

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Opposing S. 2078, a Bill to Amend the Indian Gaming Regulatory Act of 1988)**

RESOLUTION NO. 06-044

- 1 **WHEREAS, the Tohono O'odham Nation (the "Nation") successfully regulates and operates an on-**
2 **reservation gaming enterprise generating vital revenues that, in turn, funds**
3 **numerous essential governmental services the Nation provides to its members; and**
- 4 **WHEREAS, the regulation and operation of gaming affirms our sovereign powers of self-**
5 **government, and provides resources "to preserve, protect and build upon our unique**
6 **and distinctive culture and traditions, to conserve our common resources, . . . to**
7 **provide for . . . education and welfare of the present and future generations of our**
8 **people and to show our gratitude to I'itoi our Maker", all objectives proclaimed in our**
9 **Constitution's Preamble; and**
- 10 **WHEREAS, the Nation and other tribes within the State of Arizona conduct Class III gaming**
11 **enterprises pursuant to NIGC-approved tribal gaming ordinances, tribal gaming**
12 **regulations, existing federal regulations, and standard tribal-state compacts which**
13 **were approved by Arizona voters; and**
- 14 **WHEREAS, this comprehensive regulatory structure provides stringent standards that are**
15 **enforced by both tribal and state regulators; and**
- 16 **WHEREAS, just as non-Indian gaming regulations vary from state to state, states and tribes**
17 **outside Arizona have not felt it necessary to agree to regulations and oversight at the**
18 **levels in place in Arizona; Arizona's Indian gaming regulatory standards exceed those**
19 **of any other tribe or state in the United States; and**
- 20 **WHEREAS, members of Congress have raised concerns about the perceived lack of regulatory**
21 **"protections" for gaming tribes; and**
- 22 **WHEREAS, in response, Senator McCain has introduced S. 2078, a bill to amend the Indian**
23 **Gaming Regulatory Act of 1988 (the "IGRA") to clarify the authority of the National**
24 **Indian Gaming Commission (the "NIGC") to regulate class III gaming, to restrict**
25 **tribes' ability to take land into trust for Indian gaming, and other purposes; and**
- 26 **WHEREAS, as currently proposed, S. 2078 conflicts with or duplicates many of the regulatory**
27 **protections that already exist in Arizona, uses language that is overly broad, would**

1 **require federal review of many thousands of non-gaming contracts, and would**
2 **unnecessarily burden the Nation and other Arizona gaming tribes with new**
3 **regulations and oversight that would not correspond with an increase in the level of**
4 **security for Indian gaming in Arizona; and**

5 **WHEREAS, any additional limitation on the Nation's ability to recover land and have it taken into**
6 **trust, including taking land into trust for gaming, would directly conflict with the**
7 **Nation's Constitution, which provides that "It shall be the policy of the Tohono**
8 **O'odham Nation to seek the return to the Tohono O'odham Nation of lands and**
9 **natural resources, including minerals and water rights, within or adjacent to the**
10 **Tohono O'odham Nation, or which originally were a part of the historic Papagueria."**

11 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council does hereby**
12 **oppose S. 2078, as introduced for the following reasons:**

- 13 **1. Any changes to IGRA provisions delegating power to the NIGC should clarify that:**
 - 14 **a. the NIGC only has the authority to promulgate MICS; and**
 - 15 **b. the NIGC authority to promulgate class III MICS arises only in the absence**
16 **of MICS required pursuant to a valid Tribal-State compact; Tribal-State**
17 **compacts, and any MICS contained therein, should be given primacy; and**
 - 18 **c. regardless of any expansion of the NIGC's authority, each tribe's role as the**
19 **primary regulator of class III gaming must be preserved.**
- 20 **2. The definition of "gaming-related contracts" proposed to be added to Section 4**
21 **of the Act, and located at 25 U.S.C. §2703 (11), is too broad. Furthermore, the**
22 **language proposed to replace all of Section 12 of the Act, 25 U.S.C. § 2711, creates**
23 **an unreasonable burden on the NIGC, which lacks the administrative capacity**
24 **to perform the newly proposed contract review function. If retained, the term**
25 **"gaming-related contracts" must therefore be more narrowly defined.**
- 26 **3. The changes to Section 11, 25 U.S.C. §2710(b)(2)(F) regarding per capita payments**
27 **are too restrictive and are contrary to fundamental principles of self-**
28 **determination. Section 11 would unreasonably permit the Secretary of the**

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1 Interior to override elected tribal officials or tribal voters who have already
2 determined a per capita payment is in their tribe's best interest.

3 4. The deadline on land-into-trust applications inserted into Section 20 of the Act,
4 25 U.S.C. §2719, is arbitrary and tribes should be consulted and given notice
5 before any deadline that limits the ability to recover tribal lands is imposed upon
6 them.

7 5. In accordance with the Constitution of the Tohono O'odham Nation, the Nation
8 opposes any additional restrictions on the tribes' ability to recover lands and
9 take them into trust.

10 **BE IT FURTHER RESOLVED** that the Tohono O'odham Nation adopts the attached "Tohono
11 O'odham Nation Position on S. 2078" as the Nation's official position on the key
12 provisions of this bill and its recommended amendments to address the Nation's
13 objections.

14 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council opposes any amendment
15 to the Indian Gaming Regulatory Act that would further reduce tribal sovereignty and
16 self-governance authority over tribal matters such as the regulation and operation
17 of tribal gaming.

18 **BE IT FINALLY RESOLVED** that the Nation's Chairwoman and Legislative Council Commerce
19 Committee are hereby delegated authority to (1) present the Nation's position on
20 S. 2078 to Senator McCain, other appropriate members of Congress, the Arizona
21 Indian Gaming Association, the National Indian Gaming Commission, the National
22 Indian Gaming Association, and other interested parties and (2) approve specific
23 language amending S. 2078 that will implement the Tohono O'odham Nation
24 Position on S. 2078.

25 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12th Day
26 of JANUARY, 2006 at a meeting at which a quorum was present with a vote of 2,273.4 FOR; ~~0~~-
27 AGAINST; ~~0~~- NOT VOTING; and 167.4 [04] ABSENT, pursuant to the powers vested in the Council by
28 Section 1 (j) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono
29 O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -
30 Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48
31 Stat. 984).
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

13th day of January, 2006

ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

13th day of January, 2006.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 13th day of January, 2006 at 5:28 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

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 15 day of January, 2006

DISAPPROVED

at 1:32 o'clock, P.M.

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

Returned to the Legislative Secretary on the 17th day of

January, 2006, at 11:05 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: OPPOSING S. 2078, A BILL TO AMEND THE INDIAN GAMING REGULATORY ACT OF 1988

MOVED: COUNCILWOMAN FRANCES ANTONE

SECOND: COUNCILWOMAN FRANCES CONDE

DATE: JANUARY 12, 2006

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			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			X
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	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. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	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** ()	210.50	X			
SIF OIDAK 186.7	1. WAVALENE SAUNDERS** (Isidro Lopez)	93.35	X			
	2. DARLENE ANDREW (Rita Martinez)	93.35	X			
TOTAL		2,440.80	2,273.4	-0-	-0-	167.4 [04]

**PASSED VOTES