KIOWA TRIBE

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OFFICE OF THE LEGISLATURE

Resolution Number: KL-CY-2024-008

MINIMUM COMMISSION STANDARDS ACT

At a duly called Legislative Special Session III-(3) of the Legislature of the Kiowa Tribe held this 21st day of June, 2024, the following resolution, was adopted.

WHEREAS, the Kiowa Tribe is a federally recognized Indian Tribe with a Constitution approved by the Secretary of the Interior; and,

WHEREAS, the Legislature, is vested with the authority to pass laws and resolutions pursuant to Article VI, Section 6 (a) of the Constitution of the Kiowa Tribe; and,

WHEREAS, the Legislature, is authorized under the Kiowa Constitution and is empowered to promulgate and enforce codes and laws, to protect Kiowa Tribal Citizens; and,

WHEREAS, this Code shall be known as the "Minimum Commission Standards Act"; and,

WHEREAS, this Code is enacted to provide general gap-fill provisions governing Commissions created by the Kiowa Legislature. Nothing herein shall restrict the Kiowa Legislature's authority to enact procedures and provisions unique to specific Commissions.

NOW, THEREFORE BE IT RESOLVED, the Kiowa Tribe Legislature, having been delegated certain authorities under the Kiowa Constitution, the governing body of the Kiowa Tribe, does hereby enact "Minimum Commission Standards Act".

CERTIFICATION

The foregoing Resolution KL-CY-2024-008 was duly voted upon by the Legislature on June 21, 2024, at a Legislative Special Session III-(3), with a vote of (5) in favor and (0) opposed, (0) abstaining, and (2) absent, according to the authority vested in the Legislature by the Constitution of the Kiowa Tribe.

Anita Johnson
Secretary of the Legislature

23, 2024, Read into record by: Warren Queton, District #7 Legislator, on Legislative Regular Session LXXXII-(82). 4. . Legislative Regular Session LXXXIII-(83), March 09, 2024. Legislative Public Hearing IV-(4), April 11, 2024. Regular Session LXXXIV-(84), April 13, 2024. Legislative Regular Session LXXXV-(85), May 11, 2024. Legislative Session LXXXVI-(86), June 08, 2024. Legislative Public Hearing V-(5), June 20, 2024. Legislative Special Session III-(3), June 21, 2024.
Hàu – Yes; Hàu:né – No; Háun á – Abstain; Héñgyádàu - Absent

LEGISLATIVE RESOLUTION – KL-CY-2024-008

Sponsors: Warren Queton, District 7.
Co-Sponsors: Ben Wolf, District 6

LEGISLATORS	YES Hàu	NO Hàu:né	ABSTAIN Háun á	ABSENT Héñgyádàu
Kyle Ataddlety District #1	X			
Michael Primus District #2	X			
Timothy Satepauhoodle District #3				X Out of district
Alana Quetone District #4				X
Anita Johnson District #5	X			
Ben Wolf District #6	X			
Warren Queton District #7	X			

DELIVERY OF THE RESOLUTION AND LAW TO THE CHAIRMAN

Resolution No. KL-CY-2024-008 was presented to the Chairman of the Kiowa Tribe on the 25th day of June, 2024, pursuant to the Article VI, Section 8(a)(iv) of the Constitution of the Kiowa Tribe, and will become effective after signature by the Chairman or veto override by the Legislature, and as otherwise required by the Constitution.

Anita Johnson
Secretary of the Legislature

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Hàu – Yes; Hàu:né – No; Háun á – Abstain; Héñgyádàu - Absent

CHAIRMAN'S ACTION:

[✓] APPROVED

[ ] VETO - RETURNED TO LEGISLATURE WITH EXPLANATION:

_____

_____

_____

_____

On this 25th day of June, 2024.

Lawrence Spottedbird
Chairman of the Kiowa Tribe

Presented by the Chairman to the Legislature on the ____ day of _____, 2024.

