

BILL NUMBER NCA 21-114

TO BE INTRODUCED INTO THE MUSCOGEE (CREEK) NATIONAL COUNCIL

October 14, 2021
(DATE OF INTRODUCTION)

INTRODUCED BY: William Lowe

SPONSOR(S): William Lowe

COMMITTEE ON: Committee As A Whole

CLASSIFICATION: 19-Elections

1 **A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 19 §§ 1-**
2 **102, 3-108, 6-101, 7-303, 8-106, 8-108, 8-201, 8-209, 10-102, 10-103, 10-105, 10-108,**
3 **10-109 and 10-111, ENTITLED “General elections,” “Dissemination of information,”**
4 **“Appearance of candidate’s name,” “Absentee ballot affidavit,” “Time for issuing**
5 **lists or certificates,” “Lighthorseman to provide security for ballot boxes,” “Time**
6 **for filing contest or recount,” “Petition for fraud or irregularities,” “Request for**
7 **absentee ballot,” “Transmittal of ballot to voter,” “Return of ballots,” “Handling of**
8 **returned absentee ballot,” “Examination of signatures; removal of outer envelope”**
9 **AND “Counting procedures”**

10
11 **Be it enacted by the National Council of the Muscogee (Creek) Nation:**

12
13 **SECTION ONE. FINDINGS.** The National Council finds that:

14
15 A. The Muscogee (Creek) Nation 2021 Primary Election was September 18,
16 2021.

17
18 B. The total absentee ballots accepted for the Primary Election as of 11:00
19 a.m. on September 18, 2021 was approximately 905; however approximately 1,248
20 additional absentee ballots were received a week and a half after the election due to no
21 fault of the Election Board or staff, but by slow mail service by the United States Postal
22 Service.

23
24 C. Elections are the most important function of a government and one of the
25 most important rights as Muscogee (Creek) citizens is to vote in the Nation’s elections.

26
27 D. There is a need to provide a solution so that Muscogee (Creek) voters are
28 not disenfranchised and every legally cast absentee ballot is counted for the 2021
29 General Election; therefore MCNCA Title 19 must be amended.

30
31 **SECTION TWO. AMENDMENT.** This amendment shall be codified in Title 19, of the
32 Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification

1 of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee
2 (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes
3 related to the manner in which sections, articles, chapters and sub-chapters are
4 designated consistent with the format in the Code of Laws published in 2010 by West
5 Publishing Company; (2) to include footnoted references to the legislative history in said
6 pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial
7 correction of minor clerical or grammatical errors in the following amendment, without
8 further National Council approval:

9
10 **SECTION THREE. AMENDMENT.** MCNCA Title 19 §§ 1-102, 3-108, 6-101, 7-303, 8-
11 106, 8-108, 8-201, 8-209, 10-102, 10-103, 10-105, 10-108, 10-109 and 10-111 are hereby
12 amended to read as follows:

13
14 § 1-102. General elections

15
16 On the Saturday immediately following the first Friday of November, 2003, and every four
17 (4) years thereafter, a general election shall be held, at which time the Principal Chief and
18 the Second Chief of the Muscogee (Creek) Nation shall be elected. On the Saturday
19 immediately following the first Friday of November, 2001, and every two (2) years
20 thereafter, the National Council Representatives shall be elected. **The date for the 2021**
21 **General election, subject to any court orders issued by the District Court or the**
22 **Supreme Court, shall be Saturday, December 11, 2021.**

23
24 § 3-108. Dissemination of information

25
26 It shall be the duty of the Election Board to disseminate information about the dates and
27 times of elections, locations of polling places, names and addresses of voter registrars,
28 and other data as they deem necessary to inform the general public of same, **and shall**
29 **also be the duty of the Election Board to disseminate information about any**
30 **subsequent changes of such dates and times, polling locations up to the election**
31 **day.** Sample ballots shall be made available to the general public, and printed in Mvskoke
32 (Creek) and English.

33
34 § 6-101. Appearance of candidate's name

35
36 The name of any candidate for office shall be printed on the official ballot as said
37 candidate signed his Declaration of Candidacy; provided however, that no candidate shall
38 have any prefix, suffix or title placed before or after his **the candidate's** name. **The letter**
39 **"(I)" shall be listed beside the incumbent.**

40
41 § 7-303. Absentee ballot affidavit

42
43 If a registered voter has requested an absentee ballot, he or she shall be required by the
44 Judge to sign an affidavit swearing or affirming that he or she has not **already submitted**
45 **east-an absentee ballot to be cast** and is entitled to vote in person.

