



RECONSIDERATION OF NCA 10-165

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-165" is a true extract from the September 25, 2010, Regular Session Journal of the Muscogee (Creek) National Council.

AND THAT, NCA 10-165 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 35, CHAPTER 10, ENTITLED "Muscogee (Creek) Nation Citizen Legal Services Department" was presented to the National Council acting as a Council as a Whole and was approved in Regular Session on September 25, 2010, National Council by a vote of 17 in favor, 4 against, 1 abstention.

AND THAT, Said legislation was returned as a Veto with objections by the Principal Chief on October 8, 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 October 30, 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-five present with a vote of 13 in favor, 12 against;

THEREFORE, BE IT KNOWN, under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-165 is hereby recorded as a "VETO" on this 1st day of November, 2010.



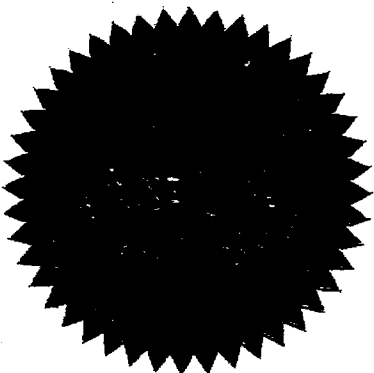
Terry A. Fish, Recording Secretary
National Council
Muscogee (Creek) Nation

CERTIFICATION OF APPROVAL

IN WITNESS WHEREOF, I, the Presiding Officer of the Muscogee (Creek) National Council have hereto attached my signature this 1st day of November 2010.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation



VETO



NCA 10-165

CLASSIFICATION: #35. SOCIAL SERVICES/PUBLIC ASSISTANCE/DONATIONS

A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 35, CHAPTER 10, ENTITLED "Muscogee (Creek) Nation Citizen Legal Services Department"

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

SECTION ONE. FINDINGS. The National Council finds that:

A. NCA 02-091 created the partnership between the Muscogee (Creek) Nation and the University of Tulsa Boesche Legal Clinic to provide legal services to the Muscogee (Creek) Nation Citizens.

B. Less than three years ago, the National Council enacted NCA 07-317 which eliminated the partnership with the University of Tulsa Boesche Legal Clinic and created the Muscogee (Creek) Nation Citizen Legal Services Department ("Legal Services Department") and authorized the Principal Chief to execute a contract with licensed attorneys to serve as independent contractors in providing legal services to Citizens.

C. Due to debt and the loss of gaming revenues, the Nation is approximately \$20,701,185.00 under budget for the FY 2011 period and must find alternative ways to meet this year's budget. Recently NCA 10-055 was passed to divert funds to help fund the budget. However, there will still be a deficit.

D. On August, 13, 2010, the Principal Chief issued Executive Order No. 10-15, which ordered a spending and hiring freeze for all executive branch programs and further stated that the Executive Branch "can and should demonstrate leadership in reducing tribal spending."

E. The budget for the Legal Services Department has gone from approximately \$750,000 to 1.2 million in the past several years. With the current considerable financial constraints, the Nation cannot fiscally afford to provide free legal services to Citizens through independently contracted Attorneys while employees of the Nation are facing possible layoffs and furloughs if the budget deficit is not corrected.

F. The Legal Services Department is not a mandatory program, nor is it considered a program that ensures the safety and welfare of the Muscogee (Creek) Nation. Although the service helps some Citizens with legal problems, during these economic times, it is more important to help Citizens retain employment and continue general safety and welfare services for Citizens through social services. Legal issues should be the responsibility of the individual Citizen.

G. The Nation must oversee the tribal budget in a fiscally prudent manner, as expressed by the Principal Chief in Executive Order NO. 10-15. With the FY 2011 comprehensive annual budget being short millions of dollars, the budget shortfall must be resolved to ensure continuing operations of the Nation.


SECTION TWO. AUTHORIZATION. With respect to the current outstanding matters, at the time the law takes effect, the Independent contractor shall take actions necessary to accomplish this law. Therefore, the Principal Chief is hereby authorized to negotiate a month to month contract with the current Independent Contractor for a term not to exceed three months from the enactment of this law. The month to month Contract shall be approved by Tribal Resolution and shall not be extended for a period exceeding three months.

SECTION THREE. REPEALER. MCNCA Title 35, Chapter 10, shall hereby be repealed at 12:01 a.m. October 1, 2010.

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

ENACTED by the Muscogee (Creek) National Council on this 25th day of September 2010.

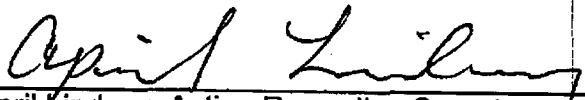
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



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 **25th** day of **September**, and that the above is in conformity with the provisions therein adopted by a vote of **17** in favor, **4** against, **1** abstention, 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.



