

# **April 2010 Regular Session of the Crow Tribal Legislature**

## **Legislative Resolution No. 10-09**

Co-introduced by the Personnel and Ethics Committees of the Crow Tribal Legislature

A Legislative Resolution Titled:

### **A Resolution of the Crow Tribal Legislature Establishing a Procedure for Confirming Nominations Made by the Executive Branch Chairman and Chief Tribal Court Judge**

Statement of Legislative Findings:

**WHEREAS**, the Crow Tribal Legislature ("Legislature") is a separate and distinct branch of government under the 2001 Constitution of the Crow Tribe; and

**WHEREAS**, the Legislature is vested with the authority to adopt resolutions, regulations and guidelines for the governance of the Crow Tribe of Indians, pursuant to Article V, Section 2(a) of the Constitution and Bylaws of the Crow Tribe of Indians; and

**WHEREAS**, the Legislature has the lawful authority to confirm Crow Tribal Executive Branch cabinet heads, the Appellate Judge of the Crow Court of Appeals, and members of certain Crow Tribal boards, commissions, offices, and Crow Tribal committees, not including advisory executive committees, which are nominated by the Crow Tribal Executive Branch Chairman or Chief Tribal Court Judge in accordance with applicable Crow Tribal law; and

**WHEREAS**, all Crow tribal laws which provide for legislative confirmation shall be attached as a reference to this Resolution as "Attachment A" and all Crow tribal officers, including cabinet heads, requiring legislative confirmation shall be attached to this Resolution as "Attachment B."

**WHEREAS**, there is a need for the Legislature to establish a written procedure through which nominations are confirmed and which shall upon enactment be considered a legislative rule.

### **THEREFORE, BE IT HEREBY RESOLVED BY THE CROW TRIBAL LEGISLATIVE BRANCH IN SESSION THAT:**

The following rules, listed herein as Rule One through Ten (1-10), shall govern the confirmation process of all nominations made by the Executive Branch Chairman or Chief Judge of the Crow Tribal Court in which the Legislature has the authority to confirm.

**Rule 1.** All nominations submitted to the Legislature shall be governed principally by the Crow tribal law establishing the board, commission, committee, position, or office. Where such Crow tribal law is silent or ambiguous on questions of confirmation procedure, and where Crow tribal statutory law otherwise does not apply, the Rules incorporated herein shall have full force and effect.

**Rule 2.** When Crow tribal law provides that a nominee represent an established district of the Crow Reservation, the nomination shall only be presented to the appropriate Legislative Committee when a two-thirds majority in concurrence is received in writing from the legislative district delegation which the nominee is intended to represent.

**Rule 3.** In the event no concurrence from a legislative district delegation is received under Rule 2, the legislative district delegation shall submit a recommendation to the Executive Branch Chairman or the Chief Judge of the Crow Tribal Court, as appropriate, with two (2) alternative nominees within seven (7) working days of the determination that no concurrence exists. If the Chairman does not respond to the two alternative nominees within seven (7) working days, the alternative nominees shall be considered denied.

**Rule 4.** Upon receiving a letter of nomination from the Executive Branch Chairman or Chief Judge of the Crow Tribal Court, the Chairperson of the appropriate Legislative Committee, as determined by the Secretary of the Legislature, shall schedule a confirmation hearing at the nearest possible date in order to interview and question the nominee and to receive any documentation requested from the nominee that is relevant to the decision of the Committee.

**Rule 5.** All confirmation hearings pursuant to Rule 4 shall be on the record and shall require the nominee to testify under oath, which shall be administered by the Committee Chairperson. Any misstatements or misrepresentations made by a nominee while under oath is perjury, and may subject the nominee to contempt of the Legislature and referral to the Legislative Branch Ethics Committee for further action.

**Rule 6.** All confirmation hearings pursuant to Rule 4 shall be conducted by the Chairperson or Chairperson pro tem of the appropriate Legislative Committee and shall be subject to Robert's Rules of Order and any applicable Legislative Rule.

**Rule 7.** Upon the conclusion of the confirmation hearing, the Legislative Committee shall excuse the nominee and conduct a deliberation in executive session. Upon the conclusion of the deliberation, the executive session shall end and a secret ballot vote will be scheduled to determine the Committee's action.