46

1 § 8-106. Time for issuing lists or certificates
2

3 **A.** The list and certificates prescribed in Title 19, § 8-103 shall not be issued
4 by the Election Board prior to 5:00 p.m. ten (10) days ~~on the Friday next~~ following a
5 primary or general election.

6 **B.** If no contest has been filed by 5:00 p.m. ten (10) days ~~on the Friday next~~
7 following an election, the Election Board shall declare the result of such election and shall
8 issue the appropriate lists and certificates to the successful party as provided by law.
9 Provided, however, that no such lists or certificates shall be issued until the total of all
10 returns has been verified, and a complete tabulation thereof made.

11 § 8-108. Lighthorseman to provide security for ballot boxes
12

13 It shall be the duty of the Lighthorsemen to provide security for the ballot boxes
14 from the time said ballot boxes are stored by the Election Board following an election until
15 5:00 p.m. ten (10) days ~~on the first Friday~~ following the election or, in the event a recount
16 contest is filed, until such time as said ballot boxes are delivered to the Mound Auditorium
17 of the Tribal Complex, or if said room is unavailable then at such other place at the Capitol
18 Complex as the Election Board may order.
19

20 § 8-201. Time for filing contest or recount
21

22 Any candidate whose name appears on a primary or general election ballot may, at any
23 time before 5:00 p.m. ten (10) days ~~on the first Friday~~ following an election, contest the
24 correctness of the announced results of said election or allege fraud or irregularities by
25 filing a written petition with the Election Board. Contests shall not be permitted in any
26 election except those in which candidates are seeking office.
27

28 § 8-209. Petition for fraud or irregularities
29

30 In the event a candidate contests the correctness of the announced results of an election,
31 by alleging fraud or any other irregularities, said candidate shall file with the Manager of
32 the Election Board a contest petition, at any time before 5:00 p.m. ten (10) days ~~on the~~
33 ~~first Friday~~ following an election, setting forth with particularity the facts which are alleged
34 to constitute fraud and irregularities. Said petition must be accompanied by either a
35 money order, cashier's or certified check or a bank instrument equivalent to such checks
36 in the amount of five hundred dollars (\$500.00) for each district affected by the petition.
37 When such petition is properly filed and the filing fee of five hundred dollars (\$500.00)
38 duly paid, the Manager of the Election Board shall immediately file or cause to be filed
39 said contest petition in a District Court of the Muscogee (Creek) Nation. A hearing on the
40 contest petition shall be set by a District Court no less than three (3) nor more than ten
41 (10) calendar days from the date of the filing of said petition in a District Court. A District
42 Court shall immediately render an oral decision at the conclusion of the hearing, and shall
43 file a written order and opinion consistent with the oral decision no later than the following
44 calendar day. Any appeal to the Muscogee (Creek) Nation Supreme Court shall be filed
45 within three (3) calendar days of the oral decision of a District Court. If the deadline for

1 filing an appeal falls on a holiday or weekend, the Appellant shall contact the Court Clerk
2 in order to make arrangements for filing the appeal within the three (3) calendar day filing
3 period. A hearing on the appeal shall be set by the Supreme Court no less than three (3)
4 nor more than ten (10) calendar days from the date of the filing of the appeal in the
5 Supreme Court. The Supreme Court shall immediately render an oral decision at the
6 conclusion of the hearing, and shall file a written order and opinion consistent with the
7 oral decision no later than three (3) calendar days after the date the oral decision was
8 rendered. The decision of the Muscogee (Creek) Nation Supreme Court shall be final and
9 conclusive.

10
11 § 10-102. Request for absentee ballot

12
13 A. No absentee ballot shall be provided to any absentee voter for any primary
14 election, general election, special election, or any primary or special election to fill a
15 vacancy for any elected Tribal office without a written request from a registered voter.

16
17 B. All absentee ballot requests must be in writing by the registered voter and
18 received by the office of the Election Board by the close of business, at least ~~thirty-two-~~
19 ~~four~~ (3024) days prior to any scheduled election. A voter who has timely requested an
20 absentee ballot in accordance with the foregoing shall be entitled to vote absentee in the
21 General Election. Telephone requests for absentee ballots will not be accepted. For the
22 purpose of assisting the absentee Creek voter, the Election Board is hereby directed to
23 mail a request form to all absentee voters who are registered with the Election Board. The
24 form shall be titled "Request for Absentee Ballot," and shall state, "I hereby request an
25 absentee ballot be mailed to the following address." The form shall contain a space for a
26 signature and address of the voter requesting the absentee ballot.

