



### RECONSIDERATION OF NCA 10-199

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-199" is a true extract from the December 18, 2010, Regular Session Journal of the Muscogee (Creek) National Council.


**AND THAT,** NCA 10-199 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 16, CHAPTER 4 IN ITS ENTIRETY AND CREATING A NEW LAW ESTABLISHING THE MUSCOGEE (CREEK) NATION LIGHTHORSE UNDER TITLE 50 was presented to the National Council acting as a Council as a Whole and was approved in Regular Session on December 18, 2010, National Council by a vote of 19 in favor, 5 against, 0 abstention.

**AND THAT,** Said legislation was returned as a Veto with objections by the Principal Chief on January 6, 2011 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 Emergency Session on January 11, 2011, 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-four present with a vote of 18 in favor, 6 against;

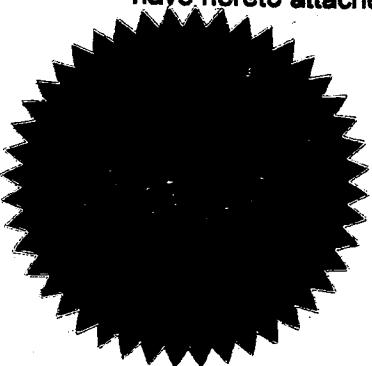
**THEREFORE, BE IT KNOWN,** under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-199 is hereby recorded as a "VETO OVER-RIDE" on this 11<sup>th</sup> day of January 2011.

  
\_\_\_\_\_  
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 11<sup>th</sup> day of January, 2011.

  
\_\_\_\_\_  
Roger Barnett, Speaker  
National Council  
Muscogee (Creek) Nation



# VETO OVERRIDE



NCA 10-199

**CLASSIFICATION: #50. LIGHTHORSE**

**A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 16, CHAPTER 4 IN ITS ENTIRETY AND CREATING A NEW LAW ESTABLISHING THE MUSCOGEE (CREEK) NATION LIGHTHORSE UNDER TITLE 50**

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

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

A. The National Council has the authority to legislate on matters creating authorities with attendant powers to achieve objectives allowed within the scope of the Constitution, as prescribed in Article VI, Section 7(j) of the Constitution of the Muscogee (Creek) Nation.

B. The unique composition of a Tribal Nation requires that the Law Enforcement Authority serve the interests of the Nation including all branches of the Tribal Government. In order for a Law Enforcement Authority to be effective in its duties and free from political pressure and interference, the National Council is establishing an independent Muscogee (Creek) Nation Lighthouse which will be overseen by a Commission that is independent from both the Executive Branch and Legislative Branch.

C. The Muscogee (Creek) Nation Lighthouse shall work in conjunction with the Department of Justice towards ensuring the best interests of the Nation are served by protecting the Citizens and the Nation and promoting justice within the territory of the Muscogee (Creek) Nation.

D. The Muscogee (Creek) Nation Lighthouse Commission will hire a Lighthouse Chief that will present all information and evidence gathered in the course of investigations to the Attorney General's Office for review and will conduct such other investigations regarding official matters for the Attorney General.

E. Because of the nature of the complaints every law enforcement agency must work through, the Lighthouse Commission will provide the internal review for grievances from both Department employees and citizens, who may appeal to the

Commission if they are dissatisfied with the Lighthorse Chief's resolution of his or her grievance.

**SECTION TWO. REPEALER.** MCNCA TITLE 16, Chapter 4 is hereby repealed in its entirety.

**SECTION THREE. NEW LAW.** The following new law shall be codified in Title 50 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for 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 in this law in order to be 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 new law:

#### **TITLE 50. LIGHTHORSE**

**§1-101. Creation of the Muscogee (Creek) Nation Lighthorse.** There is hereby created the Muscogee (Creek) Nation Lighthorse ("Lighthorse") as an independent agency of the Muscogee (Creek) Nation.