LEGISLATURE'S ACTION:

Override of Chairman's veto:

[ ] YES

[ ] NO

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Hàu – Yes; Hàu:né – No; Háun á – Abstain; Héñgyádàu - Absent

LEGISLATIVE OVERRIDE ORDER: KLO-CY-2024-0XX

LEGISLATORS	YES	NO	ABSTAIN	ABSENT
Kyle Ataddlety District #1				
Michael Primus District #2				
Timothy Satepauhoodle District #3				
Alana Quetone District #4				
Anita Johnson District #5				
Ben Wolf District #6				
Warren Queton District #7				

CERTIFICATION

The foregoing Legislative Order, KL-CY-2024-00X was duly voted upon by the Legislature on _____, 2024, at a Legislative Override Order Session with a vote of _____ in favor and _____ opposed, and _____ abstaining, _____Absent. Pursuant to the authority vested in the Legislature by the Constitution of the Kiowa Tribe.

_____
Anita Johnson
Secretary of the Legislature

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Hàu – Yes; Hàu:né – No; Háun á – Abstain; Héñgyádàu - Absent

Section 1.1 Short Title

This enactment shall be known as the "Minimum Commission Standards Act."

Section 1.2 Purpose

This Code is enacted to provide general gap-fill provisions governing Commissions created by the Kiowa Legislature. Nothing herein shall restrict the Kiowa Legislature's authority to enact procedures and provisions unique to specific Commissions.

Section 1.3 Interpretation

The provisions of this Code shall be interpreted to be in accordance with tribal customary law. Whenever there is uncertainty or a question as to the interpretation of certain provisions of this Code, tribal law and custom shall be controlling, and where appropriate, may be based on the written or oral testimony of a qualified tribal elder, tribal historian, or tribal representative. If the traditions and customs of the Tribe are inconclusive in any matter, the Court shall construe it consistently with applicable textual tribal law. In the absence of applicable tribal customary law or textual tribal law, the Court shall construe it consistently with applicable federal law.

Section 1.4 Applicability.

The provisions of this Code apply only to the extent that they do not conflict with any other provision of law. To the extent that a provision of this Code conflicts with a Commission's Organic Act, the Organic Act takes precedence on that subject matter.

Section 1.5 Approval and Enactment

The Legislature hereby approves and enacts the "Minimum Commission Standards Act."

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Hàu – Yes; Hàu:né – No; Háun á – Abstain; Héñgyádàu - Absent

CHAPTER I
GENERAL PROVISIONS

Section 1. Title
This Code shall be known as the "Minimum Commission Standards Act."

Section 2. Authority
This Code is enacted pursuant to the inherent sovereign authority of the Kiowa Tribe and pursuant to the 2017 Constitution of the Kiowa Tribe, which empowers the Kiowa Legislature to "make laws and resolutions in accordance with the requirements of the Constitution" (Article VI, §6(a)); to "monitor the actions of the government, access the needs of the People, and make laws toward better government to address the needs of the People" (Article VI, § 1); and to "establish regulatory Commissions by law" (Article VI, § 6(h)).

Section 3. Purpose.
This Code is enacted to provide general gap-fill provisions governing Commissions created by the Kiowa Legislature. Nothing herein shall restrict the Kiowa Legislature's authority to enact procedures and provisions unique to specific Commissions.

Section 4. Effective Date
The provisions of this code shall be effective after ratification by the Kiowa Legislature, and upon the date signed by the Chairman of the Kiowa Tribe.

Section 5. Interpretation
The provisions of this Code shall be interpreted to be in accordance with tribal customary law. Whenever there is uncertainty or a question as to the interpretation of certain provisions of this Code, tribal law and custom shall be controlling, and where appropriate, may be based on the written or oral testimony of a qualified tribal elder, tribal historian, or tribal representative. If the traditions and customs of the Tribe are inconclusive in any matter, the Court shall construe it consistently with applicable textual tribal law. In the absence of applicable tribal customary law or textual tribal law, the Court may consult applicable federal law and state law if it may be helpful in establishing Kiowa law.

Section 6. Applicability.
The provisions of this Code apply only to the extent that they do not conflict with any other provision of law. To the extent that a provision of this Code conflicts with a Commission's Organic Act, the Organic Act takes precedence on that subject matter.

Section 7. Severability and Non-Liability
If any section, provision, or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.

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CHAPTER II
DEFINITIONS

Section 1. General Definitions
Any term not defined in this Section shall be given its ordinary meaning. The following terms, wherever used in this Code, shall be construed to apply as follows, except where the context indicates otherwise:

a. **"Commission"** means any governmental entity created by the Kiowa Legislature to conduct regulatory matters on behalf of the Kiowa Tribe, regardless of whether the entity is identified as a department, commission, agency, board, etc.

b. **"Organic Act"** means the Act of the Kiowa Legislature that created the subject Commission.

