

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Updating the provision for employee benefit and liability insurance, and
authorizing a "Cafeteria" Plan)

RESOLUTION NO. 03-474

- 1 **WHEREAS, by Resolution No. 154-90, the Nation increased the employee benefit package in**
2 **recognition of the need to provide for the Nation's employees and to enhance**
3 **employee satisfaction and productivity; and**
- 4 **WHEREAS, by Resolution No. 341-90, the Nation established the Employee Benefits Fund for**
5 **purposes of providing and administering the employee benefit package; and**
- 6 **WHEREAS, by Resolution No. 341-90, the Nation's Personnel Office (now known as the Human**
7 **Resources Office) was directed to implement contracts of insurance with designated**
8 **companies for specific aspects of the employee benefit package, and to administer**
9 **each element of the employee benefit package; and**
- 10 **WHEREAS, by Resolution No. 91-017, the Nation approved contracts of insurance for provision**
11 **of workmen's compensation, general liability, property, police professional liability**
12 **and public officials errors and omissions insurance for a three year period; and**
- 13 **WHEREAS, through subsequent annual budget approvals, the employee benefit package has**
14 **been funded at a rate of 30% of employee salaries, as opposed to the 28% rate**
15 **established in Resolution No. 154-90; and**
- 16 **WHEREAS, the Human Resources Office has negotiated contracts of insurance with carriers for**
17 **types of insurance and in amounts different than those identified in Resolution No.**
18 **341-90 and 91-017; and**
- 19 **WHEREAS, the Human Resources Office has extended participation in the employee benefit**
20 **package to the Nation's Districts and to certain of the Nation's subordinate economic**
21 **enterprises such as the Nation's Community College and the Nursing Care Authority;**
22 **and**
- 23 **WHEREAS, the Human Resources Office has extended liability insurance coverage to the Nation's**
24 **Districts and to certain of the Nation's subordinate economic enterprises; and**
- 25 **WHEREAS, by Resolution No. 00-453, the Nation approved a 401(k) Pension Plan as the**
26 **retirement plan for employees in satisfaction of the requirement of Resolution No.**
27 **154-90 to provide a retirement plan as part of the employee benefit package; and**
- 28 **WHEREAS, Section 125 of the Internal Revenue Code, 26 U.S.C. § 125, authorizes a taxpayer to**
29 **exclude from the calculation of gross income the amount contributed on behalf of the**

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1 taxpayer for the payment of benefits, provided the taxpayer participates in a
2 "cafeteria plan" as that term is defined in Section 125 of the Internal Revenue Code;
3 and

4 **WHEREAS, the Human Resources Office recommends that the Nation adopt pursuant to Section**
5 **125 of the Internal Revenue Code a "premium only plan" in the form attached hereto,**
6 **as the Nation's "cafeteria plan" (hereinafter referred to as a "Section 125 Plan"); and**

7 **WHEREAS, employee participation in the Section 125 Plan is voluntary and requires a salary**
8 **redirection agreement to allow the Nation's employees to choose to redirect a portion**
9 **of their salary and wages to pay for insurance premiums before taxes are calculated**
10 **and withheld; and**

11 **WHEREAS, the Human Resources Office has selected a consultant to assist it in developing and**
12 **implementing a Section 125 Plan; and**

13 **WHEREAS, the Chairwoman of the Nation recommends that the Human Resources Office**
14 **continue to administer all elements of the employee benefit package as well as the**
15 **policies of liability insurance; and**

16 **WHEREAS, the Chairwoman of the Nation recommends that the Human Resources Office be**
17 **authorized to administer the employee benefit package and liability insurance on**
18 **behalf of its affiliated entities, such as the Nation's Districts and the Nation's**
19 **subordinate economic enterprises, but that the affiliated entities ultimately be**
20 **required to administer their own contracts of insurance.**

21 **NOW, THEREFORE, BE IT RESOLVED THAT:**

- 22 1. **The Nation's Human Resources Office shall continue to administer: (a) all**
23 **elements of the employee benefit package; (b) all policies of insurance to**
24 **protect the Nation from liability claims; and (c) additional types of insurance**
25 **coverage as may from time to time be recommended by the Human Resources**
26 **Office.**
- 27 2. **The types of insurance coverage required to be covered under the employee**
28 **benefit package shall include: worker's compensation; unemployment**
29 **insurance; comprehensive medical insurance; dental insurance; long term**
30 **disability insurance; and term life insurance.**