**§1-102. Purpose.** The Lighthorse is created to enforce Muscogee (Creek) Nation laws and provide support to virtually all elements of the justice system by providing for the security of Muscogee (Creek) Nation facilities; apprehending criminals; exercising custody of prisoners and providing for their security and transportation to correctional facilities; executing court orders; seizing assets gained by illegal means and providing for the custody, management, and disposal of forfeited assets; assuring the safety of witnesses; and other duties as required to accomplish the goal of Title 50. The Lighthorse is delegated with all law enforcement authority of the Muscogee (Creek) Nation.

**§1-103. Creation of the Muscogee (Creek) Nation Lighthorse Commission.** The Lighthorse Commission is hereby established to provide oversight to the Lighthorse regarding the activities and actions of the law enforcement operations, to provide the best police services to the Muscogee (Creek) Nation, and to allow for community input through its representatives on the Lighthorse Commission. The Commission is created as an oversight body and does not involve decision making processes on day to day activities of law enforcement services.

**§1-104. Commission Composition.**

A. **Appointment.** The Lighthorse Commission shall consist of five members, two of whom shall be nominated by the Principal Chief and confirmed by Tribal Resolution and three nominated and confirmed by the National Council by Tribal Resolution. All such appointments shall be for two years with no holdover. Appointments made because of an early vacancy shall be for the remainder of the term.

B. **Vacancies.** If the Principal Chief fails to nominate a person for a vacant position within 60 days of the vacancy, then the National Council may nominate a person for the vacant position. If the National Council fails to nominate a person for a vacant position within 60 days of the vacancy, then the Principal Chief may nominate a person for the vacant position.

C. **Staggered Terms.** Appointments to the Lighthorse Commission shall be for staggered terms. The term of office shall be for two (2) years commencing as soon as each member is confirmed; and every two years thereafter except for the initial year. The Principal Chief's (2) two nominations shall be numbered Seats (1) and (2) and the National Council's (3) nominations shall be numbered Seats (3), (4), and (5). The staggered terms shall alternate every year between odd and even numbered seats, except the initial year which will serve as follows:

The initial term for the odd numbered Seats (1), (3), (5) will be the regular term of two (2) years. The initial term for the even numbered seats (2) and (4) will be (1) one year and (2) two years thereafter.

D. **Qualifications.** The members of the Commission shall possess the following requirements:

1. Shall be a Citizen of the Muscogee (Creek) Nation and be 30 years of age or older.
2. Shall complete a satisfactory background investigation without any felony convictions.
3. Shall possess one of the following:
  - a. A bachelor's degree in Criminal Justice or related studies involving Law enforcement; or,
  - b. A Juris Doctorate with a minimum of three years of work experience; or,
  - c. A minimum of 5 years of Law Enforcement Experience.

E. **Removal.** The members of the Lighthorse Commission shall not be subject to removal from office at the will and pleasure of the Principal Chief or the

National Council, and may only be removed from the Commission by the provisions established in Title 31. Removal under any other terms besides Title 31 is invalid.

F. **Stipends and Mileage.** Lighthorse Commission members shall receive a stipend of \$250.00 for attendance at each regular called meeting of the Commission or a meeting called by the National Council. Regular called meetings shall be once a month. Emergency meetings may be called in appropriate circumstances. To receive a stipend to attend a National Council Meeting, the Commission's attendance must be requested in writing or be scheduled on an official agenda of the National Council or National Council Committee. Quorum shall be established when three members are present. Any actions taken without a quorum are void.

**§1-105. General and Specific Authority, Powers and Responsibilities of the Commission.**

- A. Oversee the Muscogee (Creek) Nation Lighthorse,
- B. Hire, suspend, or terminate the Lighthorse Chief of the Muscogee (Creek) Nation.
- C. Appoint an Acting Lighthorse Chief if there is a vacancy in the Lighthorse Chief Position.
- D. Suspend law enforcement officers or other personnel of the Lighthorse Department pending the filing and hearing of complaints against them.
- E. Initiate investigations of law enforcement officers or other personnel of the Lighthorse Commission when complaints are filed against them.
- F. Hear appeals of disciplinary actions against any law enforcement personnel.
- G. Prepare and adopt rules governing the Lighthorse Department including Standard Operating Procedures and Grievance Policies.
- H. Hire or engage Legal Counsel, provided the attorney contract is approved by the Attorney General.

