

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving the FY 2016 Scholarship Fund Budget Amendment No. 1 and Program
Name Change)**

RESOLUTION NO. 16-390

1 **WHEREAS,** the Tohono O'odham Legislative Council is authorized "to manage any funds
2 within the exclusive control of the Tohono O'odham Nation . . . and to
3 appropriate these funds for the benefit of the nation and its members" provided
4 that "[a]ll expenditures of these funds shall be pursuant to appropriations or
5 budgets" authorized by resolution or ordinance (Constitution of the Tohono
6 O'odham Nation, Article VI, Section 1(d)(2) and Section 1(d)(3)); and

7 **WHEREAS,** the Tohono O'odham Legislative Council is vested with the power to appropriate
8 funds for the promotion of the general welfare of the Nation and its members,
9 and has determined, following a review of facts and circumstances particular to
10 the Nation and its culture, traditions, and goals of self-determination and self-
11 governance, that it is in the best interests of the Nation and in furtherance of the
12 general welfare, to expand its prior scholarship program to include education
13 assistance consistent with the requirements of Internal Revenue Code Section
14 139E; and

15 **WHEREAS,** the FY 2016 Tohono O'odham Nation Scholarship Fund Budget in the amount of
16 \$5,876,491.71 was approved by Resolution No. 15-165; and

17 **WHEREAS,** the FY 2016 Tohono O'odham Nation Scholarship Fund Budget includes the
18 maximum annual assistance amount of \$17,500.00 for full-time post-secondary
19 students that was set in 1995 and which has not been adjusted to reflect the
20 more than 300% increase in education costs over the last 21 years; and

21 **WHEREAS,** in collaboration with the Legislative Human Resources Development and
22 Budget and Finance and Committees, the Nation's Education Department has
23 prepared FY 2016 Tohono O'odham Nation Education Assistance Program
24 Budget Amendment No. 1, which is incorporated by this reference and which
25 would increase the FY 2016 Education Assistance Program Budget by
26 \$517,566.66 from \$5,876,491.71 to \$6,394,058.37; and

27 **WHEREAS,** FY 2016 Tohono O'odham Nation Scholarship Fund Budget Amendment No. 1
28 would (1) change the name of the Tohono O'odham Nation Scholarship Fund to
29 Tohono O'odham Nation Education Assistance Program, (2) change line item
30 7675 Scholarships and Tuition to 7675 Education Assistance, which will also
31 change the line item narrative to reflect student assistance, and (3) increase the

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1 maximum annual student allocation of \$17,500.00 to \$30,000.00 per year to
2 offset the cost of living and inflation; and

3 **WHEREAS,** **the Tohono O'odham Nation Education Assistance Program will be administered**
4 **in accordance with rules and procedures designed to achieve favorable tax**
5 **treatment under the Tribal General Welfare Exclusion Act of 2014 ("the Act"),**
6 **Pub. L. No. 113-168, 128 Stat. 1883 (2014), as codified in the United States Internal**
7 **Revenue Code (the "Code") Section 139E; and**

8 **WHEREAS,** **the Tohono O'odham Nation Education Assistance Program may look for**
9 **guidance to the Internal Revenue Service safe harbor rules for education**
10 **assistance as set forth in Revenue Procedure 2014-35, but shall remain subject**
11 **to such additional limitations, including enrollment requirements particular to**
12 **the Nation, as may be required for consistency with the laws of the Nation; and**

13 **WHEREAS,** **the Human Resources Development and Budget and Finance Committees have**
14 **reviewed FY 2016 Education Assistance Program Budget Amendment No. 1, the**
15 **program name and line item changes, the increase to the maximum annual**
16 **student allocation, and the inclusion of changes to achieve favorable tax status**
17 **under Code Section 139E, and recommend their approval.**

18 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council approves
19 **the FY 2016 Tohono O'odham Nation Education Assistance Program Budget**
20 **Amendment No. 1, which includes a \$517,566.66 increase from \$5,876,479.71 to**
21 **\$6,394,058.37 that shall be funded by the Nation's general fund surplus.**

22 **BE IT FURTHER RESOLVED** that the line item name change from Scholarships and Tuition to
23 **Education Assistance and the program name change to the Tohono O'odham**
24 **Education Assistance Program shall be effective June 1, 2016.**

25 **BE IT FURTHER RESOLVED** that the maximum annual student allocation shall be increased
26 **from \$17,500.00 to \$30,000.00 and this allocation shall be available retroactively**
27 **to all eligible students as of June 1, 2016, provided that the Tohono O'odham**
28 **Nation Scholarship Fund Policy is accordingly amended to reflect the new**
29 **maximum allocation amount and the additional provisions of this resolution.**

30 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council has reviewed and
31 **determined that the above allocation amounts are not lavish or extravagant**

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1 **based on needs, facts and circumstances particular to the Nation, including the**
2 **increase of the cost of education since prior program limits were established.**

3 **BE IT FURTHER RESOLVED** that the Tohono O'odham Nation Education Assistance Program
4 **shall be administered in a manner designed to achieve favorable tax status**
5 **under Internal Revenue Code Section 139E including: (a) the program will be**
6 **administered under specified guidelines and will not discriminate in favor of**
7 **the members of the governing body of the Nation; (b) program benefits will be**
8 **made available to any member who meets such guidelines (subject to budget**
9 **availability); (c) program benefits are for the "promotion of the general welfare";**
10 **(d) program benefits are not lavish or extravagant; and (e) program benefits**
11 **shall not consist of compensation for services.**

12 **BE IT FURTHER RESOLVED** that to the extent not otherwise covered by Internal Revenue Code
13 **Section 139E, the Tohono O'odham Nation Education Assistance Program shall**
14 **remain entitled to tax exemptions under other applicable provisions of the**
15 **United States Internal Revenue Code.**

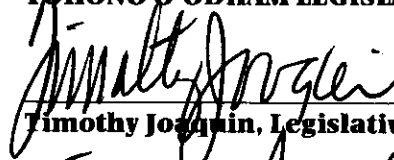
16 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council directs the Human
17 **Resources Development Committee, in coordination with the Education**
18 **Assistance Program, to draft an updated Education Assistance Policy to replace**
19 **the amended Tohono O'odham Nation Scholarship Fund Policy to reflect the**
20 **provisions of this resolution and to require students receiving a Higher**
21 **Education Assistance benefit to return to work for the Nation, a Nation's entity,**
22 **or on the Nation.**

23 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the Tohono
24 **O'odham Nation chairperson or any designated official is authorized and**
25 **directed to administer and expend the FY 2016 Education Assistance Program**
26 **Budget as amended, provided however, that any amendments or modifications**
27 **shall be submitted for prior approval by the Tohono O'odham Legislative**
28 **Council.**

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 04TH day of AUGUST, 2016 at a meeting at which a quorum was present with a vote of 3,021,4 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(d)(2)and(3) 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

5 day of August, 2016

ATTEST:

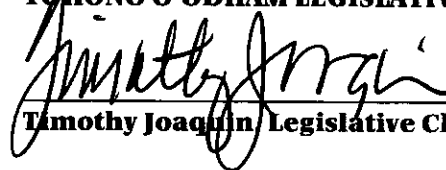


Evonne Wilson, Legislative Secretary

5 day of August, 2016

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 5 day of August, 2016 at 4:13 o'clock, P.m., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

APPROVED

on the 9 day of August, 2016

DISAPPROVED

at 9:28 o'clock, A.m.



EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

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1 Returned to the Legislative Secretary on the 9 day of
2
3 August, 2016, at 10:12 o'clock, A.m.
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8 **Evonne Wilson, Legislative Secretary**
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