



RECONSIDERATION OF NCA 10-045

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-045" is a true extract from the March 27, 2010, Regular Session Journal of the Muscogee (Creek) National Council.

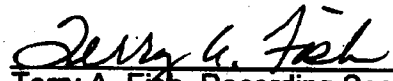
AND THAT, NCA 10-045 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 17, § 6-107, ENTITLED "Board of Directors and Officers", was presented to the National Council acting as a Council as a Whole and was approved in Regular Session on March 27, 2010, National Council by a vote of 22 in favor, 0 against, 0 abstention.

AND THAT, Said legislation was returned as a Veto with objections by the Principal Chief on April 9, 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 April 24, 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-Four present with a vote of 24 in favor, 0 against, 0 abstention;


THEREFORE, BE IT KNOWN, under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-045 is hereby recorded as a "VETO OVER-RIDE" on this 26th day of April, 2010.



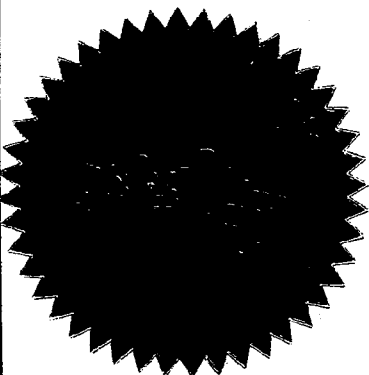
Terry A. Fish, Recording Secretary
National Council
Muscogee (Creek) Nation

CERTIFICATION OF APPROVAL

IN WITNESS WHEREOF, I, the Presiding Officer of the Muscogee (Creek) National Council have hereto attached my signature this 26th day of March 2010.



Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation



VETO OVERRIDE



NCA 10-045

CLASSIFICATION: #17. ECONOMIC DEVELOPMENT

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 17, § 6-107, ENTITLED "Board of Directors and Officers"

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

SECTION ONE. FINDINGS. The National Council finds:

A. Per MCNCA Title 17, § 6-106, the purpose of the Muscogee Nation Business Enterprise ("Business Enterprise") is to "investigate, evaluate, carry on and maintain various tribal business enterprises, ventures and/or economic development projects."

B. The Business Enterprise is governed by the Board of Directors ("Board"), which consists of three members.

C. There is a need for an ex-officio member to serve as a liaison between the Board and the National Council to promote communication and awareness of the issues involving tribal business enterprises and economic development that benefit the Muscogee (Creek) Nation and its citizens.

SECTION TWO. AMENDMENT. This amendment shall be codified in Title 17, Chapter 6, 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 17, § 6-107, is hereby amended to read as follows:

A. The Business Enterprise shall be governed by a three member Board of Directors consisting of:

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1. Duly elected Second Chief who shall be Chairman.
2. The best qualified candidate who shall be appointed by the Principal Chief and confirmed by the National Council by Tribal Resolution, and who shall have a reputation of good character and honesty and shall have demonstrated experience, education, skill or training in business or economic development and who shall serve as the Vice-Chairman of the Board during his or her term of office. ~~The confirmed nominee shall serve a term of office of two years, commencing on the date of confirmation by tribal resolution, and shall receive a stipend of \$75.00 for each meeting of the Board that he or she attends. Indian preference shall be given.~~
3. The best qualified candidate who shall be appointed by the Business and Governmental Committee of the National Council and confirmed by the National Council by Tribal Resolution, and who shall have a reputation of good character and honesty and shall have demonstrated experience, education, skill or training in business or economic development and who, if confirmed, shall serve as the Secretary/Treasurer of the Board during his or her term of office. ~~The confirmed nominee shall serve a term of office of two years, commencing on the date of confirmation by tribal resolution, and shall receive a stipend of \$75.00 for each meeting of the Board that he or she attends. Indian preference shall be given.~~

B. 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.

C. Ex-Officio Member. There shall be an ex-officio member on the Muscogee Nation Business Enterprise Board of Directors 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 Nation Business Enterprise Board of Directors and the National Council.


D. Compensation. The Board of Directors, with the exception of the ex-officio member and Second Chief, shall receive a stipend of \$150.00 for each meeting of the Board that he or she attends, plus telephone and mileage reimbursement.

~~When a new director has not been confirmed or an incumbent director reconfirmed, pursuant to paragraph 2 or 3 of subsection A of this section prior to the expiration of the term of office of the previous director appointed and confirmed to that same office, the previous director shall hold over in office until a new appointee is confirmed pursuant to paragraph 2 or 3 of this subsection A of this section.~~

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ENACTED by the Muscogee (Creek) National Council on this 27th day of March 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 27th day of March 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 10-045 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



RECEIVED

APR 09 2010

National Council Office

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

April 9, 2010

Muscogee (Creek) National Council
Honorable Speaker Barnett

Dear Speaker Barnett:

I am returning NCA 10-045 herewith:

**A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-045 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 10-045, entitled "**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 17, § 6-107, ENTITLED 'Board of Directors' and Officers**" as a VETO with the following objection:

OBJECTION ONE: The proposed NCA 10-045 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 10-045 violates the principle of separation of powers, since it attempts to improperly inject the opinions and influence of National Council into the Muscogee Nation Business Enterprise (the "MNBE"), an independent entity established under the laws of the Muscogee (Creek) Nation to promote tribal business development. The National Council has, additionally, improperly injected its opinions and influence into the functioning of the MNBE.

OBJECTION TWO: The provisions of NCA 10-045 are vague, unwieldy and improperly prevent the MNBE and 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 ex-officio member appointed by the National Council could chill or improperly influence debate within the MNBE, which should remain an independent entity.

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 10-045 exceed the boundaries of legitimate legislation by unnecessarily adding an ex-officio member to the MNBE to influence the day-to-day business of the MNBE, thereby going beyond normal advise and consent, as envisioned by the Constitution of the Muscogee (Creek) Nation. NCA 10-045 is the latest example the National Council's ongoing attempts to usurp the legitimate authority of the Muscogee (Creek) Nation Executive Branch, as well as the independent entities of the Muscogee (Creek) Nation, 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 10-045 are unnecessary and are not in the best interests of the Muscogee (Creek) Nation.

OBJECTION FIVE: The Principal Chief believes that the amendments contained in NCA 10-045 are not necessary in that the MNBE, as an independent entity of the Muscogee (Creek) Nation, may maintain its own formal and informal liaisons with the National Council, without such liaisons being improperly imposed upon the MNBE by the National Council. Further, the three members of the MNBE Board of Directors, as currently constituted, serve as sufficient liaisons to the National Council.

For the reasons outlined above, NCA 10-045 is hereby returned as a VETO.

Sincerely,



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

DATED: April 9, 2010

ADE/vb