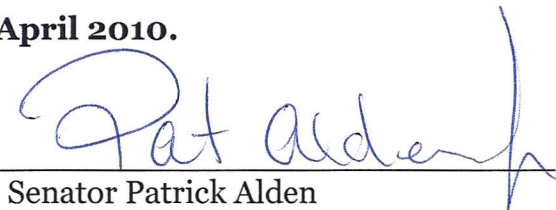
**Rule 8.** The Legislative Committee shall only make a determination of whether or not to recommend the confirmation to the full Legislature when at least five (5) members of the Committee are present and voting. A majority of voting members shall determine the Committee's action. A Legislative Committee may not recommend non-confirmation to the full Legislature. Any such action by a Legislative Committee under this Rule shall be communicated in writing to the Executive Branch Chairman or the Chief Judge of the Crow Tribal Court and the full Legislature.

**Rule 9.** Upon receiving a recommendation to confirm a nominee by the appropriate Legislative Committee, the full Legislature shall receive, at the nearest available session, the nomination for vote by the full body. All members of the Legislature shall be entitled to vote by secret ballot. The Secretary of the Legislature shall take official record of the decision by the full Legislature and communicate in writing the result to the nominee and the Executive Branch Chairman or the Chief Judge of the Crow Tribal Court.

**Rule 10.** Upon receiving on the record a majority vote of a quorum of the Legislature, the nominee shall be considered confirmed as an appointment and shall have his or her oath of office administered in accordance with established Crow tribal law or custom. Upon entering an oath of office, the appointee shall have the authority to exercise the duties contained in his or her office as a Crow tribal official.


### CERTIFICATION

I hereby certify that this **LR10 -09** was duly approved by the Crow Tribal Legislature with a vote of 15 in favor, 0 opposed, and 0 abstained and that a quorum was present on this 20<sup>th</sup> day of **April 2010**.



Senator Patrick Alden  
Speaker Pro Tem of the House  
Crow Tribal Legislature

Attest:



Senator Noel Two Leggins  
Secretary Pro Tem  
Crow Tribal Legislature



**A Legislative Resolution Entitled: A Resolution of the Crow Tribal Legislature Establishing a Procedure for Confirming Nominations Made by the Executive Branch Chairman and Chief Tribal Judge.**

**Bill or Resolution:** LR10-09 **Introduced by:** Personnel & Ethics Committee **Date of Vote:** April 20, 2010  
**Number**

<b><u>Representative:</u></b>	<b>Yes</b>	<b>No</b>	<b>Abstained</b>
H. Two Leggins	<u>  X  </u>	<u>          </u>	<u>          </u>
V. Pretty Paint	<u>  X  </u>	<u>          </u>	<u>          </u>
C. J. Stewart	<u>  X  </u>	<u>          </u>	<u>          </u>
K. Shane	<u>  X  </u>	<u>          </u>	<u>          </u>
S. Backbone	<u>  X  </u>	<u>          </u>	<u>          </u>
O. Half, Jr.	<u>  X  </u>	<u>          </u>	<u>          </u>
W. Plainfeather	<u>  X  </u>	<u>          </u>	<u>          </u>
R. Old Crow, Sr.	<u>  X  </u>	<u>          </u>	<u>          </u>
M. Not Afraid	<u>  X  </u>	<u>          </u>	<u>          </u>
V. Crooked Arm	<u>  X  </u>	<u>          </u>	<u>          </u>
L. DeCrane	<u>  X  </u>	<u>          </u>	<u>          </u>
C. Goes Ahead	<u>  X  </u>	<u>          </u>	<u>          </u>
B. Hugs	<u>  X  </u>	<u>          </u>	<u>          </u>
G. Real Bird, Jr.	<u>  X  </u>	<u>          </u>	<u>          </u>
M. Backbone	<u>          </u>	<u>          </u>	<u>          </u>
D. Wilson	<u>          </u>	<u>          </u>	<u>          </u>
P. Alden, Jr. <i>Secretary of the House</i>	<u>  X  </u>	<u>          </u>	<u>          </u>
M. Covers Up, Sr. <i>Speaker of the House</i>	<u>          </u>	<u>          </u>	<u>          </u>
<b>Totals:</b>	<u>  15  </u>	<u>    0    </u>	<u>    0    </u>

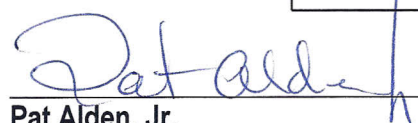
Result of Vote:

**Passed**

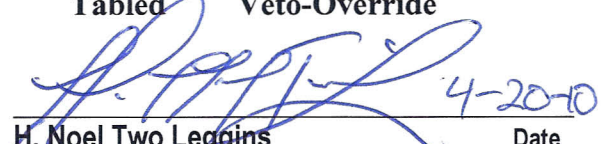
Not Passed

Tabled

Veto-Override

  
**Pat Alden, Jr.**  
**Speaker Pro-Tem**

4-20-10  
 Date

  
**H. Noel Two Leggins**  
**Secretary Pro-Tem**

4-20-10  
 Date

Attachment A:

A compilation of Crow Tribal laws<sup>1</sup> which provide for legislative confirmation of appointments by the Executive Branch Chairman or Chief Tribal Court Judge are listed below in chronological order (by date of passage, starting with the most recent).

**The Crow Tribal Health Board**

Established in 2010 by CLB 10-01 ("An Act Establishing a Crow Tribal Health Board and Establishing Authority, Duties, and Responsibilities of the Apsaalooke Nation Health Board")

*The Board is comprised of 7 members, one chosen from each district by the Chairman of the Executive Branch and confirmed by the Legislature; the seventh member of the Board is the duly appointed and confirmed executive branch Cabinet Head for the Health and Human Services, who shall vote only to break an existing tie vote. If the Chairman of the Executive Branch fails to recommend the Health Board appointees within 90 calendar days of the passage of this bill, the Representatives from each district shall appoint a district representative to serve as a member of the herein established Health Board from each district, subject to confirmation by the full legislature.*

See Section 2(a) of Crow Tribal Health Board Ordinance, CLB 10-01.

**The Director of the Crow Tribal Department of Public Safety**

Established in 2009 by CLB 09-09 ("An Act to Establish a Crow Tribal Drug Enforcement Division")

*The Director of the Department of Public Safety shall be a cabinet level official, appointed directly by the Chairman of the Executive Branch of the Crow Tribe and confirmed by the Legislative Branch.*

See Part I, Section 2 of Title 8F of the 2010 Crow Law and Order Code (not codified as of April 20, 2010).

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<sup>1</sup> Note that this attachment does not represent an exhaustive list of all Crow Tribal laws which provide for confirmation by the Crow Tribal Legislature, but reflects a survey of the law conducted by the Legislative Branch Legal Office for purposes of this Resolution.



### **The Crow Tribal Land Use Board**

Established in 2009 by CLB 09-04 ("An Act to Establish a Crow Tribal Leasing Ordinance")

*There shall be established a Crow Land Use Board, consisting of seven (7) members. There shall be one Board member from each of the six Legislative districts of the Crow Reservation. These members shall be appointed by the Chairman. Prior to the appointment, the Chairman shall concur with the three Legislative members from each District when selecting the Board member from that District. Board members selected shall be confirmed by majority vote of a quorum of the Crow Legislative Branch. The first confirmation hearing for appointed board members shall be held during the October Legislative Session 2009. The confirmation hearing for subsequent appointed board members shall be held within 20 days of appointment. The Chairman shall appoint new members to vacant positions within 30 days of the vacancy, confirmation of newly appointed members shall be held during the next regular Legislative session. The Crow Tribal Chairman, or an individual designated by him/her, shall serve as the seventh member of the Crow Land Use Board and shall chair Board meetings, unless such authority is delegated to another individual.*

See Section II (1) of the Crow Tribal Leasing Ordinance, CLB 09-04.

### **The Crow Tribal Employment Rights Office Commission**

Established in 2009 by 09-01 ("An Act to Establish a Crow Nation Workforce Protection Act")

*The Commission shall be composed of seven (7) members, one from each district and one at large, nominated by the Chairman and confirmed by the Legislature.*

See 17.2.1.2 of the Crow Nation Workforce Protection Act, CLB 09-01.

### **The Chairman of the Apsaalooke Nation Research Review Board**

Established in 2008 by CLB 08-03 (An Act to Establish an "Apsaalooke Nation Research Review Board")

*The Executive Branch of the Apsaalooke Nation, upon approval of the Legislative Branch, will appoint an individual as a Chairperson, and an individual with a thorough knowledge of the Apsaalooke Culture;. whom may be the Cultural Department Director and/or designee, and an individual from the Education Department; whom may be the Education Cabinet Head and/or designee, and individuals from the Legislative Branch; whom may be the chair of the Education Subcommittee and/or the Cultural Subcommittee and/or other appropriate Legislative*

*Subcommittee Chair, and, if and when appropriate, a Medical officer from the Indian Health Service and Health Department Director or Designee.*

See CLB 08-03.