27
28 C. At the time an individual requests an absentee ballot pursuant to subsection
29 B of this section, a registered voter, who swears or affirms to the Election Board that such
30 individual intends to be absent on the day of the election from the district wherein such
31 individual is registered, may apply for an absentee ballot with the Election Board for the
32 ensuing election only.

33
34 § 10-103. Transmittal of ballot to voter

35
36 A. When such application is received by the Manager of the Election Board, it
37 shall be his or her duty to verify the registration of said voter and to transmit, by United
38 States mail, a ballot or ballots which said voter has requested and is entitled to receive.

39
40 B. Absentee ballots shall be mailed not more than twenty-~~six~~ (260) days prior
41 to the election, except for ballots to be mailed outside the continental limits of the United
42 States which may be mailed not more than ~~forty-three~~ (430) days prior to such election.

43
44 § 10-105. Return of ballots

45

1 The voter shall be required to mark his or her ballot; seal the ballot in the opaque envelope
2 printed "ABSENTEE BALLOT"; seal the printed opaque envelope inside the return
3 envelope; sign the statement in the space provided for the signature of the voter on the
4 return envelope; and return both envelopes, the opaque envelope sealed inside the other,
5 by United States mail to the Okmulgee Post Office **postmarked no later than two (2)**
6 **days prior to any** ~~by 11:00 a.m. on~~ election day.

7
8 § 10-108. Handling of returned absentee ballot
9

10 Absentee ballots received by the Election Board must be marked, sealed in the inner
11 envelope and mailed in the pre-addressed outer envelope. Valid absentee ballots must
12 be **postmarked by United States mail no later than two (2) days before the** ~~received~~
13 ~~at the Election Board's post office box in Okmulgee, Oklahoma, prior to 11:00 a.m. on~~
14 election day. Absentee ballots shall be designated and placed in the Okmulgee Post
15 Office. As absentee ballots are received by the Okmulgee Post Office ~~prior to 11:00 a.m.~~
16 on election day **and for a period of five (5) days thereafter**, said ballots are to be placed
17 absentee ballot boxes. The ballot boxes shall be secure with three (3) locks. The keys to
18 the said ballot boxes will be maintained by the Lighthorse Administration until the day of
19 the election or on the days the Election Board causes the examination of signatures to be
20 performed. During the three (3) days in advance of the day of the election and on the day
21 of the election, **and for a period of five (5) days thereafter**, the Election Board shall
22 designate two (2) Election Board members and a member from the Lighthorse
23 Administration to transport absentee ballot boxes to the public location deemed
24 appropriate by the Election Board on election day. Before transporting the absentee ballot
25 boxes, the Election Board members shall ask the Postmaster, or person in charge, to
26 check the Okmulgee drop box and the front counter of the post office to make sure that
27 all absentee ballots submitted **in advance of election, on election day, and five (5)**
28 **days after the election day** have been collected. **On the final day of the five (5) day**
29 **period, the absentee ballot boxes shall be picked up from the post office at 4:00**
30 **p.m. by two (2) Election Board members and a member from the Lighthorse**
31 **Administration to transport absentee ballot boxes to the Lighthorse Headquarters.**

32
33 § 10-109. Examination of signatures; removal of outer envelope
34

35 The examination of signatures and the removal of the outer envelope may take place
36 during the three (3) days in advance of the day of election, **on election day, and five (5)**
37 **days thereafter**, and shall take place ~~on the day of election~~ in accordance with the
38 following procedures:

39 A. No earlier than 11:00 a.m. on days the signatures are examined, Lighthorse
40 personnel will give the keys to the absentee ballot boxes to the Election Board staff to
41 open absentee ballot boxes. Upon receipt of the absentee ballots the Election Board shall
42 cause the examination of the signatures in public. After each absentee voter is credited
43 with voting in said election on the appropriate form, the outer envelopes shall be removed
44 and placed in a secure container. The envelopes marked "Absentee Ballot" shall be
45 returned to the ballot box. Said procedures shall be performed each day until all

1 signatures on the outer envelopes received by the Election Board prior to **4:00 p.m. five**
2 **(5) days after election day** ~~11:00 a.m.~~ on election day have been examined.

3 B. At the conclusion of the examination of signatures each day, if said
4 examinations take place prior to election day, ~~and five (5) days after election day,~~
5 absentee ballot boxes containing envelopes marked "Absentee Ballot" shall be locked
6 and the keys to said locks shall be given to Lighthorse Administration to maintain until
7 election day. Two (2) designated members of the Election Board shall accompany
8 Lighthorse personnel in transporting said ballot boxes to Lighthorse Headquarters. The
9 ballot boxes shall be locked and secured in a designated room inside Lighthorse
10 Headquarters.