April Lindsey, Acting 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 10-165** 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

October 8, 2010

Muscogee (Creek) National Council
Honorable Speaker Barnett

Dear Speaker Barnett:

I am returning NCA 10-165 herewith:

A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-165 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 10-165, entitled "A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 35, CHAPTER 10, ENTITLED 'Muscogee (Creek) Nation Citizen Legal Services Department'" as a VETO with the following objections:

OBJECTION ONE: Although the Principal Chief and the Executive Branch understand the need to oversee the tribal budget and the tribal government in a fiscally prudent manner, the provisions of NCA 10-165 repealing the provisions of MCNCA Title 35, Chapter 10 are an overreaction to the financial circumstances of the Muscogee (Creek) Nation and would impose a disproportionate percentage of tribal budget cuts upon the neediest citizens of the Muscogee (Creek) Nation.

OBJECTION TWO: The proposed NCA 10-165, by completely repealing the provisions of MCNCA Title 35, Chapter 10, creates a situation in which the legal services provided to citizens of the Muscogee (Creek) Nation may have to be immediately ended, thereby wasting the tribal funds expended for the benefit of such citizens up to this point. In addition, the abrupt and wholesale termination of the MCNCA Title 35, Chapter 10 would create chaos and confusion with regard to such legal services, which is not in the best interests of the Muscogee (Creek) Nation or its citizens.

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National Council Office

OBJECTION THREE: The Principal Chief believes that there are other solutions to tribal budget shortfalls which do not involve the termination of all legal services provided to tribal citizens. In any event, the proposed NCA 10-165 places too much of the burden of balancing the tribal budget on the poorest citizens of the Muscogee (Creek) Nation.

OBJECTION FOUR: As a general matter, the Principal Chief owes a duty to the citizens of the Muscogee (Creek) Nation to oversee the tribal budget and the tribal government in a fiscally prudent manner, especially during trying economic conditions such as those currently affecting the Muscogee (Creek) Nation, the State of Oklahoma and the United States in general. The Principal Chief, however, will not do so at the disproportionate expense of the most vulnerable citizens of the Muscogee (Creek) Nation. Therefore, the Principal Chief is compelled to veto NCA 10-165 and calls on the National Council to work with the Executive Branch to find more reasonable and more equitable solutions to the shortfalls in the current tribal budget.

OBJECTION FIVE: Contrary to the statements of certain National Council Representatives, tribal legal services are an appropriate and authorized use of net gaming revenue.

Bulletin No. 05-1 of the National Indian Gaming Commission offers instruction on the use of Net Gaming Revenue and states in pertinent part:

Permissible Uses of Gaming Revenues

Tribes typically allocate a substantial portion of their gaming revenues to the "general welfare" of the tribe and its members; to "tribal economic development"; and/or to "government operations or programs." When tribes establish government programs to benefit individual members, those programs should: 1) be created in response to a recognized need within the tribal community; 2) have eligibility criteria to determine which members qualify to participate in the program; and 3) not discriminate by including some members and excluding others without reasonable justification. Payments made and services offered should be made equally available to all those who meet program standards.

Government programs are set up to serve one or more needs or requirements of the tribal community. A fundamental part of any government program is the criteria established to determine which tribal members are eligible to participate in a program. The criteria are tied to the needs and requirements of the tribal membership, and are often tied to income levels and the financial needs of a group of members. Criteria can be based on needs other than financial ones, however, such as educational, medical or housing needs. Criteria can also reflect a historical lack of prosperity for a group of members like tribal elders, who missed out on the financial benefits of gaming for most of their lives.

Tribes have developed a broad range of tribal government programs using objective criteria based on the requirements and needs of the tribal membership. Examples of these are:

- Elder programs
- Daycare and early childhood development programs
- Universal health care
- Nutrition assistance programs
- Housing assistance programs
- Small business loan programs
- Emergency loan programs
- Legal aid programs**
- Public defender programs**
- Job training programs
- Educational grants, loans and scholarships
- Drug and alcohol treatment programs
- Culture and language programs
- After-school programs for youth
- Burial assistance programs
- Eyeglass programs
- Programs offering culturally-based, alternative health care and treatments

The above list is not exhaustive, as there are hundreds of different government programs currently being offered by the more than 500 federally recognized tribes in existence today.

NIGC Bulletin 05-01(emphasis added).

Therefore, the Legal Services Department is properly funded by net gaming revenue and there is no justification for eliminating the department based on the source of funding.

For the reasons outlined above, NCA 10-165 is hereby returned as a VETO.

Sincerely,



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

DATED: October 8, 2010

ADE/vb