



RECONSIDERATION OF NCA 10-089

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-089" is a true extract from the May 4, 2010, Emergency Session Journal of the Muscogee (Creek) National Council.

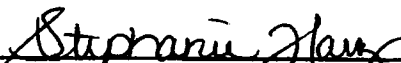
AND THAT, NCA 10-089 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 17, CHAPTER 2 TO REAFFIRM AND CLARIFY THE EXISTING LAW, was presented to the National Council acting as a Council as a Whole and was approved in Emergency Session on May 4, 2010, National Council by a vote of 13 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 10-089 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 10-089

CLASSIFICATION: #17. Economic Development

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 17, CHAPTER 2 TO REAFFIRM AND 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. For independent business agencies, part of preserving tribal control and sovereignty is insulating business decisions from tribal governmental decisions and tribal politics.

B. The Muscogee (Creek) Nation has designated the Tribal Trade & Commerce Authority as an independent agency of the Nation.

C. To properly perform the functions of the Authority, the Tribal Trade & Commerce Authority Board must have the capacity and ability to exercise independent judgment unfettered by outside political influence or interference.

D. The Trade & Commerce Authority is governed under Muscogee (Creek) Nation Code Ann. Title 17 and any other laws of the Nation applicable, including Title 31 known as the "Officer Removal Act of 1989."

SECTION ONE. CODIFICATION. This amendment shall be codified in Title 17, Chapter 2 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 TWO. AMENDMENT. MCNCA Title 17, §§2-102 and 2-103 are hereby amended to read as follows:

§2-102. Definitions

Wherever used in this chapter, the terms set forth below shall have the following meanings:

A. "Authority" shall mean ~~the~~ an independent agency of the Muscogee (Creek) Nation created under Title 17, §2-103, pursuant to the powers vested in the National Council in Article VI, Section 7, of the Constitution of the Muscogee Nation.

B. "Board" shall mean the Board of Trustees under Title 17, §2-107.

§2-103. Creation and name of Authority

There is hereby created a tribal trade and commerce authority, an independent agency of the Muscogee (Creek) Nation, with the purposes and authorities set forth in Title 17, §2-106. The name of the authority created hereunder shall be, and is, "Muscogee (Creek) Nation Tribal Trade and Commerce Authority."

SECTION THREE. AMENDMENT. MCNCA Title 17, §2-107 is hereby amended to read as follows:

§ 2-107. Board of Trustees and Officers

A. The Authority shall be governed by a five-member Board of Trustees consisting of:

1. **Membership and Appointment.** Two members shall be appointed by the Principal Chief and confirmed by the National Council by Tribal Resolution. Three members shall be nominated by the Business & Governmental Committee of the National Council and confirmed by the National Council by Tribal Resolution.
2. **Qualifications.** Candidates for appointment must have reputation of good character and honesty and shall have demonstrated experience, education, skill or training in business or economic development, with at least two members having experience, education or skill in accounting and/or finance. Candidates must be enrolled Muscogee (Creek) Citizens.
3. **Term.** All appointees shall serve a term of two years, commencing on the date of confirmation and shall holdover in office until a new appointee is confirmed.

4. **Ex-Officio Member.** There shall be an ex-officio member on the Tribal Trade & Commerce Authority Board who shall be a member of the Business & Governmental Committee of the National Council and selected by said Committee. The ex-officio member shall have no voting rights nor be counted for the purpose of establishing a quorum. The ex-officio shall act only as a liaison between the Muscogee (Creek) Nation Tribal Trade and Commerce Authority Board of Trustees and the National Council.
5. **Compensation.** The Board of Trustees, with the exception of the ex-officio member, shall receive a stipend of \$150.00 for each meeting of the Board that he or she attends plus telephone and mileage reimbursement.
6. **Officers, Meetings and Minutes.** The Tribal Trade and Commerce Authority shall provide for the election of its officers to affect the discharge of its responsibilities, in addition, it shall adopt a schedule of meetings, attendance requirements and methods of recording minutes of all Tribal Trade and Commerce Authority Affairs.


B. Removal. The members of the Board of Trustees of the Trade and Commerce Authority shall not be subject to removal from office at the will and pleasure of the Principal Chief or National Council, but may be removed from the Board 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.

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

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 **4th** day of **May 2010**.

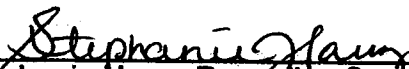
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



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 **Eighteen** 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 **13** 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 10-089** 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

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(HWY 75, Loop 56)

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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 10-089 herewith:

A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-089 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 10-089, entitled "**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 17, CHAPTER 2 TO REAFFIRM AND CLARIFY THE EXISTING LAW**" as a **VETO** with the following objections:

OBJECTION ONE: The proposed NCA 10-089 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 10-089 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 10-089 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 to remove members of the Board of Trustees of the Trade and Commerce Authority could create situations in which such members 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 10-089 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 10-089 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 10-089 are unnecessary and are not in the best interests of the Muscogee (Creek) Nation.

For the reason outlined above, NCA 10-089 is hereby returned as a VETO.

Sincerely,



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

DATED: May 14, 2010

ADE/ldy