



### RECONSIDERATION OF NCA 10-200

I, the undersigned, certify that the foregoing "Reconsideration of NCA 10-200" is a true extract from the December 18, 2010, Regular Session Journal of the Muscogee (Creek) National Council.

**AND THAT,** NCA 10-200 entitled, A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 22, CHAPTER 4, AND MCNCA TITLE 16, CHAPTER 1, CREATING THE MUSCOGEE (CREEK) NATION OFFICE OF HEALTH WITHIN THE EXECUTIVE BRANCH OF THE NATION 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 22 in favor, 2 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 20 in favor, 4 against;

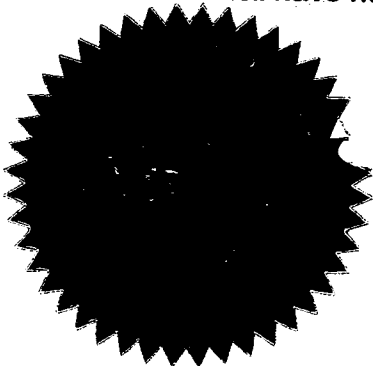
**THEREFORE, BE IT KNOWN,** under Article VI., Section 6. (a) of the Muscogee (Creek) Nation Constitution, NCA 10-200 is hereby recorded as a "VETO OVER-RIDE" on this 11<sup>th</sup> day of January 2011.

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 10-200

**CLASSIFICATION: #22. HEALTH AND SAFETY**

**A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 22, CHAPTER 4, AND MCNCA TITLE 16, CHAPTER 1, CREATING THE MUSCOGEE (CREEK) NATION OFFICE OF HEALTH WITHIN THE EXECUTIVE BRANCH OF THE NATION**

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

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

- A. The Muscogee (Creek) Nation Division of Health is a large complex operation with approximately 670 employees and is unique with separate specialized needs from the day to day operations of tribal government.
- B. A goal of the Muscogee (Creek) Nation is to provide the quantity and quality of health services which will permit the health status of the Muscogee (Creek) citizens to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.
- C. Despite such services, the unmet health needs of the Muscogee (Creek) people are severe and the health status of Indians is far below that of the general population of the United States.
- D. To ensure the goals of Indian Health Services for Muscogee (Creek) citizens, the Muscogee (Creek) Nation Division of Health requires administrative independence to budget, staff, and control all facets of the delicate process of health care delivery.
- E. The implementation of the Muscogee (Creek) Nation Division of Health is carried out through highly trained medical experts; as such, it is necessary for the Health Systems Administrators to have the flexibility to offer competitive salaries and benefits to capture highly trained professionals for all Muscogee (Creek) Health facilities.

F. This legislation will amend the "Division of Health" to the "Office of Health" and will allow the Muscogee (Creek) Nation Office of Health to administer their own finances and control their own personnel needs and will benefit the overall health and welfare of the Nation, by allowing the Office of Health to compete and function in the highly complex health industry.

**SECTION TWO. AMENDMENT. MCNCA Title 22, Chapter 4, is hereby amended to read as follows:**

**§4-101. Purpose**

The purpose of this Chapter is to establish the framework for the planning, organization, policy, administration, management and operation of the Muscogee (Creek) Nation Division Office of Health.

**§4-102. Definitions**

A. **"CFO" means the Chief Financial Officer of the Muscogee (Creek) Nation Office of Health.**

B. "CMO" means the Chief Medical Officer of the Muscogee (Creek) Nation Division Office of Health.

C. "Controller" means the Muscogee (Creek) Nation Controller.

D. **"Health Executive Director" means the Health Executive Director of the Muscogee (Creek) Nation Division Office of Health.**

E. ~~"Division of Health" means the Muscogee (Creek) Nation Division of Health.~~ "Health Administrator" means the administrator **at each** of the Division Office of Health hospitals, clinics and other facilities that provide health care.