CHAPTER III
ORGANIZATION OF COMMISSIONS

Section 1. Size of Commissions.
Unless otherwise provided by law, each Commission shall be comprised of a minimum of three (3) and no more than five (5) Commissioners with a majority of Commissioners being a citizen of the Kiowa Tribe.

Section 2. Qualifications of Commissioners.
To be eligible to serve as a Commissioner, an individual:

a. must be eighteen (18) years of age;

b. need not be a citizen of the Kiowa Tribe;

c. shall not have an interest in any company or business that would be subject to regulation by the Commission; and

d. shall not be a member of the Kiowa Legislature or a Constitutional Officer of the Kiowa Tribe.

Section 3. Appointment of Commissioners.
Commissioners shall be appointed by the Chairman to serve in two (2) year terms. A Commissioner's term shall not begin until their appointment is confirmed by a majority vote of the Kiowa Legislature.

Section 4. Impeachment and Removal of Commissioners.

a. **Grounds for Removal.** Unless otherwise provided by law, a Commissioner may only be removed from their position on the following grounds:

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1. Malfeasance, misfeasance, or nonfeasance of office;

2. conviction by any court of any crime involving moral turpitude; or

3. any other grounds as established by Kiowa Law.

b. **Process.** If there is evidence of malfeasance in conduct of any Board or Commission the Legislature may issue an information request seeking information from that Board or Commission relating to the completion of its duties. If that information request is not responded to, the Legislature may authorize the Speaker, upon a majority vote, to seek a subpoena from the Trial Court for information, records or the attendance of persons to give testimony at a Legislative Hearing.

c. If information available to the Legislature warrants the Legislature, by majority vote may:

By Order, set out written proposed findings and set a Legislative Hearing date to consider evidence which may justify the censure, reprimand, removal or punishment of a Commissioner or Board Member. If the matter involves money, the legislature may recommend restitution. The Clerk of the Legislature shall notify each Commissioner or Board Member on who serves on any board or commission where such concerns exist, in writing by certified mail, return receipt requested of the Legislative Hearing date and the proposed findings. Such notice shall be mailed at least thirty (30) days prior to any hearing date. Any interested Board Member or Commissioner may respond, in writing, directed to the attention of the Speaker at the Legislature's official address, at least five (5) days before the hearing date. The hearing shall occur no more than ninety (90) days after passage of Order setting the hearing date. At the hearing, the Legislature shall allow any interested Board Member or Commissioner to make a statement, present documents, or provide argument themselves, or through any person licensed to practice before the Trial Court. The cost of legal representation may be borne by the Board or Commission in question, if there is adequate budget. After the presentation of evidence at the hearing, the Legislature may, if a majority concurs, issue an Order recommending to the Chairman the censure, reprimand, removal, or punishment of any Commissioner or Board Member. The Legislature may also recommend restitution if appropriate. Such Order shall not be self-executing, but instead the Chairman may decide to enforce the Order, or take other action as he sees fit.

c.

Section 5. Officers of Commissions.

a. **General.**

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1. Each Commission shall elect officers by majority vote a Chairman, Vice Chairman, and Secretary, to serve as Officers of the Commission.

2. Nothing in this section limits the ability of a Commission to establish additional Officers for the Commission.

3. No Commissioner may hold more than one Office in a Commission.

4. Each Officer's term shall expire on the first day of January of the year following their election.

5. Any Officer may resign at any time without resigning from their position as a Commissioner.

6. A Commissioner may be removed from their role as an Officer pursuant to a majority vote of the Commissioners.

7. Any Officer vacancy shall be replaced by majority vote of the Commission.

b. **Duties of Officers.**

1. **Annual Report.** The Officers of the Commission shall be responsible for providing an Annual Report of the Commission's activities to the Kiowa Legislature by the first day of January of each year covering the activities of the prior year. The report should explain the finances of the Commission, identify any current or future liabilities, and any other material required by Kiowa Law.

