



RECONSIDERATION OF NCA 10-122

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-122" is a true extract from the June 19, 2010, Regular Session Journal of the Muscogee (Creek) National Council.

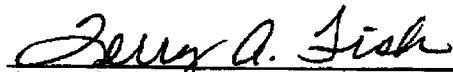
AND THAT, NCA 10-122 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16 §1-101.B., §1-102., AND §1-103 TO UPDATE THE REORGANIZATION PLAN OF 2004, was presented to the National Council acting as a Council as a Whole and was approved in Regular Session on June 19, 2010, National Council by a vote of 22 in favor, 0 against, 0 abstentions.

AND THAT, Said legislation was returned as a Veto with objections by the Principal Chief on July 2, 2010 and said objections have been entered at large in the Journal of the Muscogee (Creek) National Council;

AND THAT, The National Council taking action reconsider the Bill to **OVER-RIDE** the Veto at the Quarterly Session on July 31, 2010, in accordance with the Constitution, Article VI, Section 6(a), requires a (2/3) vote of the full membership, which consists of Twenty-Six members;

AND THAT, The record of vote reflects there were Twenty present with a vote of 17 in favor, 3 against, 0 abstentions;

THEREFORE, BE IT KNOWN, under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-122 is hereby recorded as a "VETO" on this 2nd day of August 2010.



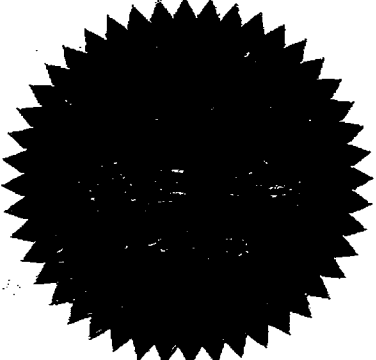
Terry A. Fish, Recording Secretary
Muscogee (Creek) National Council

CERTIFICATION OF APPROVAL

IN WITNESS WHEREOF, I, the Presiding Officer of the Muscogee (Creek) National Council have hereto attached my signature this 2nd day of August 2010.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation





VETO

NCA 10-122

CLASSIFICATION: #16 Executive Branch

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16 §1-101.B., §1-102., AND §1-103 TO UPDATE THE REORGANIZATION PLAN OF 2004

Be it Enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. During the past several years, the Reorganization Plan of 2004 has been amended numerous times creating and amending Offices within the Executive Branch and Independent Agencies.

B. There is a need to amend the Reorganization Plan of 2004 because Offices, Officers and Programs have inadvertently been left off the Reorganization Plan when created or amended.

C. In addition, several officers that are appointed by the Principal Chief and confirmed by the National Council have inadvertently not been listed in the definition of "Appointed Officers." Therefore, there is a need to amend the definition of "Appointed Officer" to make the law consistent in Title 16.

SECTION TWO. AMENDMENT. MCNCA Title 16, §1-101.B., is hereby amended to read as follows:

B. "Appointed Officer" – A person appointed by the Principal Chief with the advice and consent of the Muscogee (Creek) National Council. Appointed officers are: Controller, Attorney General, Secretary of the Nation, Chief of Staff, Executive Director, Directors of the Tribal Affairs, Human Development, Housing, Health and Community Service Divisions, Veteran Affairs Services Administrator, Senior Services Manager, Lighthouse Chief, Gaming Commissioner, and the Tax Commissioner.