F. "Nation" means the Muscogee (Creek) Nation.

G. "Personnel" means all employees including HS contractual employees ~~contractors, except Muscogee (Creek) Nation Okemah Community Hospital Board members.~~

**§4-103. Muscogee (Creek) Nation Division Office of Health**

The Muscogee (Creek) Nation Division Office of Health shall be an division Office within the Executive Branch of the Muscogee (Creek) Nation in accordance with Title 16, § 1-102 of the Muscogee (Creek) Nation Code Annotated established to provide

inpatient, outpatient and emergency health care, rehabilitative services, and other health-related services within the boundaries of the Nation to citizens of the Nation and other health consumers. The Division Office of Health shall consist of a comprehensive health care delivery system, including hospitals, clinics, community health representatives program, food nutrition and other special health projects, programs and associated activities.

**§4-104. Division Office of Health Executive Director**

The Division Office of Health shall be administered by the Health Executive Director, who shall supervise, direct and monitor the day-to-day work and activities of the Division Office of Health consistent with the duties and authorities of the Health Executive Director established by this Act. The Health Executive Director shall be appointed by the Principal Chief and confirmed by the National Council by duly enacted Tribal Resolution. The term of the Health Executive Director shall run with the term of the Principal Chief and there shall be no holdover.

**§4-105. Controller Chief Financial Officer**

The Controller Chief Financial Officer shall be responsible for the fiscal affairs of the Division Office of Health, including but not limited to preparation of the budget, negotiation of an Indirect Cost Rate for the Office of Health, management of budgeted funds and investment funds, accounting, cost reporting, payroll and managing accounts receivable and accounts payable subject to Generally Accepted Accounting Principles, the Governmental Accounting Standards Board rules and regulations and consistent with the Chief Financial Officer's Controller's fiduciary responsibility to the Muscogee (Creek) Nation.

**§4-106. Planning and Organization**

The Health Executive Director shall develop an organizational structure identifying the purposes of each unit within the Division Office of Health for the comprehensive service system for the delivery of health care services to meet the health care needs of its consumers, shall provide the organizational plan to the Principal Chief for review and approval and periodically review said organizational plan as needed. The Health Executive Director shall be responsible for guiding, directing and managing all approved organizational changes within the Division Office of Health, ensuring that the organizational changes are consistent with the Division Office of Health mission, and ensuring consistency between the organizational plan and Division Office of Health policies and procedures.

**§4-107. Administration of the Division Office of Health**

A. Policies and Procedures. The Division Office of Health shall adhere to the policies and procedures of the Office of Health. In addition, the Health Executive Director shall prepare necessary administrative policies and procedures for the effective operation of health programs and services and for compliance with contractual and regulatory requirements, including policies and procedures involving organization, financial management, contract health services, facilities management, planning, information resources management, records management, emergency preparedness, medical billing, communications, patient registration and any other areas related to the operation of the Division Office of Health. All such policies and procedures shall be subject to approval by the Principal Chief and shall be distributed to the National Council. The Health Executive Director shall conduct a periodic review of the policies and procedures. All policies and procedures of the Division Office of Health existing as of the effective date of this Act shall remain in full force and effect until such time as such policies and procedures are amended or replaced in accordance with this Act; provided that the provisions of this Act shall be controlling over any inconsistent policies and procedures of the Division Office of Health.

B. Signatory Authority. The Health Executive Director shall have the authority to approve contracts dealing with the day-to-day operations of the Division Office of Health and shall have the authority to approve contracts for goods and services of the Division Office of Health with the exception of contracts containing a waiver of sovereign immunity. In addition, However only the Principal Chief shall have the authority to execute contract(s) relating to construction, renovation, property purchases and contract(s) wherein a limited waiver of the Nation's sovereign immunity is contained in said document; provided further that said waiver has been specifically approved by the National Council by duly enacted Tribal Resolution.