**§1-106. Background Investigations.** A background investigation of all candidates selected for employment by the Lighthorse shall be obtained prior to the final hiring decision. All background investigations shall be conducted by an independent company and shall be coordinated by the Attorney General's office. All costs of the background investigation shall be borne by the Lighthorse. No one shall be hired by the Lighthorse

who is currently on probation or who has a felony conviction or a misdemeanor conviction involving violence, theft, fraud, embezzlement, gaming related crimes or any crime of moral turpitude.

**§1-107. Appointment/Oath.** All Lighthorse employees shall be required to take an oath pledging to uphold all laws of the Muscogee (Creek) Nation and its Constitution. The oath of office for all police officers shall be given by a Justice or Judge of the Courts of the Muscogee (Creek) Nation before the officer may take office.

**§1-108. Personnel.** All personnel employed by the Lighthorse at the enactment of this Law shall retain their accrued employee benefits. Benefits will remain consistent with the Executive Branch of the Muscogee (Creek) Nation. After assessments are made, positions and titles may be reassigned.

**§1-109. Policies and Procedures.** All Lighthorse employees shall abide by the policies and procedures of the Muscogee (Creek) Nation and shall additionally abide by policies and procedures of the Lighthorse Commission. Policies and procedures of the Lighthorse shall be submitted to the National Council for approval by Tribal Resolution, after approval by the Lighthorse Commission within 90 days of date of enactment of this Act. Amendments to the Lighthorse policies and procedures shall first be approved by the Lighthorse Commission and then be submitted to the National Council for approval by Tribal Resolution.

**§1-110. Lighthorse Chief.**

A. **Duties.** In addition to the same powers and duties of the Lighthorse, the Lighthorse Chief shall be in charge of the Lighthorse Department. The Lighthorse Chief shall hire a Lighthorse Deputy Chief of Police, a Deputy Chief of Special Operations and a Lighthorse Game Ranger, each of whom shall report directly to the Lighthorse Chief. The Lighthorse Chief is authorized to apply for appropriate grants to supplement the Lighthorse's budget; provided National Council reviews, evaluates and approves the expenditure of the grant funds. The Lighthorse Chief shall be under the supervision of the Commission.

B. **Qualifications.** The Lighthorse Chief shall have a Bachelor's degree in criminal justice or related field, plus fifteen (15) credit hours and must have ten years of experience in law enforcement or a related field, with a preference for federal or tribal law enforcement experience and be CLEET or BIA Law Enforcement Certified. The ten years of experience shall include at least two years of administrative experience.

C. **Background Investigations.** The Lighthorse Chief candidate shall submit to a background investigation conducted by or obtained by the Attorney General's office. The Attorney General shall provide the background investigation report to the

Lighthorse Commission prior to offering employment. The original report shall be kept in the Office of the Attorney General.

**§1-111. Support Staff to the Lighthorse Chief.** The Lighthorse Chief may hire support staff that shall have, at a minimum, a high school diploma and adequate experience in law enforcement and administrative functions.

**§1-112. Deputy Chief of Police.**

A. **Qualifications.** The Lighthorse Deputy Chief of Police shall have an Associate's Degree in police science or criminal justice plus thirty (30) credit hours towards a Bachelor's Degree. The Deputy Chief of Police shall have seven years of experience in law enforcement, two of which shall be in an administrative position and CLEET or BIA Law Enforcement Certified. The Lighthorse Deputy Chief of Police shall be a sworn police officer. The Deputy Chief of Police shall be under the supervision of the Chief of Police.