- 1 **3. The types of liability insurance coverage required shall include: general**
2 **liability; property; inland marine; automobile; police professional liability**
3 **(also known as law enforcement errors and omissions); employee benefits**
4 **liability; fiduciary liability (also known as executive protection); and public**
5 **officials errors and omissions.**
- 6 **4. The employee benefits package shall be funded at a level of 30% of an**
7 **employee's annual salary, provided that such level of funding may be adjusted**
8 **by subsequent action of the Legislative Council through the approval of annual**
9 **budgets.**
- 10 **5. The Nation's Human Resources Office is authorized to solicit bids for**
11 **insurance, select types and additional levels of insurance coverage, negotiate**
12 **the terms of insurance coverage, which may include self-retention insurance,**
13 **and negotiate the terms of contracts of insurance to provide for the insurance**
14 **coverage for the employee benefit package and liability insurance.**
- 15 **6. Notwithstanding the foregoing provision, the Nation's Human Resources Office**
16 **is not authorized to adopt self-insurance for any element of the employee**
17 **benefit package or liability insurance without the express authorization of the**
18 **Legislative Council.**
- 19 **7. The Nation's Human Resources Office shall, upon request of the Legislative**
20 **Council or the Human Resources Development Committee of the Legislative**
21 **Council, review with the Council or Committee the types and levels of**
22 **insurance coverage selected or recommended for the insurance coverage**
23 **required or authorized under this Resolution; such review may include**
24 **examination of the claims history and cost effectiveness of the insurance**
25 **coverage.**
- 26 **8. The Chairperson of the Nation is authorized to execute applications,**
27 **agreements or contracts of insurance to provide insurance coverage for the**
28 **employee benefit package and liability insurance consistent with the**
29 **requirements of this Resolution, subject to review and approval as to form by**
30 **the Nation's Attorney General.**

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- 1 **9. The Nation's Human Resources Office's selection of insurance coverage for the**
2 **employee benefit package and liability insurance between enactment of**
3 **Resolution Nos. 341-90 and 91-017 and the effective date of this Resolution is**
4 **hereby ratified; the execution of contracts of insurance for the employee**
5 **benefit package and liability insurance for policy periods between enactment**
6 **of Resolution Nos. 341-90 and 91-017 and the effective date of this Resolution**
7 **is hereby ratified, notwithstanding the limitation of paragraph 6 of this**
8 **Resolution.**
- 9 **10. The Nation's Human Resources Office is authorized to implement a Section 125**
10 **Plan.**
- 11 **11. The Premium only Plan, the Adoption Agreement and the Salary Redirection**
12 **Agreement, in the forms attached hereto, are hereby approved.**
- 13 **12. The Chairperson of the Nation is authorized and directed to execute the**
14 **Adoption Agreement and such other documents as may be required to**
15 **implement the Section 125 Plan.**
- 16 **13. The Chairperson of the Nation is authorized to modify or amend the terms and**
17 **provisions of the Premium only Plan, the Adoption Agreement and the Salary**
18 **Redirection Agreement to implement modifications to the Section 125 Plan or**
19 **to comply with applicable law, including the terms and conditions of this**
20 **Resolution, upon review and approval as to form by the Nation's Attorney**
21 **General.**
- 22 **14. The Nation's Human Resources Office is authorized to administer the**
23 **employee benefit package and liability insurance on behalf of its affiliated**
24 **entities, such as the Nation's Districts and the Nation's subordinate economic**
25 **enterprises.**
- 26 **15. Any District of the Nation or subordinate economic enterprise of the Nation**
27 **that participates in the Nation's employee benefit package or is covered by**
28 **policies of liability insurance provided or administered by the Nation shall pay**
29 **its share of applicable premiums as determined by the Nation's Human**
30 **Resources Office.**

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APPROVED

on the 8th day of October, 2003

DISAPPROVED

at 5:10 o'clock, p.M.


VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 09 day of

October, 2003, at 10:12 o'clock, a.M.


Vivian Hedrington, Legislative Secretary

ACTION: UPDATING THE PROVISION FOR EMPLOYEE BENEFIT AND LIABILITY INSURANCE, AND AUTHORIZING A "CAFETERIA" PLAN

MOVED: VICE CHAIRWOMAN DELMA GARCIA

SECOND: COUNCILWOMAN EVELYN JUAN

DATE: OCTOBER 07, 2003

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 192.6	1. ISIDRO LOPEZ** (Nicholas Jose)	96.30	X			X
	2. DARLENE ANDREW (Rita Martinez)	96.30	X			
SELLS 465.6	1. DENNIS E. JOSE ()	232.80	X			
	2. EVELYN JUAN ()	232.80	X			
SCHUK TOAK 176.1	1. FRANCES B. CONDE ()	88.05	X			
	2. PHYLLIS JUAN ()	88.05	X			
SAN XAVIER 215.4	1. FELICIA NUÑEZ ()	107.70	X			
	2. DENNIS RAMON ()	107.70	X			
SAN LUCY 166.3	1. JOHN W. LAWSON, SR. ()	83.15	X			X
	2. GLORIA RAMIREZ ()	83.15	X			
PISINEMO 175.4	1. BARBARA SALVICIO ()	87.70	X			
	2. PATRICIA CRUZ ()	87.70	X			
HICKIWAN 170.3	1. DELMA GARCIA (Mary E. Sam)	85.15	X			X
	2. SANDRA ORTEGA ()	85.15	X			
GU VO 191.4	1. RAYMOND VICTOR ()	95.70	X			X
	2. MICHAEL FLORES (Willard Manuel)	95.70	X			
GU ACHI 253.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	126.80	X			
	2. JEROME JOAQUIN ()	126.80	X			
CHUKUT KUK 258.9	1. KENNETH WILLIAMS (Juanita Homer)	129.45	X			
	2. VERLON M. JOSE (David Garcia)	129.45	X			
BABOQUIVARI 364.1	1. FRANCES MIGUEL (Lucilda Norris-Valenzuela)	182.05	X			X
	2. FRANCES G. ANTONE ()	182.05	X			
TOTAL		2,629.7	2,629.7	-0-	-0-	[05]

**PASSED VOTES