C. Personnel.

1. Hiring and Termination. The Health Executive Director shall determine the personnel needs of the Office of Health and shall be responsible for the hiring and termination of Division the Office of Health personnel in accordance with personnel policies and procedures of the Office of Health Nation, including ~~the hiring of Health Administrator(s);~~ provided that all employment contracts shall be subject to review by the Attorney General and be executed by the Principal Chief.
2. Hospital Privileges. The CMO Internal Governance Board shall be responsible for the granting of hospital privileges. ~~The Director shall determine the personnel needs of the Division of Health. All Health employees shall become Muscogee (Creek) Nation employees no later than October 1, 2009.~~

- 3.** **Benefits.** Health employees' benefits, including accrued annual leave, accrued sick leave, insurance and retirement benefits shall remain intact and consistent with the Nation's. ~~Provided that the Controller is not authorized to expend or obligate funds related to transfer of employee benefits unless such funds were expressly appropriated or obligated for such purposes as of October 1, 2009.~~
- 4.** **Supervision.** The **Health Executive** Director shall report directly to the ~~Executive Director~~ **Principal Chief**. The **Health Executive** Director shall maintain supervision over all personnel in accordance with the chain of command established by the organizational structure approved by the Principal Chief.

**D. Finances and Reporting.**

- 1.** Internal audits, accounting and reporting, payroll, accounting and reporting disbursements, cost management and investments, and establishing and maintaining bank accounts shall be administrated through the Office of Health and shall be consistent with the policies of the Executive Branch. Funding agency reporting, budgeting and monitoring shall be coordinated with the Controller to ensure that all requirements are met.
- 2.** The Health Executive Director or Designee shall provide financial reports to the Controller and the Principal Chief on a monthly basis. The Chief Financial Officer shall ensure that all expended funds coordinate with the Budget approved through the Comprehensive Annual Budget.

**E. Transfer of Funds and Securities.** No later than ~~October 1, 2009,~~ **December 31, 2010**, the **Controller** ~~Health Systems~~ shall transfer all funds and securities held in the **Division of Health Systems** accounts, to one or more ~~Qualified~~ Accounts held **established** by the **Office of Health** Nation in accordance with the instructions of the Nation's Controller **and the CFO**. The ~~Health Systems~~ **Chief Financial Officer and the Controller** shall prepare, execute and deliver any and all documents, forms, account agreements or other instruments that may be required to complete the transfer.

**F. Other Actions Related to Transfer of the Office of Health Systems Functions.** The Principal Chief is authorized to execute leases and lease assignments of the **Office of Health Systems** office sites, equipment leases, equipment maintenance agreements and such other documents necessary for the transfer to the ~~Division~~ **Office**

of Health, including those containing waivers of sovereign immunity provided they were previously approved by way of Tribal Resolution.

**§4-108. Funding Compacts, Contracts, and Grants**

A. Federal Self-Government Contracts, Self-Governance Compact and Annual Funding Agreements. The Controller and the Health Executive Director shall provide technical assistance to the Principal Chief in the Principal Chief's negotiations with federal government representatives for all self-government contracts and modifications, self-governance compacts and modifications, and annual funding agreements, each of which shall be subject to approval of the National Council by Tribal Resolution.

B. Other Grant Funds. The Principal Chief may authorize the Health Executive Director to submit proposals to other Federal and non-Federal funding entities for the delivery of health service programs, including inpatient, outpatient and emergency care; provided that a standard form summarizing such proposal shall be provided to the Principal Chief within ten (10) days of submission to the potential funding source, for informational purposes only. No funds shall be sought, applied for or otherwise received which do not apply directly to carrying out the functions of the Division Office of Health. Upon award of a grant, the Health Executive Director is authorized to execute any necessary documents accepting said grant; however, the grant budget award must be appropriated by law before any grant funds are expended by the Division Office of Health. The Health Executive Director shall then have the authority to approve the expenditures of such grant funds received by the Muscogee (Creek) Nation for health care services in accordance with the approved grant award.

C. Other Contracts. The Health Executive Director shall procure any necessary consultant service contracts for the Division Office of Health in accordance with the Nation's procurement policies and subject to any applicable limitations of tribal law, provided that such contracts shall be reviewed by the Attorney General prior to execution. The Health Executive Director may procure, approve and execute on behalf of the Division Office of Health employment contracts, vendor contracts and other contracts required for office, clinic and hospital operations, subject to Division Office of Health policies and restrictions stated in this chapter. No proposed contract which waives sovereign immunity; which may be argued to include a waiver of sovereign immunity; which includes a choice of law provision or which includes an arbitration provision shall be valid unless approved by Tribal Resolution and executed by the Principal Chief.