C. No earlier than 11:00 a.m. on election day **and 11:00 a.m. six (6) days**
after election day, two (2) designated members of the Election Board shall accompany
Lighthorse personnel in retrieving absentee ballot boxes from Lighthorse Headquarters.
Upon retrieval, absentee ballot boxes shall be immediately transported to the public
location deemed appropriate by the Election Board. Upon arrival, Lighthorse personnel
will then give the keys to Election Board staff. Election Board staff will open the said ballot
boxes no earlier than 11:00 a.m.

11
12 § 10-111. Counting Procedures

13
14 A. At 10:00 a.m. on the day of the election, said Absentee Workers shall meet
15 to count absentee ballots in the manner hereinafter prescribed depending on whether the
16 election is being conducted by manual count or electronic voting machine.

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18 B. The absentee ballot counting procedures when conducting an election with
19 electronic voting machines shall be as follows:

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1. Counting of absentee ballots shall commence at 11:00 a.m. at the Tribal Complex at a public location deemed appropriate by the Election Board.
 2. Upon delivery of the absentee ballots at the Tribal Complex, each absentee ballot outer envelope shall be separated by District and within each District arranged in alphabetical order.
 3. The signature located on the outside of each outer envelope shall be checked to ensure that it is the signature of the absentee voter.
 4. The outer envelope for each District shall be counted and recorded.
 5. Each outer envelope shall be opened and separated from the inner envelope, and the outer envelopes shall then be counted.
 6. The inner envelopes shall then be opened, the absentee ballots therein shall be removed, and the inner envelopes shall then be counted.
 7. The absentee ballots shall then be gathered and inserted into the electronic voting machine. Any absentee ballots that cannot be counted by the electronic voting machine shall be counted by hand by the absentee workers.
 8. After the polls close, the total tape shall be printed by the electronic voting machine.

- 1 9. After the tape is finished printing, all members of the Election Board that
2 are assigned to the absentee precinct shall sign on the designated lines
3 on the tape and the precinct tally sheet shall be completed. Two (2)
4 additional copies of the totals tape shall be printed. Each copy shall be
5 signed by the Election Board members assigned to the absentee
6 precinct.
- 7 10. As soon as possible after the precinct polls close, the absentee voter
8 count results shall be posted at the Tribal Complex.
- 9 11. After the members of the Election Board assigned to the absentee
10 precinct sign the totals tape, all ballots shall, the total tape, and outer
11 and inner envelopes shall be placed in the absentee ballot box or boxes
12 and delivered to the offices of the Election Board; and
- 13 12. The absentee counters shall complete the ballot accounting form and
14 attach it to the original totals tape and to the precinct tally sheet and the
15 said form, tape, and tally sheet shall be placed in the elections return
16 envelope for return to the Election Board.

17 C. The counting procedures when conducting an election with manual
18 absentee paper ballots shall be as follows:

- 19 1. Counting of absentee ballots shall commence at 11:00 a.m. at the Tribal
20 Complex at a public location deemed appropriate by the Election Board.
- 21 2. Upon delivery of the absentee ballots at the Tribal Complex, each
22 absentee ballot outer envelope shall be separated by district and within
23 each district arranged in alphabetical order.
- 24 3. The signature located on the outside of each outer envelope shall be
25 checked to ensure that it is the signature of the absentee voter.
- 26 4. The outer envelope of each district shall be counted and recorded.
- 27 5. Each outer envelope shall be opened and separated from the inner
28 envelope, and the outer envelopes shall then be counted.
- 29 6. The inner envelopes shall then be opened, the absentee ballots therein
30 shall be removed, and the inner envelopes shall then be counted.
- 31 7. The absentee workers shall then count the absentee voter ballots. For
32 each precinct, two (2) absentee workers shall read the vote on each
33 ballot and two (2) other absentee workers shall each mark a tally sheet.
34 Each tally sheet completed shall be signed and dated by the absentee
35 workers.
- 36 8. At the conclusion of the official count, the absentee workers shall
37 execute certificates of vote wherein said absentee workers attest to the
38 correctness of the totals. One (1) copy of the certificate shall be posted
39 at the Tribal Complex; and one (1) copy shall be placed in the absentee
40 ballot box or boxes.
- 41 9. As soon as practicable after the precinct polls close, the absentee voter
42 count results shall be posted by the Manager of the Election Board.
- 43 10. All absentee ballots, envelopes and a certificate of vote shall be placed
44 in the absentee voter ballot box or boxes for transmittal to the offices of
45 the Election Board.

