

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Appointees to the Nation's Treasurer and Other Officers and Heads of Governmental
Departments that are Disapproved by the Legislative Council No Longer in Office)**

RESOLUTION NO. 16-311

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Legislative Council with
2 Nation's fiscal powers, including the power "to manage any funds within the
3 exclusive control of the Tohono O'odham Nation . . . and to appropriate these
4 funds for the benefit of the nation and its members. All expenditures of these
5 funds shall be pursuant to appropriations or budgets authorized under
6 resolutions or in accordance with ordinances of the Tohono O'odham Council."
7 (Constitution, Article VI, Section 1(d)(2)); and

8 **WHEREAS,** the Legislative Council exercises this power by approving and authorizing the
9 compensation of Nation's officials and employees and expenditures for the
10 operation of the government; and

11 **WHEREAS,** Article VII, Section 2(e) of the Constitution of the Tohono O'odham Nation
12 provides that the Nation's

13 chairman shall be the chief executive officer of the Tohono O'odham
14 Nation and shall exercise the following powers, subject to all express
15 limitations contained in this constitution . . . (e) With the approval of the
16 Tohono O'odham Council, to appoint the treasurer, and other officers
17 and heads of all governmental departments, who shall serve until
18 replaced at the request of the chairman.

19 (Constitution, Article VII, Section 2(e)); and

20 **WHEREAS,** in accordance with the Legislative Council's power to approve or disapprove the
21 chairperson's appointment of the Nation's treasurer, and other officers and
22 heads of all governmental departments, an appointee who has been disapproved
23 by the Legislative Council has customarily immediately ceased to perform the
24 functions of that office; and

25 **WHEREAS,** pursuant to Article III, Section 6(B) of the Legislative Rules of the Tohono
26 O'odham Legislative Council, the Legislative Council committees have received
27 and reviewed the resumes and detailed written background investigation reports
28 for the Chairman's appointees to Nation's treasurer, chief administrative officer,
29 Gaming Office executive director, Education Department executive director, and
30 other officers or heads of governmental departments; interviewed the

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1 appointees; and the appointments have been added to the Legislative Council's
2 July general session for consideration; and

3 **WHEREAS,** the Legislative Council has convened in general session to review the appointees'
4 resumes, job descriptions, and background investigation report, interviewed the
5 appointees, and the Legislative Council has conducted or scheduled on its agenda
6 individual roll call votes for each appointee; and

7 **WHEREAS,** a majority of the Legislative Council voted against and, pursuant to its authority
8 under Article VII, Section 2(e) of the Nation's Constitution, thereby disapproved
9 the Chairman's appointees to the position of chief administrative officer
10 (Resolution No. 16-301), Gaming Office executive director (Resolution No. 16-304),
11 and Education Department executive director (Resolution No. 16-302); and

12 **WHEREAS,** the Nation's Chairman has advised the Legislative Council that the appointees the
13 Council disapproved will continue to serve and be compensated in the
14 disapproved offices for an indefinite period until replaced at the Chairman's
15 discretion; and

16 **WHEREAS,** the Chairman's position that disapproved appointees may continue in office
17 indefinitely after the Council's disapproval would nullify the Council's
18 constitutional authority in the appointment process and could allow
19 disapproved appointees to serve for the Chairman's entire term in office without
20 the Council's approval in violation of the Constitution; and

21 **WHEREAS,** disapproved appointees' exercise of signature authority and the performance of
22 other functions in offices they no longer hold jeopardizes government services
23 that are provided to members; and

24 **WHEREAS,** the continued compensation of disapproved appointees is not justified by the
25 Constitution of the Tohono O'odham Nation, jeopardizes the Nation's financial
26 integrity, and exposes the Nation to a risk of loss; and

27 **WHEREAS,** after meeting with the Nation's Chairman and Vice-Chairman to discuss the
28 dispute over the disapproved directors, the Legislative Council enacted
29 Legislative Order No. 16-310, "Appointees to the Nation's Treasurer and Other
30 Officers and Heads of Governmental Departments that are Disapproved by the
31 Legislative Council No Longer in Office" and urged the Nation's Chairman to no

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1 **longer allow the disapproved appointees to continue to serve in violation of the**
2 **Nation's Constitution; and**

3 **WHEREAS, the Chairman subsequently issued Executive Order No. 16-01, declaring that the**
4 **disapproved directors continue to have "the full authority of their respective**
5 **positions."**

6 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that an**
7 **appointee who has been disapproved by the Legislative Council for the position**
8 **of chief administrative officer (Resolution No. 16-301), Gaming Office executive**
9 **director (Resolution No. 16-304), Education Department executive director**
10 **(Resolution No. 16-302), or treasurer or any other disapproved officer or head of**
11 **a governmental department, shall no longer serve in, perform the functions of,**
12 **or be compensated for serving in the position for which his or her appointment**
13 **was disapproved.**