**§4-109. Patient Care Standards; patient complaints; personal injury and wrongful death claims**

A. Compliance with Laws and Regulations. The Division Office of Health shall be operated in conformance with all applicable licensing requirements. All Division Office of Health personnel shall take all responsible steps to ensure conformance to all applicable tribal, federal, state and local laws and regulations, including but not limited to those relating to licenses, fire inspection and other safety measures.

B. Standard of Performance. The Office of Health personnel shall at all times endeavor to provide appropriate physical resources and personnel required to meet the health care needs of its consumers and to protect and enhance the Division Office of Health so that the health care needs of its consumers are met in accordance with the highest possible standard of performance.

C. Patient Quality Assurance Policies and Procedures. The CMO of the Division Office of Health and the medical staff shall assist the Health Executive Director in the preparation of patient quality assurance policies and procedures, including effective formal means for the medical staff to participate in the development of clinic and hospital policy relative to clinic management and patient care, procedures for the evaluation of the professional competence of medical staff members and applicants for staff privileges, recommendations to the Health Executive Director concerning initial medical staff appointments, reappointments and the assignment or curtailment of privileges and the establishment of controls that are designed to ensure the achievement and maintenance of high standards of professional ethical practices.

D. Patient Complaint Policies and Procedures; Patient Advocate Group. The CMO of the Division Office of Health and the medical staff shall assist the Health Executive Director in the preparation of policies and procedures for the receipt and handling of patient complaints. Said policies and procedures shall include the establishment of a patient advocate group responsible for advocating specific ways of improving the health services provided by the Division Office of Health.

**§4-110. Funding and agreements**

A. The Muscogee (Creek) Nation's Division Office of Health through the Health Executive Director is hereby authorized to seek, apply, negotiate, and execute documents for all funds available from all federal sources for funding of health related programs.

B. The Muscogee (Creek) Nation's Division Office of Health through the Health Executive Director is hereby authorized to submit, negotiate, and execute model agreements and annual funding agreements and related amendments as required.



C. The Muscogee (Creek) Nation's Division Office of Health through the Health Executive Director is hereby authorized to contract/compact under P.L. 93-638 as amended for all health services programs and functions funded by the Department of Health and Human Services.

D. All resources received from Notices of Award from all contracts/compacts and grants will be submitted to the National Council for the appropriation of funds as required by law.

~~E. The Muscogee (Creek) Nation's Division Office of Health of through the Director is hereby authorized to apply for the Tribal Self-Governance Demonstration Program Planning and Negotiation Cooperative Agreements grant from Indian Health Service and to continue the process to negotiate and enter into a Self-Governance Compact with Indian Health Service.~~

**§4-111. Institutional Review Board.**

A. Authority. There is hereby created an Institutional Review Board ("IRB") whose sole purpose is to provide the necessary review process and approvals of research conducted involving human subjects that are supported by a federal agency in accordance with and subject to the regulations contained in 45 C.F.R. Part 46. IRB authority may not exceed the regulatory authority required for an IRB in 45 C.F.R. Part 46.

B. Membership. The IRB shall consist of ~~five~~ seven members who shall be selected by the Health Executive Director and who shall serve for a time period to be determined by the Health Executive Director; provided a non-employee's term shall not exceed two years; and provided further an employee serving as a member of the IRB by virtue of his/her employment in a particular position shall serve during their tenure in that position and membership shall cease when his/her employment with the Division Office of Health ceases. A member of the IRB may serve more than one term. Notice regarding IRB members as contained in 45 C.F.R. §46.103(b) (4) shall be provided to the Principal Chief and the National Council. Members must meet the requirements contained in 45 C.F.R. Part 46, including but not limited to possessing the requisite experience, expertise and diversity to make an informed decision on whether the research is ethical, informed and that consent is sufficient and appropriate safeguards are in place.

