

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(To Support Passage of Federal Legislation Clarifying That Tribal Governments Are
Entitled to "Government" Status under the Employee Retirement Income Security Act (ERISA)
and Internal Revenue Code Pension and Benefit Laws)

RESOLUTION NO. 06-046

- 1 **WHEREAS, the Tohono O'odham Nation and its enterprises provide various benefit programs**
2 **designed to foster effective and efficient government operations through the**
3 **employment of highly-qualified individuals; and**
- 4 **WHEREAS, government sector employers traditionally attract, recruit, and retain competent**
5 **and qualified individuals for employment by offering employee benefit plans which**
6 **must be competitive with employers in both the public and private sectors; and**
- 7 **WHEREAS, both Employee Retirement Income Security Act (ERISA) and the Internal Revenue**
8 **Code (hereafter the "federal benefit statutes") currently grant government sector**
9 **employers greater flexibility and reduced regulation, as compared to private sector**
10 **employers, in the design and maintenance of benefit programs; and**
- 11 **WHEREAS, the federal benefit statutes contain government sector rules in part because**
12 **government sector employers do not receive the tax benefits and incentives provided**
13 **to private sector employers, and in part in order to coordinate federal regulation with**
14 **sovereignty; and**
- 15 **WHEREAS, the Internal Revenue Service has previously approved the Nation's 401(k) plan under**
16 **the government sector rules; and**
- 17 **WHEREAS, as a result of the Internal Revenue Service's and the Department of Labor's failure to**
18 **provide broad based guidance concerning the status of tribes as "governments"**
19 **under these rules, tribal governments across the country and tribal organizations**
20 **(including the Inter-Tribal Council of Arizona, NCAI, and USET) have urged the**
21 **passage of federal legislation designed to resolve this uncertainty in favor of tribal**
22 **government status; and**
- 23 **WHEREAS, Senate Bill S 673 including provisions favorable to tribal governments was passed and**
24 **is now in conference committee; and**
- 25 **WHEREAS, a letter was recently sent to the Chairman of the House Ways and Means Committee,**
26 **Congressman William Thomas, with more than 60 signatures from tribes and tribal**
27 **service providers across the country, urging his support.**
- 28 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby affirms**
29 **its support in joining with tribes and tribal organizations across the country to enact**

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1 federal legislation to clarify once and for all that tribal governments are
2 "governments" under the federal benefit statutes.

3 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council hereby recognizes and
4 shows its appreciation for the efforts of those Arizona Congressmen currently
5 supporting House Bill 331, including Congressmen J.D. Hayworth (lead sponsor), Rick
6 Renzi, Ed Pastor, and Raul Grijalva, and hereby urges the remaining members of the
7 United States Congress and Senate to cast their support for this important legislation.

8 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council hereby shows its
9 appreciation to those members of the Senate Finance Committee that lead the effort
10 to enact Senate Bill 673, Senator Gordon Smith (OR), Senator Jeff Bingaman (NM), and
11 Senator Kent Conrad (ND), and to those members of the Senate Committee on Health,
12 Education, Labor and Pensions, for their recent effort to include the tribal
13 government provisions in broader pension reform legislation, Senator Enzi (WY),
14 Senator Bingaman (NM), Senator Hatch (UT), and Senator Murray (WA).

15 **BE IT FINALLY RESOLVED** that the Tohono O'odham Legislative Council hereby urges Senators and
16 members of Congress to cast their support to this important legislation ensuring
17 equal treatment for tribal governments, and urging the IRS and DOL to honor tribal
18 government status until this matter can be finally resolved by Congress.

19 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 13th Day**
20 **of JANUARY, 2006 at a meeting at which a quorum was present with a vote of 2,273.4 FOR; -0-**
21 **AGAINST; 167.4 NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by**
22 **Section 1 (f) & (j) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the**
23 **Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
24 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
25 **18, 1934 (48 Stat. 984).**

26
27 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

28 
29 _____
30 **Evelyn B. Juan Manuel, Legislative Chairwoman**

31
32 13th day of January, 2006
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ATTEST:


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 5:30 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

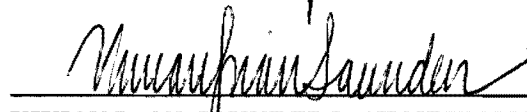

Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 15 day of January, 2006

DISAPPROVED

at 1:35 o'clock, P.M.


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, Acting Legislative Secretary

ACTION: TO SUPPORT PASSAGE OF FEDERAL LEGISLATION CLARIFYING THAT TRIBAL GOVERNMENTS ARE ENTITLED TO "GOVERNMENT" STATUS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) AND INTERNAL REVENUE CODE PENSION AND BENEFIT LAWS

MOVED: VICE CHAIRMAN VERLON JOSE

SECOND: COUNCILWOMAN MARLENE SARAFICIO

DATE: JANUARY 13, 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			X
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70			X	
	2. SANDRA ORTEGA ()	83.70			X	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			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-	167.4	[04]

****PASSED VOTES**