SECTION THREE. AMENDMENT. MCNCA Title 16, §1-102., is hereby amended to read as follows:

§1-102. Reorganization plan of 2004

- A. OFFICE OF THE TREASURY
Controller (An Appointed Officer)

1. Budgets and Contracts
2. Financing and Accounting
3. Credit and Finance
4. Community Finance

B. OFFICE OF ATTORNEY GENERAL
Attorney General (An Appointed Officer)

1. Office of Child Support Enforcement

C. SENIOR SERVICES DEPARTMENT
Senior Services Manager (An Appointed Officer)

D. NAHASDA GRANT COMPLIANCE OFFICE

E. OFFICE OF THE SECRETARY OF THE NATION

F. CHIEF OF STAFF

G. INDEPENDENT AGENCIES ADMINISTRATION

1. Office of Tax Commission (An appointed Officer)
2. Housing Authority Muscogee (Creek) Nation Business Enterprise
3. Tribal Trade and Commerce Authority
4. Office of Public Gaming
5. Gaming Operations Authority Board
6. Citizenship Board
7. Election Board
8. Lighthouse Commission (Lighthouse Administration)
9. Creek Nation Foundation
10. **Office of Veterans' Affairs**
11. ~~Muscogee (Creek) Nation Health Systems Board~~ **College of the Muscogee Nation Board of Regents**
12. **Muscogee (Creek) Nation Citizen Legal Services Department**

H. OFFICE OF THE ADMINISTRATION

1. Executive Director (An Appointed Officer)
 - a. Personnel Services
 - b. GSA
 - c. Facilities
 - d. Communications Services
 - e. Ambassador
 - f. Information Technology

2. DIVISIONS: Within the Executive Office of the Principal Chief and under the direction of the Office of Administration shall be established the following divisions:

a. DIVISION OF TRIBAL AFFAIRS

Director (An Appointed Officer)

- i. Planning Department
- ii. Realty
- iii. Tribal Roads Driveways
- iv. Federal Roads Construction
- v. Housing Improvement Program
- vi. 4-H Board of Directors
- vii. Tribal Construction/Engineering
- viii. Transit Program

b. DIVISION OF HUMAN DEVELOPMENT

Director (An Appointed Officer)

- i. Johnson O'Malley
- ii. Cultural and Historic Preservation
- iii. Eufaula Dormitory
- iv. Employment and Training Services
- v. Adult Education
- vi. Headstart
- vii. Higher Education
- viii. Mvskoke Language Program
- ix. Reintegration Program**

c. DIVISION OF COMMUNITY SERVICES

Director (An Appointed Officer)

- i. Social Services
- ii. Community Research and Development
- iii. Children and Family Services
- iv. Child Care Program
- v. Food Distribution Program
- vi. Temporary Assistance for Needy Families (TANF) Program

d. DIVISION OF HOUSING

Director (An Appointed Officer)

- i. Administration and Planning
- ii. Development
- iii. Construction Services
- iv. Housing Management


e. DIVISION OF HEALTH
Director (An Appointed Officer)

SECTION FOUR. AMENDMENT. MCNCA Title 16, §1-103., is hereby amended to read as follows:

Appointments made to these offices: Controller, Chief of Staff, Executive Director, Directors, Attorney General, Secretary of the Nation, Veteran Affairs Services Administrator, Senior Services Manager, Lighthouse Chief, Gaming Commissioner and the Tax Commissioner shall comply with all existing tribal laws.

ENACTED by the Muscogee (Creek) National Council on this 19th day of June 2010.

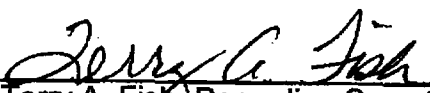
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with Twenty-Three members attending this meeting on the 19th day of June 2010, and that the above is in conformity with the provisions therein adopted by a vote of 22 in favor, 0 against, 0 abstentions, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Terry A. Fish, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this _____ day of _____, 2010, to the above Law, **NCA 10-122** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

A. D. Ellis, Principal Chief
Muscogee (Creek) Nation



Muscogee (Creek) Nation

PRINCIPAL CHIEF

A.D. Ellis

SECOND CHIEF

Alfred Berryhill

OFFICE OF THE PRINCIPAL CHIEF

PO Box 580

(HWY 75, Loop 56)

Okmulgee, OK 74447

918.732.7600

RECEIVED

July 2, 2010

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07-02-10 11:29 RCVD

Muscogee (Creek) National Council
Honorable Speaker Barnett

National Council Office

Dear Speaker Barnett:

