

**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.

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 ~~thirtytwo-~~  
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~~thirty (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.

17  
18 B. The absentee ballot counting procedures when conducting an election with  
19 electronic voting machines shall be as follows:

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37
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.

1  
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.