



RECONSIDERATION OF NCA 10-090

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-090" is a true extract from the May 4, 2010, Emergency Session Journal of the Muscogee (Creek) National Council.

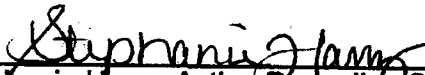
AND THAT, NCA 10-090 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16, CHAPTER 1 TO REAFFIRM AND FURTHER CLARIFY THE EXISTING LAW, was presented to the National Council acting as a Council as a Whole and was approved in Emergency Session on May 4, 2010, National Council by a vote of 15 in favor, 4 against, 0 abstention.

AND THAT, Said legislation was returned as a Veto with objections by the Principal Chief on May 14, 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 Regular Session on May 22, 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;

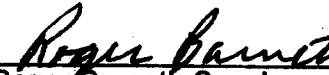
AND THAT, The record of vote reflects there were Twenty-Two present with a vote of 15 in favor, 7 against, 0 abstention;

THEREFORE, BE IT KNOWN, under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-090 is hereby recorded as a "VETO" on this 24th day of May 2010.


Stephanie Harry, Acting 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 24th day of May 2010.


Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation





NCA 10-090

CLASSIFICATION: #16. Executive Branch

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16, CHAPTER 1 TO REAFFIRM AND FURTHER CLARIFY THE EXISTING LAW

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

SECTION ONE. NEW LAW. The following new Law is hereby enacted:

Section 1-101. Findings. The National Council finds that:

A. Independent Agencies are distinguished from executive departments by their structure and functional characteristics and are meant to act independent of other executive branch officials.

B. The policy and law for the Muscogee (Creek) Nation independent agencies has already been established so that the agencies were free from political pressure or undue influence by the Principal Chief and the National Council.

C. The Muscogee (Creek) Nation has designated the following as independent agencies:

1. Office of Tax Commission (An appointed Officer)
2. Muscogee (Creek) Nation Business Enterprise
3. Tribal Trade & Commerce Authority
4. Office of Public Gaming
5. Gaming Operations Authority Board
6. Citizenship Board
7. Election Board
8. Lighthouse Administration
9. Veterans Affairs

SECTION TWO. CODIFICATION. This amendment shall be codified in Title 16, Chapter 1 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Codification Committee is hereby authorized: (1) to approve any changes related to the manner in which sections,

articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2003 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

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

§1-101. Definitions

- A. "Office" - Offices of the Executive Office of the Principal Chief.
- B. "Appointed Officer" - A person appointed by the Principal Chief with the advice and consent of the Muscogee National Council. Appointed officers are: Controller, Attorney General, Secretary of the Nation, Executive Director, Directors of Tribal Affairs, Human Development, Housing, Health and Community Services Divisions, Gaming Commissioner, and the Tax Commissioner.
- C. "Executive Director" - An appointed officer in charge of the Office of the Administration who reports directly to the Principal Chief.
- D. "Director" - An appointed officer in charge of one of the five following divisions (Tribal Affairs, Community Services, Housing, Health or Human Development) and who reports directly to the Executive Director.
- E. "Inferior Officer" - Any officer who is subordinate to a Director of any of the five Divisions (Tribal Affairs, Human Development, Housing, Health or Community Services). Appointments of inferior officers do not require the advice and consent of the National Council. Program Managers of each the five divisions are defined as inferior officers.
- F. "Independent Agencies" - shall mean all agencies listed in §1-102 (C) of this Title or otherwise created or considered under other Titles or Chapters of this Code. Independent Agencies are to operate independently and without interference from the Principal Chief or the National Council and are subject to the powers and limitations placed on each Independent Agency as provided in the Title creating each respective Independent Agency. Any authority of the Principal Chief or the National Council over any of the Independent Agencies is governed by the Title or Chapter creating the Independent Agency. Any removal proceedings initiated regarding any individual appointed to the governing body of any Independent Agency shall follow Title 31, §1-101, et seq. of the Muscogee (Creek) Nation Code of Laws and any other applicable laws of the Nation. If any**

Title has specific removal provisions for the Respective Independent Agency, said removal provisions shall supersede this amendment.

SECTION FOUR. SECTION THREE. AMENDMENT. MCNCA Title 16, §§1-105. and 1-106., are hereby amended to read as follows:

§1-105. Removal

Appointed board members or appointed officers shall be removed only in accordance with Title 31, §1-101, et seq. of the Muscogee (Creek) Nation Code of Laws or any other applicable laws of the Nation.

§ 1-106. Holding multiple positions


No person shall be allowed to hold a position on more than one (1) of the various boards, councils or commissions under the jurisdiction of the Muscogee (Creek) Nation, with the exception of the Muscogee Nation Business Enterprise Board of Directors and the Muscogee (Creek) Nation Tribal Trade and Commerce Authority Board of Trustees which may be composed of the same individuals.

SECTION FIVE. Any actions taken inconsistent with this law and policy shall not be enforceable as a matter of Muscogee (Creek) Nation law.

SECTION SIX. 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 4th day of May 2010.

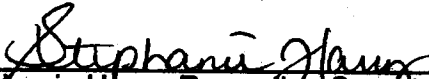
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



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 members attending this meeting on the 4th day of May 2010, and that the above is in conformity with the provisions therein adopted by a vote of 15 in favor, 4 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.



Stephanie Harry, 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 10-090** 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

May 14, 2010

Muscogee (Creek) Nation
Speaker of the National Council
The Honorable Roger Barnett

Dear Speaker Barnett:

I am returning NCA 10-090 herewith:

**A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-090
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 10-090, entitled "**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 16, CHAPTER 1 TO REAFFIRM AND CLARIFY THE EXISTING LAW**" as a VETO with the following objections:

OBJECTION ONE: The proposed NCA 10-090 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 10-090 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 provisions of NCA 10-090 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 proposed restrictions on the authority of the Principal Chief and the Executive Branch over executive agencies could create situations in which such agencies are not answerable to any elected branch of the Muscogee (Creek) Nation government.

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OBJECTION THREE: 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 advise and consent. By way of illustration and not by way of limitation, the provisions of NCA 10-090 exceed the boundaries of legitimate legislation by restricting the authority of the Principal Chief and the Executive Branch, thereby going beyond normal advise and consent, as envisioned by the Constitution of the Muscogee (Creek) Nation. NCA 10-090 is the latest example the National Council's ongoing attempts to usurp and/or limit 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 FOUR: The Principal Chief believes that the amendments contained in NCA 10-090 are unnecessary and are not in the best interests of the Muscogee (Creek) Nation.

For the reason outlined above, NCA 10-090 is hereby returned as a VETO.

Sincerely,



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

DATED: May 14, 2010

ADE/ldy