I am returning NCA 10-122 herewith:

A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-122 TO THE NATIONAL COUNCIL AS A VETO WITH OBJECTIONS

In accordance with the Constitution of the Muscogee (Creek) Nation, I, A.D. Ellis, Principal Chief of the Muscogee (Creek) Nation, do hereby return NCA 10-122, entitled "**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16 § 1-101.B., § 1-102., AND § 1-103 TO UPDATE THE REORGANIZATION PLAN OF 2004**" as a **VETO** with the following objections:

OBJECTION ONE: The proposed NCA 10-122 is in violation of Article V, Section 1 of the Constitution of the Muscogee (Creek) Nation which vests the Executive power in the Office of the Principal Chief. In general, NCA 10-122 violates the principle of separation of powers, since it attempts to improperly inject the opinions and influence of the National Council into the functioning of the Executive Branch, in particular the close advisors to the Principal Chief, including without limitation the Chief of Staff. In addition, NCA 10-122 violates the principle of separation of powers, since it attempts to improperly remove powers from, and limit the powers of, the Executive Branch.

OBJECTION TWO: The proposed NCA 10-122 is additionally in violation of Article V, Section 2 of the Constitution of the Muscogee (Creek) Nation which provides that the Principal Chief, not the National Council, shall "create and organize the Executive Office of the Principal Chief." The proposed NCA 10-122 has been passed unilaterally by the National Council, with no collaboration or consultation of any sort with the Principal Chief. As such, proposed NCA 10-122 is an unconstitutional infringement on the powers of the Principal Chief and the Executive Branch, by the National Council.

OBJECTION THREE: The provisions of NCA 10-122 are vague, unwieldy and improperly prevent the Executive Branch from acting in the best interests of the citizens of the Muscogee (Creek) Nation. By way of illustration, and not by way of limitation, the Principal Chief's appointment of the Chief of Staff, which the proposed legislation would have subject to the "advice and consent" of the National Council improperly limits the ability of the Principal Chief to appoint his personal advisors. There should be a difference between appointments such as Attorney General, which require a level of independence, and those appointments to the Principal Chief's staff who are the Principal Chief's closest advisors. In any event, no restructuring of the Executive Branch is proper or Constitutional without the involvement of the Principal Chief pursuant to Article V, Section 2 of the Constitution of the Muscogee (Creek) Nation.

OBJECTION FOUR: The Constitution of the Muscogee (Creek) Nation and the judicial decisions of the Muscogee (Creek) Nation Supreme Court support the proposition that the powers of the National Council are limited to passing laws, appropriating money and legitimate advice and consent. By way of illustration and not by way of limitation, the provisions of NCA 10-122 exceed the boundaries of legitimate legislation by unnecessarily extending the normal advice and consent, as envisioned by the Constitution of the Muscogee (Creek) Nation to officers closely tied to the office of Principal Chief. NCA 10-122 is the latest example of the National Council's ongoing attempts to usurp the legitimate authority of the Muscogee (Creek) Nation Executive Branch and to ignore the controlling judicial decisions of the Muscogee (Creek) Nation Supreme Court.

OBJECTION FIVE: The Principal Chief believes that the amendments contained in NCA 10-122 are unnecessary and are not in the best interests of the Muscogee (Creek) Nation. They represent an unwarranted and unwise intrusion of the National Council into the inner workings of the Executive Branch.

OBJECTION SIX: The Principal Chief believes that the amendments contained in NCA 10-122 are not necessary in that the current statutes of the Muscogee (Creek) Nation provide for *sufficient appropriate advice and consent authority of the National Council and therefore do not* require any amendments. Further to the extent any amendments are warranted, they must be initiated by the Principal Chief pursuant to Article V, Section 2 of the Constitution of the Muscogee (Creek) Nation.

For the reasons outlined above, NCA 10-122 is hereby returned as a VETO.

Sincerely,



A. D. Ellis, Principal Chief
Muscogee (Creek) Nation

ADE/ldy

DATED: July 2, 2010