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2 **D. The counting procedures for the absentee ballots received five days**
3 **after the election when conducting an election with electronic voting machines**
4 **shall be as follows:**

- 5 **1. Counting of absentee ballots shall commence at 11:00 a.m. at the**
6 **Tribal Complex at a public location deemed appropriate by the**
7 **Election Board.**
- 8 **2. Upon delivery of the absentee ballots at the Tribal Complex, each**
9 **absentee ballot outer envelope shall be separated by District and**
10 **within each Districted arranged in alphabetical order.**
- 11 **3. The signature located on the outside of each outer envelope shall**
12 **be checked to ensure that it is the signature of the absentee voter.**
- 13 **4. The outer envelope for each District shall be counted and**
14 **recorded.**
- 15 **5. Each outer envelope shall be opened and separated from the inner**
16 **envelope, and the outer envelopes shall then be counted.**
- 17 **6. The inner envelopes shall then be opened, the absentee ballots**
18 **therein shall be removed, and the inner envelopes shall then be**
19 **counted.**
- 20 **7. The absentee ballots shall then be gathered and inserted into the**
21 **electronic voting machine. Any absentee ballots that cannot be**
22 **counted by the electronic voting machine shall be counted by**
23 **hand by the absentee workers.**
- 24 **8. The total tape shall be printed by the electronic voting machine.**
- 25 **9. After the tape is finished printing, all members of the Election**
26 **Board that are assigned to the absentee precinct shall sign on the**
27 **designated lines on the tape and the precinct tally sheet shall be**
28 **completed. Two (2) additional copies of the totals tape shall be**
29 **printed. Each copy shall be signed by the Election Board members**
30 **assigned to the absentee precinct.**
- 31 **10. After the totals tape have been signed, the absentee voter count**
32 **results shall be posted at the Tribal Complex.**
- 33 **11. After the members of the Election Board assigned to the absentee**
34 **precinct sign the totals tape, all ballots shall, the total tape, and**
35 **outer and inner envelopes shall be placed in the absentee ballot**
36 **box or boxes and delivered to the offices of the Election Board.**
- 37 **12. The absentee counters shall complete the ballot accounting form**
38 **and attach it to the original totals tape and to the precinct tally**
39 **sheet and the said form, tape, and tally sheet shall be placed in the**
40 **elections return envelope for return to the Election Board.**

41 **E. The counting procedures for the absentee ballots received five days**
42 **after the election when conducting an election with manual absentee paper ballots**
43 **shall be as follows:**
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- 1 **1. Counting of absentee ballots shall commence at 11:00 a.m. at the**
2 **Tribal Complex at a public location deemed appropriate by the**
3 **Election Board.**
- 4 **2. Upon delivery of the absentee ballots at the Tribal Complex, each**
5 **absentee ballot outer envelope shall be separated by district and**
6 **within each district arranged in alphabetical order.**
- 7 **3. The signature located on the outside of each outer envelope shall**
8 **be checked to ensure that it is the signature of the absentee voter.**
- 9 **4. The outer envelope of each district shall be counted and recorded.**
- 10 **5. Each outer envelope shall be opened and separated from the inner**
11 **envelope, and the outer envelopes shall then be counted.**
- 12 **6. The inner envelopes shall then be opened, the absentee ballots**
13 **therein shall be removed, and the inner envelopes shall then be**
14 **counted.**
- 15 **7. The absentee workers shall then count the absentee voter ballots.**
16 **For each precinct, two (2) absentee workers shall read the vote on**
17 **each ballot and two (2) other absentee workers shall each mark a**
18 **tally sheet. Each tally sheet completed shall be signed and dated**
19 **by the absentee workers.**
- 20 **8. At the conclusion of the official count, the absentee workers shall**
21 **execute certificates of vote wherein said absentee workers attest**
22 **to the correctness of the totals. One (1) copy of the certificate shall**
23 **be posted at the Tribal Complex; and one (1) copy shall be placed**
24 **in the absentee ballot box or boxes.**
- 25 **9. After the execution of certificates have been completed, the**
26 **absentee voter count results shall be posted by the Manager of the**
27 **Election Board.**
- 28 **10. All absentee ballots, envelopes and a certificate of vote shall be**
29 **placed in the absentee voter ballot box or boxes for transmittal to**
30 **the offices of the Election Board.**

31
32 **SECTION FOUR. EFFECTIVE DATE.** This Act shall become effective immediately
33 upon proper approval and execution in accordance with the requirements of the
34 Muscogee (Creek) Nation Constitution.