Members may be employees of the Division Office of Health; provided there is no conflict with their job duties and provided further that meetings attended will be classified as time worked. Non-employee members may receive mileage reimbursement for their participation in meetings but shall not receive a stipend.

C. Policies. In addition to the regulations contained in 45 C.F.R. Part 46, the IRB shall establish policies as required by 45 C.F.R. Part 46 and may establish by policy meeting protocol including time and location of meetings.

**§4-112. Internal Governance Authority Board**

**There is hereby established an Internal Governing Authority Board, whose function is credentialing members of the medical staff, granting hospital privileges and ensuring the Muscogee (Creek) Nation Office of Health is in compliance with State and Federal regulations. The Internal Governing Authority Board shall consist of the Health Executive Director, the Chief Medical Officer, the Chief Operations Officer, Chief Nurse Executive, Chief Performance Officer, Chief Information Officer, a member of the Medical Staff, a Health Administrator, and a Program Manager. The member of the Medical Staff, Health Administrator, and Program Manager for the Board shall be selected by the other members of the Internal Governance Authority Board.**

~~Muscogee (Creek) Nation Okemah Community Hospital Board of Directors. There is hereby established a five (5) member Okemah Community Hospital Board of Directors, whose function is to serve as the governing body of the Okemah Community Hospital and to ensure that the Okemah Community Hospital is complying with State and Federal regulations. The Board shall consist of the Director, the CMO and three (3) citizens appointed by the Principal Chief and confirmed by the National Council by duly adopted Tribal Resolution. Each appointed Board Member shall serve a three (3) year term with no holdover. Each appointed Board Member shall receive a One Hundred Dollar (\$100.00) a month stipend for his/her services, plus mileage reimbursements in accordance with the mileage policy of the Nation.~~

**§4-113. Annual Audit.**

**A. Annual Independent Audit. All funds subject to the direction and control of the Office of Health shall be included in the Muscogee (Creek) annual audit in accordance with Title 37.**

**B. The Office of Health shall maintain an internal auditing system of operations to ensure that all financial affairs will pass yearly audits.**

**SECTION TWO. AMENDMENT. MCNCA Title 31, §3-101, is hereby amended to read as follows:**

**§3-101. Compensation for certain officers or employees of the Muscogee (Creek) Nation**

With the exception of Doctors, Dentists, Lawyers, Professional Engineers, Pharmacists, Nurse Practitioners, Physician Assistants, the Health Executive Director of the Division Office of Health, Nurses, Chief Operating Officer, Chief Financial Officer, Chief Information Officer, and Chief Performance Officer of the Office of Health, the General Manager of the Muscogee Nation Business Enterprise, the General Manager of the Tribal Trade and Commerce Authority and the Controller employed within the Muscogee (Creek) Nation, no other person who receives compensation with funds owned by or under the jurisdiction of the Muscogee (Creek) Nation shall be compensated in an amount which exceeds compensation established by ordinance for the Principal Chief of the Muscogee (Creek) Nation.

**SECTION THREE. AMENDMENT.** MCNCA Title 37, §2-717. F., (The Controller Act) is hereby amended to read as follows:


F. The provisions of this section shall not apply to funds or accounts which, pursuant to the provisions of duly enacted laws of the National Council, are placed under the independent control of the Office of Health and Independent boards of and authorities of the Muscogee (Creek) Nation.

**SECTION FOUR.** MCNCA Title 16, Chapter 1 shall be amended by separate legislation to reflect the provisions of this law and to include the "Office of Health" in the Reorganization Chart.

**SECTION FIVE. EFFECTIVE DATE, EXECUTIVE DIRECTOR APPOINTMENT.** This Act shall become effective on December 31, 2010. The current Division of Health Director is hereby confirmed as the Health Executive Director for the Office of Health under his current term of Director with no holdover.

**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 **22** in favor, **2** 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.



