

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving Tohono O'odham Nation Health Care Governing Body Bylaws)**

**DEFEATED**  
**RESOLUTION NO. 17-025**

1     **WHEREAS,**     **the Constitution of the Tohono O'odham Nation vests the Legislative Council with**  
2                   **the authority to enact laws "to promote, protect and provide for public health,**  
3                   **peace, morals, education and general welfare of the Tohono O'odham Nation and**  
4                   **its members" and to "provide for, appoint, or provide for the appointment of, and**  
5                   **prescribe the duties and powers of committees, boards, officers and**  
6                   **agents"(Constitution, Article VI, Section 1(c)(2) and 1(b)); and**

7     **WHEREAS,**     **by Resolution No. 16-261 and pursuant to the Indian Self-Determination and**  
8                   **Education Assistance Act of 1975 (Public Law 93-638, 25 U.S.C. § 450), the**  
9                   **Legislative Council approved a self-governance compact between the Tohono**  
10                  **O'odham Nation and United States Department of Health and Human Services,**  
11                  **Indian Health Service for the assumption of certain health-related federal**  
12                  **programs, functions, services, and activities, including the operation and**  
13                  **management of the Sells Hospital and other health care facilities; and**

14    **WHEREAS,**     **pursuant to 42 C.F.R. § 482.12 Condition of participation: Governing body, a**  
15                   **hospital participating in Medicare must have "an effective governing body that is**  
16                   **legally responsible for the conduct of the hospital" or, "[i]f a hospital does not**  
17                   **have an organized governing body, the persons legally responsible for the**  
18                   **conduct of the hospital must carry out the functions specified in this part that**  
19                   **pertain to the governing body."; and**

20    **WHEREAS,**     **by Resolution No. 16-308, "Establishing Tohono O'odham Nation Health Care**  
21                   **Governing Body and Appointing Interim Members," and subsequently by**  
22                   **Resolution No. 16-487, "Affirming Authority of Tohono O'odham Nation Health**  
23                   **Care Governing Body and Extending Time to Develop Governing Body Bylaws," the**  
24                   **Legislative Council established, authorized, and reaffirmed the authority of the**  
25                   **Tohono O'odham Nation Health Care Governing Body, appointed interim**  
26                   **Governing Body members, and directed the Department of Health and Human**  
27                   **Services and Legislative Council Health and Human Services Committee to draft**  
28                   **for the Council's review and approval bylaws for the Tohono O'odham Nation**  
29                   **Health Care Governing Body; and**

30    **WHEREAS,**     **by Resolution No. 16-308, the Legislative Council appointed nine voting interim**  
31                   **Governing Body members, members of the Patient Advisory Council, Chairman**  
32                   **or Vice Chairman of the Nation, the Legislative Council Health and Human**  
33                   **Services Committee member, and Assistant Attorney General (Health), Office of**  
34                   **Attorney General as interim, ex officio, non-voting members; and**

1 **WHEREAS,** the Department of Health and Human Services and Legislative Council Health  
2 and Human Services Committee collaborated and drafted for Council's review  
3 and approval Tohono O'odham Nation Health Care Governing Body Bylaws, which  
4 are dated January 2017 and incorporated by this reference and which include a  
5 seven-member Governing Body serving staggered four-year terms; and

6 **WHEREAS,** while developing Tohono O'odham Nation Health Care Governing Body Bylaws,  
7 the Health and Human Services Committee recognized the need to transition the  
8 structure of the Tohono O'odham Nation Health Care from a department of the  
9 Executive Branch to a Nation's chartered entity, with independent budgeting and  
10 financial management authority, and supervision and control of Tohono  
11 O'odham Nation Health Care personnel in accordance with Medicare and  
12 Medicaid conditions of participation; and

13 **WHEREAS,** in order to effectively transition from the interim Governing Body to the one  
14 provided for in the Governing Body Bylaws, the Health and Human Services  
15 Committee recommends approving the Tohono O'odham Nation Health Care  
16 Governing Body Bylaws, but replacing voting interim Governing Body members  
17 only when a qualified successor is nominated and approved for appointment;  
18 and

19 **WHEREAS,** the Committee also recommends directing the Committee and Department to  
20 continue identifying issues and providing recommendations in order to  
21 effectively transition Tohono O'odham Nation Health Care from an Executive  
22 Branch department to a Nation's chartered entity.

23 **NOW, THEREFORE, BE IT RESOLVED** by the Tohono O'odham Legislative Council that it approves  
24 the January 2017 Tohono O'odham Nation Health Care Governing Body Bylaws;  
25 provided that with the exception of the chief executive officer whose term shall  
26 expire on the effective date of this resolution, an interim Governing Body  
27 member's term shall expire when a qualified successor is nominated and  
28 confirmed by a separate resolution.

29 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the Legislative  
30 Council Health and Human Services Committees and Department of Health and  
31 Human Services are directed to continue identifying issues and providing  
32 recommendations in order to effectively transition Tohono O'odham Nation  
33 Health Care from an Executive Branch department to a Nation's chartered entity.  
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The foregoing Resolution was defeated by the Tohono O'odham Legislative Council on the 09<sup>TH</sup> day of JANUARY, 2017 at a meeting at which a quorum was present with a vote of 1,454.3 FOR; 1,567.1 AGAINST; -0- NOT VOTING and [03] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2) and 1(b) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
\_\_\_\_\_  
Timothy Joaquin, Legislative Chairman

1 day of March, 2017

ATTEST:

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

24 day of May, 2017