

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting Tohono O'odham Code Title 22, Chapter 3 - General Welfare and
Directing Further Review of Education-Related Provisions)

RESOLUTION NO. 07-030

- 1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham Legislative**
2 **Council with the power "to manage any funds within the exclusive control of the**
3 **Tohono O'odham Nation" and to "prevent the use, disposition, or encumbrance of**
4 **fiscal assets of the Tohono O'odham Nation" (Constitution, Article VI, Section 1(d)(2)**
5 **and (d)(1)); and**
- 6 **WHEREAS, the Internal Revenue Service, through the general welfare doctrine, has recognized**
7 **the sovereign right of governments to provide financial assistance to individuals**
8 **under certain circumstances on a non-taxable basis; and**
- 9 **WHEREAS, the Legislative Council, acting as the legislative body of the Nation and through its**
10 **duly-elected representatives, has traditionally exercised the Nation's sovereign right**
11 **to provide financial assistance to members of the Nation in order to promote the**
12 **welfare and best interests of the Nation; and**
- 13 **WHEREAS, the Tohono O'odham Nation provides certain financial assistance to members, and**
14 **desires to affirm its sovereign right to do so on a non-taxable basis; and**
- 15 **WHEREAS, in the past, the IRS has challenged the taxability of scholarship awards to Nation's**
16 **members, thereby requiring the Nation (1) to retain tax counsel to advise the Nation**
17 **and negotiate with the IRS and (2) to expend more than \$400,000 to prepare amended**
18 **federal tax returns for scholarship participants and pay taxes on participants' behalf**
19 **(Resolution No. 97-493, Resolution No. 97-494, Resolution No. 98-347); and**
- 20 **WHEREAS, the Internal Revenue Service has more recently challenged the taxability of general**
21 **welfare assistance provided by the Districts to Nation's members and the District's**
22 **reporting practices; and**
- 23 **WHEREAS, it is therefore in the Nation's best interest to codify the application of the general**
24 **welfare doctrine when awarding general welfare assistance and reaffirm its**
25 **sovereign authority to provide non-taxable assistance; and**
- 26 **WHEREAS, to accomplish these goals, the Budget and Finance Committee has developed Tohono**
27 **O'odham Code Title 22, Chapter 3 - General Welfare, which is hereby incorporated by**
28 **this reference; and**
- 29 **WHEREAS, as the Legislative standing committee with primary jurisdiction over education-**

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1 related matters, the Human Resources Development Committee ("HRDC") has also
2 held a series of meetings on the possible application of the general welfare doctrine
3 and draft Title 22, Chapter 3, to the Nation's Education Division programs; and

4 **WHEREAS, as a result of the HRDC's review, the Budget and Finance Committee has removed the**
5 **education-related provisions from Title 22, Chapter 3, to allow the HRDC additional**
6 **time to review such provisions and make a formal recommendation concerning this**
7 **issue to the Legislative Council.**

8 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that Tohono**
9 **O'odham Code Title 22, Chapter 3 - General Welfare ("General Welfare Law"), is hereby**
10 **adopted; provided that (1) formal approval by the Legislative Council or Districts of**
11 **general welfare programs, guidelines, or other matters required by the General**
12 **Welfare Law shall be made within 90 days of the effective date of Title 22, Chapter 3**
13 **of the Tohono O'odham Code and (2) any general welfare assistance awarded prior to**
14 **such approvals shall be deemed a sovereign act of the legislative body of the Nation**
15 **within the principles reflected under the general welfare doctrine.**

16 **BE IT FINALLY RESOLVED that the HRDC is directed to report its recommendations on the**
17 **education-related provisions of the General Welfare Law to the Budget and Finance**
18 **Committee in March 2007 and to the Legislative Council during the April 2007 general**
19 **session.**

20 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10TH Day**
21 **of JANUARY, 2007 at a meeting at which a quorum was present with a vote of 2,094.75 FOR; -0-**
22 **AGAINST; 346.05 NOT VOTING; and [-0-] ABSENT, pursuant to the powers vested in the Council by**
23 **Section 1 (d)(1)&(d)(2) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by**
24 **the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
25 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
26 **18, 1934 (48 Stat. 984).**

27
28 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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32 **Verlon M. Jose, Legislative Chairman**

33
34 23 day of January, 2007
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ATTEST:

Lucille Lopez

Lucille Lopez, Acting Legislative Secretary

10 day of January, 2007.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'odham Nation on the 23 day of January, 2007 at 2:41 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Verlon M. Jose

Verlon M. Jose, Legislative Chairman

APPROVED

on the 24 day of January, 2007

DISAPPROVED

at 5:15 o'clock, P.M.

Vivian Juan-Saunders
**VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 25 day of

January, 2007, at 9:57 o'clock, A.M.

Lucille Lopez

Lucille Lopez, Acting Legislative Secretary

ACTION: ENACTING TOHONO O'ODHAM CODE TITLE 22, CHAPTER 3 - GENERAL WELFARE AND DIRECTING FURTHER REVIEW OF EDUCATION-RELATED PROVISIONS

MOVED: COUNCILWOMAN GLORIA RAMIREZ

SECOND: COUNCILMAN GERALD FAYUANT

DATE: JANUARY 10, 2007

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL (Vernon J. Smith)	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55	X			
	2. MICHAEL FLORES** (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. SHIRLEY SANTOS-MOLINA ()	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90			X	
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. LORRAINE EILER ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45			X	
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. MARLENE SARAFICIO-JUAN ()	210.50	X			
	2. EVELYN B. JUAN MANUEL (Kimberly Listo)	210.50	X			
SIF OIDAK 186.7	1. WVALENE ROMERO (Isidro Lopez)	93.35			X	
	2. DARLENE ANDREW (Rita Wilson)	93.35			X	
TOTAL		2,440.80	2,094.75	-0-	346.05	[-0-]

**PASSED VOTES