### **The Board of Managers of the Apsaalooke Energy Company, LLC**

Established in 2007 by Joint Action Resolution 07-01 ("Final Approval of the Certificate of Organization and Operating Agreement of Apsaalooke Energy Company, LLC")

**Appointment and Replacement of Managers.** (a) *The Board of Managers of the Company shall consist of five (5) members, selected by the Tribe as Member as follows:*

- (i) *persons meeting the qualifications for directions specified in the Act shall be appointed by the Chairman*
- (ii) *such persons shall be confirmed by majority vote of the Legislature, at a special meeting called for that purpose (which may but need not be during a regular session of the Legislature) within ten (1) days after the Chairman's appointment.*

See Article III, part 5, of the Operating Agreement of the Apsaalooke Energy Company, LLC.

### **The Crow Tribal Prosecutor**

The law governing the office of the Crow Tribal Prosecutor was amended by CLB 05-01 ("An Act to Amend the Crow Law and Order Code to Provide for a Tribal Prosecutor").

#### **Title 3. Chapter 4. TRIBAL PROSECUTOR.**

**3-4-401. Establishing and Hiring.** There is hereby established the position of "Tribal Prosecutor". Said Tribal Prosecutor or his or her assistant shall represent the Absalooka (Crow) Tribe of Indians in all criminal prosecutions in the Tribal Courts. The Tribal Prosecutor shall be the highest ranking law enforcement official within the Executive Branch. The Tribal Prosecutor shall be appointed by the Chairman of the Executive Branch for a term concurrent with the term of the Chairman, subject to confirmation by a majority of the Legislature and subject to termination by two-thirds of the Legislature upon the recommendation of the Judicial Ethics Board for a violation of Crow law or the ethical rules applicable to attorneys practicing in the Crow Tribal Court..



See 2010 Crow Law and Order Code, Title 3, Chapter 4 (not codified as of April 20, 2010); CLB 05-01.

### **Appellate Judge of the Crow Court of Appeals**

*(3) Appellate Judge. The Appellate Judge shall be appointed by the Chief Tribal Judge and confirmed by majority vote of the Legislature. The appointment shall be made after consideration of recommendations of qualified candidates from the Chairman of the Executive Branch, the Speaker of the Legislature, and the Tribal Attorney General, each of whom shall be given at least ten days notice and opportunity to submit their recommendations to the Chief Judge. If the Chief Judge fails or neglects to appoint a candidate within a reasonable time after a vacancy occurs, the Chairman may propose a candidate to the Legislature for confirmation. A reasonable time shall not be more than sixty days after the vacancy occurs.*

See 3-3-308(3) of the 2005 CLOC.

### **Vacant Crow Tribal Court Judge Positions**

**3-3-310.** *Filling Vacancies in Tribal Judge Positions.*

*(1) If a vacancy shall occur in any of the positions of the elected Tribal Court Judges by reason of death, resignation, or removal for cause, a replacement shall be appointed by the Chairman of the Executive Branch, who shall meet the qualifications for the vacated position and whose appointment shall be confirmed by majority vote of the Legislature.*

See 3-3-310(1) of the 2005 CLOC.

### **All Cabinet Heads and the Tribal Chairman of Executive Offices**

All Executive Branch cabinet heads and the Crow Tribal CEO must be confirmed by the Legislature in accordance with Joint Action Resolution 02-04.



Attachment B:

A compilation of Crow Tribal Executive Branch and Judicial Branch officers, including cabinet heads, which require legislative confirmation (listed in alphabetical order).

Apsaalooke Energy Company, LLC Board of Managers  
Cabinet Head of Crow Tribal Education Department  
Cabinet Head of Crow Tribal Health Department  
Chairman of the Apsaalooke Nation Research Review Board  
Chief Appellate Judge of the Crow Court of Appeals  
Crow Tribal CEO  
Crow Tribal Court Judge (when a vacancy occurs)  
Crow Tribal Employment Rights Office Commissioners  
Crow Tribal Health Board Members  
Crow Tribal Land Use Board Members  
Crow Tribal Prosecutor  
Director of Crow Tribal Office of Public Safety

And all other such Crow Tribal officials deemed a “cabinet head” by subsequent legislation, judicial decision, or by the consensus of the Executive and Legislative Branches.