B. **Duties and Powers.** In addition to the duties and powers of Lighthorse Police officers, the Deputy Chief of Police shall be in charge of and hire all patrol officers subject to approval by the Lighthorse Chief. The Deputy Chief of Police shall organize the police department and establish necessary and appropriate levels of supervisory authority and ranks within the department, subject to the approval of the Lighthorse Chief.

**§1-113. Deputy Chief of Special Operations.**

A. **Qualifications.** The Lighthorse Deputy Chief of Special Operations shall have an Associate's Degree in police science or criminal justice plus thirty (30) credit hours towards a Bachelor's Degree. The Deputy Chief of Special Operations shall have five years of experience in law enforcement, two of which shall be in an administrative position. The Lighthorse Deputy Chief of Special Operations shall be a sworn police officer and CLEET or BIA Law Enforcement Certified.

B. **Duties and Powers.** In addition to the duties and powers of Lighthorse Police officers, the Deputy Chief of Special Operations shall be in charge of and hire all police officers and civilian employees in the following areas:

1. Communications/Dispatch
2. Records
3. Property Room
4. Training
5. K-9
6. Investigators

The Deputy Chief shall organize the Special Operations Department and establish necessary and appropriate levels of supervisory authority and ranks within the Department, subject to the approval of the Lighthorse Chief.

**§1-114. Police Officer.**

A. **Qualifications.** In order to be qualified for the position of police officer, a person shall be 21 years of age and have fifteen hours of college credit and currently be working towards an Associate's degree. All police officers shall be CLEET or BIA Law Enforcement Certified within one year from date of employment.

B. **Duties and Powers.** Lighthorse police officers shall perform the following law enforcement functions within the Muscogee (Creek) Nation's jurisdiction, including activities authorized by intergovernmental cooperative agreements with other state, federal or tribal agencies:

1. Apprehend and arrest on view or on warrant and bring to justice all violators of Muscogee (Creek) Nation law;
2. Apprehend and arrest all persons violating federal and state law if authorized by a Cross-Deputization Agreement and turn them over to the proper authorities;
3. Suppress all riots, affrays, and unlawful assemblies that may come to their knowledge, and generally to keep the peace;
4. Serve all warrants, writs, executions, and other processes properly directed and delivered to them;
5. Carry out all orders of the Courts of the Muscogee (Creek) Nation;  
and
6. Perform all duties pertaining to the office of the police officer.

C. **Uniforms.** All police officers, unless in an undercover capacity, shall be clearly identified as Lighthorse police officers while on duty or when carrying a firearm in an official capacity. The Lighthorse Chief shall select the uniform to be worn by the Lighthorse police officers and furnish each member of the force with the necessary uniforms and arms. Such arms and uniform so furnished shall be carried by each officer and member of the Lighthorse police in accordance with policies and procedures of the Department. The uniform of officers and members of the Muscogee (Creek) Nation Lighthorse police shall bear a distinctive patch, pin or other emblem depicting the seal of the Muscogee (Creek) Nation and flag of the United States.

**§1-115. Investigators.** All investigators shall be under the immediate supervision of the Deputy Chief of Special Operations and shall have qualifications that are consistent with this title and for this position.



**§1-116. Game Ranger.**

A. **Qualifications.** The Lighthouse Game Ranger shall have an Associate's Degree plus thirty (30) credit hours towards a Bachelor's Degree. The Game Ranger shall have seven (7) years of experience in law enforcement or wildlife conservation, two of which shall be in an administrative position. The Lighthouse Game Ranger shall be a sworn police officer and be CLEET or BIA Law Enforcement Certified within one (1) year of employment.

B. **Powers and Duties.** In addition to the duties and powers of Lighthouse Police Officers, the Game Ranger shall be primarily responsible for enforcing the Muscogee (Creek) Nation Conservation Code, MCNCA Title 23, § 2-101, et. seq.

