 secrecy 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.~~

~~Watchers. Absentee ballot watchers selected in accordance with Section 53 of this Title shall be present at all times during the counting of the absentee ballots.~~

§ 9~~3~~2. 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 this 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, the procedure for counting of the votes, posting of the results for the precincts, consolidated return of election results and posting of such results. These procedures shall be developed and posted by the Commission no less than 90 days prior to Election Day.

C. Preservation of Ballots and Other Election Materials. After the required number of Tally Reports of the vote have been created, the ballot box shall be unlocked and all ballots, including the "spoiled and Mutilated ballot envelope:, and a copy of the signed precinct certificate of vote and a copy of the electronic results shall be placed in the ballot transfer case. Said Ballot 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 Ballot 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 order of the Election Commission for recount purposes, or by order of the Supreme Court 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~~ Commission 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 shall certify the results and make such certification available to the public.

§ 943. Recounts.

A. Person Authorized to Request Recount. In elections for office, only a defeated candidate shall be permitted to request a recount.

B. Recount for Issues or Questions. For elections regarding issues or questions where 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 (1) percent ~~(1%)~~ or more of the total votes cast for and against the issue.

C. 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~~ Commission 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 mail on the date of filing.

D. Filing Fee When Recount Sought. The request for recount shall be accompanied by a fee in the amount of seven hundred dollars ($750.00) per district for which a recount is requested,

and seven hundred dollars ($750.00) 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 Cherokee Nation Supreme Court that the ballots were not properly preserved, then the fee shall be refunded.

E. Location of Recount. The recount shall be conducted in the Cherokee Nation Council chambers or other appropriate facilities as determined by the Election Commission.

F. Time for Recount. The recount shall occur no later than the first Friday following the election date.

G. Cherokee Nation Supreme Court Determination Regarding Preservation of Ballots Prior to Recount. It shall be the duty of the Cherokee Nation Supreme Court to attend all recounts. Prior to the recount, the Cherokee Nation Supreme Court 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 regarding such questions shall be final and conclusive.

H. 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 the persons performing the 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 participate in a recount. The candidate seeking the recount and all other candidates for the elective office involved in the recount, persons having filed an initiative or referendum petition, 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 Cherokee Nation Supreme Court will limit its role to answering questions regarding tribal law and insuring that tribal law is followed.

I. Automatic Appeal Where Recount Not Possible. If the Cherokee Nation Supreme Court 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.

J. Recount Results. Following the recount, the Election Commission shall verbally announce the number of votes in favor of each candidate, initiative or referendum question, and the number of votes opposed to each candidate, initiative 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 Cherokee Nation Supreme Court confirmed the accuracy of the results. The certified recount results shall be the final official election results,

and no further recounts shall be held.

§ 9~~5~~4. 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 Seats. In Council elections 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.

C. 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 candidate involved in the tie on separate pieces of paper that 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.

§ 96~~5~~ through 100. Reserved.

ARTICLE 5.
CHALLENGES TO ELECTION RESULTS

§ 101. Procedure for Election Appeals Generally.

A. Person Authorized to Appeal. Only a defeated candidate shall be permitted to file an appeal in appeals of elections for office. 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 (1) 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 or any of its entities.

C. Bond for Petition Alleging Fraudulent Voting. A petition alleging fraudulent precinct voting must be filed with a cash bond of five hundred dollars ($500.00). If fraudulent absentee voting is also alleged, the petition must be filed with a separate cash bond in the amount of one thousand dollars ($1,000.00). Said bonds shall be used to guarantee the payment of any and all liabilities or judgments arising as a result of the petition that was filed.

D. Appeal Petition. An appeal petition challenging the validity of an election outcome, including appeals of initiative and special referendum elections, shall be filed with the Cherokee Nation Supreme Court 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 state the specific acts constituting the alleged fraud, identify each precinct where the alleged fraud occurred, the estimated number of fraudulent votes cast at each specified precinct location. If fraudulent absentee ballot voting is alleged, the petition shall also state 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 Cherokee Nation Supreme Court 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 Cherokee Nation Supreme Court. The Cherokee Nation Supreme Court shall set the matter for hearing on a date no later than three (3) working days after the date of the 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 Court shall cause the notice of the hearing to be personally served or sent by facsimile transmission to the petitioner, the Election Commission and any other parties to the proceeding; and a copy shall also be mailed on the date that the notice is filed.

§ 102. Conduct of Appeal Hearings.

All election appeal hearings held by the Cherokee Nation Supreme Court shall be governed by the following rules of procedure, which shall supersede all inconsistent general rules of procedure established by the Cherokee Nation Supreme Court:

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 Cherokee Nation Supreme Court 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 Court 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 by preponderance of the evidence that substantial violations of this Title or of any election procedures adopted by the Election Commission in force at the time that the alleged violations occurred and that said violations affected or had a strong likelihood of affecting the election outcome.

D. Decision. The Cherokee Nation Supreme Court may verbally announce its decision. The decision shall also be placed in writing, and each Justice shall indicate his or her agreement or disagreement with the decision by placing his or her signature in the appropriate place thereon. 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, 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 the requirement of a new election in the 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 Cherokee Nation Supreme Court shall be final.

E. Civil Liability of Unsuccessful Petitioner Who Alleged Fraud. In all cases where a petition is filed that alleges fraud, if after a hearing the allegations are not found to be reasonably sustained by competent evidence, then, 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 ~~attorneys~~attorney's fees 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 Cherokee Nation Supreme Court 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 to be held as soon as practical between the same candidates that participated in the election with the invalidated election results; provided that any candidate found guilty of fraud shall not be a candidate in the new election; provided further, that the above shall not apply to elections resulting in tie votes, which elections shall be determined as provided by Section 94 (C)~~95 C~~ of this Title.

Section 2. Severability.

The provisions of this ~~a~~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 3. Emergency Declared.

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 16th day of May, 2016.

Joe Byrd, Speaker
Council of the Cherokee Nation

ATTEST:

Frankie Hargis, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 18 day of May 2016.

Bill John Baker, Principal Chief
Cherokee Nation

ATTEST:

Chuck Hoskin, Jr., Secretary of State
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Joe Byrd	Yea	Dick Lay	Yea
Rex Jordan	Yea	Janees Taylor	Yea
David Walkingstick	Yea	Victoria Vazquez	Yea
Frankie Hargis	Yea	Harley Buzzard	Yea
Shawn Crittenden	Yea	Buel Anglen	Yea
Curtis Snell	Yea	Keith Austin	Yea
Don Garvin	Yea	Wanda Hatfield	Yea
Bryan Warner	Yea	Jack D. Baker	Yea
David W. Thornton, Sr.	Yea		