2. The Chairman shall:

A. preside over all meetings of the Commission;

B. decide the agenda of meetings of the Commission; and

C. prudently preserve and faithfully execute the powers and duties of the Commission.

3. The Vice-Chairman shall, in the absence of the Chairman, faithfully perform the powers and duties of the Chairman.

4. The Secretary shall:

A. serve as custodian and historian of the Commission's records, including the keeping of appropriate meeting minutes for meetings of the Commission;

B. keep the seal of the Commission and ensure that use of the seal is authorized by the Commission and affixed to all documents, advertisements, promotions, and signage on behalf of the Commission; and

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C. keep a current register of the mailing address, phone number, and electronic mail address of each Commissioner.

Section 6. Employees of Commissions. Commissions shall have the power and authority to employ such persons as may be necessary and proper for carrying out the purposes of the Commissions, subject to all applicable tribal employment laws and policies, and in accordance with the funds allocated to the Commission by the Kiowa Legislature.

CHAPTER IV
MEETINGS OF COMMISSIONS

Section 1. Quorum. At any meeting of the Commission, a majority of Commissioners shall constitute a quorum for the transaction of official business, and the act of a majority of Commissioners present at any meeting at which there is a quorum shall be an official act of the Commission.

Section 2. Regular Commission Meetings. Regular meetings of the Commission shall be held, at a minimum, quarterly to conduct official business of the Commission. Notice and agenda for a regular meeting shall be given at least forty-eight (48) hours in advance by posting on the Commission's webpage and providing a copy to the Kiowa Legislature.

Section 3. Emergency Meetings. Emergency meetings of a Commission may be called by the Chairman or at the request of a majority of the Commissioners. Emergency meetings may only be called to address time-sensitive matters, to prevent injuries to persons, or to prevent injuries to personal or real property, where time requirements for public notice would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss. Notice and agenda for an emergency meeting shall be given at least twenty-four (24) hours in advance by posting on the Commission's webpage and electronic mail to Commissioners at the addresses on file with the Secretary and providing a copy to the Kiowa Legislature.

Section 4. Meetings Open to Citizens.

a. All meetings of a Commission, regular and emergency, shall be held at specified times and places which are convenient to the citizens of the Kiowa Tribe, and shall be open to said citizens, except as hereinafter specified.

b. In all meetings of a Commission, the vote of each Commissioner shall be publicly cast and recorded.

Section 5. Executive Sessions.

a. A Commission may only enter into Executive Session for the following purposes:

1. discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any officer or employee of the Commission;

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2. discussing negotiations concerning employees and representatives of employee groups;

3. discussing the purchase or appraisal of real property;

4. confidential communications between a Commission and its attorney concerning a pending investigation, claim, or action if the Commission, with the advice of the attorney, determines that disclosure will seriously impair the ability of the Commission to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;

5. discussing any matter where disclosure of information would violate confidentiality requirements of tribal or federal law; or

6. discussion of matters of public safety or the security of Commission records.

b. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to Commissioners, the attorney for the Commission, and the immediate staff of the Commission. No landowner, real estate spokesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

c. To enter executive session, the Commission must strictly comply with the following procedures:

1. The proposed executive session is noted on the meeting agenda;

2. The executive session is authorized by a majority vote of a quorum of Commissioners present and the vote is a recorded vote; and

3. Any vote or action on any item of business considered in executive session shall be taken after the closing of executive session in the public meeting with vote of each member publicly cast and recorded.

CHAPTER V
FINANCES OF COMMISSIONS

Section 1. Salaries of Commissioners. The salaries and compensation of Commissioners, if any, shall be fixed by the Kiowa Legislature in the annual budget and shall be paid out in like manner as other salaries and compensation.

Section 2. Employees of Commission. The salaries and compensation of Commission employees shall be fixed by the Kiowa Legislature in the annual budget and shall be paid out in like manner as other salaries and compensation.

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Section 3. Authority to Contract. Commissions shall have the authority to enter into contracts and make guarantees in accordance with the funds allocated to the Commission by the Kiowa Legislature.

Section 4. Sovereign Immunity.

a. The Kiowa Tribe is a sovereign Indian Nation that is immune from suit. Nothing in this Act waives or impairs the Kiowa Tribe's immunity from suit. As an instrumentality of the Kiowa Tribe, Commissions also enjoy immunity from suit except as expressly provided in Kiowa Law.

b. Commissions shall not have the authority to waive or otherwise impair the sovereign immunity of the Kiowa Tribe. The sovereign immunity of the Kiowa Tribe may only be waived, or otherwise impaired, pursuant to the provisions of Article X of the Kiowa Constitution of 2017.

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