**§1-117. Cross-deputization Agreements.** The Lighthouse Chief is authorized to enter into Cross-Deputization Agreements or Mutual Aid Agreements with state and federal law enforcement agencies operating within the jurisdictional boundaries of the Muscogee (Creek) Nation, provided all agreements are reviewed by the Attorney General to insure there are no attempted waivers of sovereign immunity and that the agreements comply with tribal and federal law. All Cross-Deputization Agreements and renewals shall be approved by the National Council.

**§1-118. Reciprocal Agreement Authority**

A. The Muscogee (Creek) Nation hereby recognizes any valid concealed carry weapons permit or license issued by another Indian Nation, State or Federal Government where that government requires:

1. A criminal history records search on each applicant;
2. The prohibition of any person convicted of a felony offense from obtaining a concealed carry weapons permit or license.
3. Competent qualification or training with the firearms to be carried by the person.

**§1-119. Carrying of Concealed Weapons by Active or Retired Law Enforcement Officers**

Any Muscogee (Creek) Nation, state, municipal or federal law enforcement officer with proper identification may carry a concealed weapon upon Muscogee (Creek) lands.


**§1-120. Law Enforcement Academy Agreements or Contracts.** The Lighthouse Chief is authorized to enter into agreements or contracts with tribal, state or federal law enforcement academies to obtain services, provided all such agreements or contracts are reviewed and approved by the Attorney General to ensure there are no attempted

waivers of sovereign immunity and that the agreements or contracts comply with tribal and federal law.

**SECTION FOUR. EFFECTIVE DATE.** This Act shall become effective thirty (30) days after proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution, provided, the provisions of §1-104(A) shall become effective immediately upon proper approval and execution to allow the Commission to be seated.

**ENACTED** by the Muscogee (Creek) National Council on this 18th day of December 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-Five members attending this meeting on the 18th day of December 2010, and that the above is in conformity with the provisions therein adopted by a vote of 19 in favor, 5 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.

  
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ShaRee Edmondson, 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 10-199 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)

Muskogee, OK 74447

918.732.7600

January 6, 2011

Muscogee (Creek) National Council  
Honorable Speaker Barnett

Dear Speaker Barnett:

I am returning NCA 10-199 herewith:

### **A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-199 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 10-199, entitled **"A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 16, CHAPTER 4 IN ITS ENTIRETY AND CREATING A NEW LAW ESTABLISHING THE MUSCOGEE (CREEK) NATION LIGHTHORSE UNDER TITLE 50"** as a VETO with the following objections:

**OBJECTION ONE:** MCNCA Title 16 §4-101 created the Lighthouse Administration as an independent agency of the Executive Branch. The proposed NCA 10-199 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 10-199 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 addition, NCA 10-199 violates the principle of separation of powers since it attempts to improperly remove powers from, and limit the powers of, the Executive Branch, which are to be vested pursuant to the Constitution of the Muscogee (Creek) Nation, in the Principal Chief, with all Executive Offices to be created and organized by the Principal Chief.

**RECEIVED**

JAN 06 2011

**National Council Office**

**OBJECTION TWO:** The proposed NCA 10-199 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 10-199 has been passed unilaterally by the National Council, with no collaboration or consultation of any sort with the Principal Chief. As such, proposed NCA 10-199 is an unconstitutional infringement on the powers of the Principal Chief and the Executive Branch by the National Council.

**OBJECTION THREE:** The proposed NCA 10-199 is an attempt by the National Council to create a fourth branch of the government of the Muscogee (Creek) Nation with the creation of the Lighthorse Commission that is not within the Executive Branch and is therefore in violation of Article IX of the Constitution of the Muscogee (Creek) Nation which sets forth the constitutional process to amend our form of government. By ignoring the law of the Nation the National Council has violated its power to enact legislation within the limitations imposed by the Constitution.

For the reasons outlined above, NCA 10-199 is hereby returned as a **VETO**.

Sincerely,



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

**DATED: January 6, 2011**

ADE/ky