14 **BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that, effective on the**
15 **date of disapproval, no Nation's funds shall be expended for the compensation of**
16 **an appointee who has been disapproved by the Legislative Council for the**
17 **position of chief administrative officer (Resolution No. 16-301), Gaming Office**
18 **executive director (Resolution No. 16-304), Education Department executive**
19 **director (Resolution No. 16-302), or treasurer or any other disapproved officer or**
20 **head of a governmental department; provided that the disapproved appointee**
21 **shall be compensated up to and including the date of his or her disapproval and**
22 **the appointee is not barred from serving in another position in accordance with**
23 **the Nation's laws and policies.**

24 **BE IT FINALLY RESOLVED that the Legislative Council directs the Budget and Finance and Rules**
25 **Committees, in coordination with the Legislative Council officers, to consult with**
26 **the Nation's Chairman and draft legislation establishing the process for**
27 **appointing and compensating the treasurer, and other officers and heads of all**
28 **governmental departments in accordance with Article VII, Section 2(e) of the**
29 **Nation's Constitution.**

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1 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 20TH day
2 of JULY, 2016 at a meeting at which a quorum was present with a vote of 2,542.2 FOR; 250.6
3 AGAINST; -0- NOT VOTING; and 228.6[07] ABSENT, pursuant to the powers vested in the Council
4 by Article VI, Section 1(d) and Article VII, Section 2(e) of the Constitution of the Tohono O'odham
5 Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting
6 Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section
7 16 of the Act of June 18, 1934 (48 Stat.984).

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9 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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13 Timothy Joaquin, Legislative Chairman

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15 21ST day of July, 2016

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19 ATTEST:

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22 Evonne Wilson, Legislative Secretary

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24 21 day of July, 2016

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26 Said Resolution was submitted for approval to the office of the Chairman of the Tohono
27 O'odham Nation on the 21 day of July, 2016 at 8:25 o'clock, a.m.,
28 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
29 effective upon his approval or upon his failure to either approve or disapprove it within 48
30 hours of submittal.

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32 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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36 Timothy Joaquin, Legislative Chairman

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41 APPROVED

on the 25th day of July, 2016

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43 DISAPPROVED

at 8:12 o'clock, a.m.

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47 EDWARD D. MANUEL, CHAIRMAN
48 TOHONO O'ODHAM NATION
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1 Returned to the Legislative Secretary on the 25 day of

2
3 July, 2016, at 8:15 o'clock, a.m.

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5 Evonne Wilson
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7 **Evonne Wilson, Legislative Secretary**

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ACTION: APPOINTEES TO THE NATION'S TREASURER AND OTHER OFFICERS AND HEADS OF GOVERNMENTAL DEPARTMENTS THAT ARE DISAPPROVED BY THE LEGISLATIVE COUNCIL NO LONGER IN OFFICE

Moved: COUNCILWOMAN BARBARA HAVIER

SECOND: COUNCILWOMAN LORETTA LEWIS

DATE: JULY 20, 2016

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (Roberta E. Harvey)	183.60	X			
	2. VERNON J. SMITH (Gloria Zazueta)	183.60	X			
CHUKUT KUK 332.1	1. ETHEL GARCIA (Marlakay K. Henry)	166.05	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	166.05	X			
GU ACHI 265.0	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.50	X			
	2. LORETTA LEWIS ()	132.50	X			
GU VO 250.6	1. GRACE MANUEL (Dallas Lewis)	125.30		X		
	2. PAMELA ANGHILL <i>(Absent)</i> (Jeffery Antone, Sr.) <i>(Present)</i>	125.30		X		X
HICKIWAN 205.8	1. LOUIS R. LOPEZ (Shirley Molina)	102.90	X			
	2. SANDRA ORTEGA ()	102.90	X			X
PISINEMO 219.9	1. CHESTER ANTONE ()	109.95	X			X
	2. MONICA K. MORGAN ()	109.95	X			
SAN LUCY 226.5	1. DIANA MANUEL ()	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III ()	114.3				X
	2. RACHEAL VILSON-STONER <i>(Absent)</i> (Olivia Villegas-Liston) <i>(Present)</i>	114.3				X
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. ()	90.3	X			X
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.3	X			
SELLS 513.5	1. ARTHUR WILSON (Beverly Rivas)	256.75	X			X
	2. BARBARA HAVIER ()	256.75	X			
SIF OIDAK 231.6	1. LUCINDA ALLEN (Nicholas Jose)	115.80	X			
	2. MARY LOPEZ ()	115.80	X			
TOTAL		3,021.4	2,542.2	250.6	-0-	228.6 [07]