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 10-200** 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)

Ocmulgee, OK 74447

918.732.7600

January 6, 2011

Muscogee (Creek) National Council  
Honorable Speaker Barnett

Dear Speaker Barnett:

I am returning NCA 10-200 herewith:

### **A MESSAGE OF THE PRINCIPAL CHIEF RETURNING NCA 10-200 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 10-200, entitled **"A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 22, CHAPTER 4, AND MCNCA TITLE 16, CHAPTER 1, CREATING THE MUSCOGEE (CREEK) NATION OFFICE OF HEALTH WITHIN THE EXECUTIVE BRANCH OF THE NATION"** as a VETO with the following objections:

**OBJECTION ONE:** The proposed NCA 10-200 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 10-200 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 particular the Division of Health within the Executive Branch. In addition, NCA 10-200 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. By way of illustration, and not by way of limitation, the proposed NCA 10-200 purports to delete current Title 22, § 4-110.E., which allows the Office of Health to enter into agreements and programs related to tribal self-governance. Additionally, under proposed Title 22, § 4-105, the responsibilities of the Controller are transferred to a new position, the Chief Financial Officer.

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**OBJECTION TWO:** The proposed NCA 10-200 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." Although changes to the Division of Health were discussed with the Principal Chief, the provisions of NCA 10-200 greatly differ and go far beyond the changes envisioned by the Principal Chief. Thus, the proposed NCA 10-200 has been passed unilaterally by the National Council, without meaningful collaboration or consultation of any sort with the Principal Chief. As such, proposed NCA 10-200 is an unconstitutional infringement on the powers of the Principal Chief and the Executive Branch, by the National Council.

**OBJECTION THREE:** The provisions of NCA 10-200 are vague, unwieldy and improperly prevent the Executive Branch from acting in the best interests of the citizens of the Muscogee (Creek) Nation. The Principal Chief believes that the amendments contained in NCA 10-200 are unnecessary and are not in the best interests of the Muscogee (Creek) Nation. In general, they represent an unwarranted and unwise intrusion of the National Council into the workings of the Executive Branch.

**OBJECTION FOUR:** 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 advice and consent. By way of illustration and not by way of limitation, the provisions of NCA 10-200 exceed the boundaries of legitimate legislation by unnecessarily extending the normal advice and consent, as envisioned by the Constitution of the Muscogee (Creek) Nation to Executive Branch officers tied to the office of Principal Chief. NCA 10-200 is the latest example of the National Council's ongoing attempts to usurp 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 FIVE:** The Principal Chief believes that the amendments contained in NCA 10-200 are not necessary in that the current statutes of the Muscogee (Creek) Nation are sufficient for the proper functioning of the Division of Health and therefore do not require any further amendments. Further to the extent any amendments are warranted, they must be initiated by the Principal Chief pursuant to Article V, Section 2 of the Constitution of the Muscogee (Creek) Nation.

**OBJECTION SIX:** There are insufficient funds in the Tribal Treasury to fund the added positions and costs to the tribal government which will result from any implementation of proposed NCA 10-200. NCA 10-200 recklessly expands the tribal bureaucracy by adding new positions such as Chief Financial Officer of the Muscogee (Creek) Nation Office of Health in Title 22, § 4-105, adding two new members to the Institutional Review Board in Title 22, § 4-111, and creating a nine-person Internal Governance Authority Board under Title 22, § 4-112. Further, proposed Title 31, §3-101 adds five new officers or classes of personnel to the list of those positions which are allowed higher levels of compensation under NCA 10-200. Therefore, in light of the foregoing

increases in tribal spending, it is fiscally irresponsible for the Principal Chief to sign this legislation in view of the limits to the funding available in the Treasury.

**OBJECTION SEVEN:** 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. Therefore the Principal Chief is compelled to veto NCA 10-200 as a matter of general fiscal responsibility in order to protect the Tribal Treasury for the benefit of all of the citizens of the Muscogee (Creek) Nation.

For the reasons outlined above, NCA 10-200 is hereby returned as a **VETO**.

Sincerely,



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

**DATED: January 6, 2011**

ADE/ldy