

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Participation by Nation in Lawsuit Affecting
Funding for Indian School Districts)**

RESOLUTION NO. 93-246

**WHEREAS, the Indian Oasis-Baboquivari Unified School District No. 40
("Indian Oasis") is located within the boundaries of the Tohono
O'Odham Reservation; and**

**WHEREAS, substantially all of the students enrolled in Indian Oasis schools
and their parents are members of the Tohono O'Odham Nation
and reside on the Reservation; and**

**WHEREAS, Indian Oasis receives funding from the State of Arizona ("State
Funding") and from the federal government pursuant to P. L.
81-874, 20 U.S.C. § 236-246 ("Federal Impact Aid"; and**

**WHEREAS, Indian Oasis is in the midst of planning a new elementary school
and is at the preliminary stages of planning a new junior high
school (the "School Construction Projects"); and**

**WHEREAS, completion of the School Construction Projects is essential to
serve the education needs of the Indian Oasis students; and**

**WHEREAS, effective July 1, 1992, the State of Arizona enacted a law,
codified at A.R.S. § 15-991.02, which required Indian Oasis
and other school districts to return to the State certain
percentages of any cash balances remaining in the district
budgets at the end of the fiscal year (June 30) ("Cash Balance
Reversion"); and**

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4 **WHEREAS, for purposes of maintaining accounts for funds and calculating**
5 **the Cash Balance Reversion, monies from State funding and**
6 **Federal Impact Aid are commingled in the same account; and**

7
8 **WHEREAS, Indian Oasis was required to remit to the State a Cash Balance**
9 **Reversion in the amount of nearly \$1 million for the fiscal year**
10 **ended June 30, 1992 and anticipates having to remit a**
11 **significant Cash Balance Reversion for the fiscal year ended**
12 **June 30, 1993; and**

13
14 **WHEREAS, the effect of the State law on Cash Balance Reversions is to**
15 **impermissibly revert to State use Federal Impact Aid monies,**
16 **and to equivalently reduce the amount of funds needed by**
17 **Indian Oasis to complete the School Construction Projects and**
18 **to meet other capital needs such as textbooks and school buses;**
19
20 **and**

21
22 **WHEREAS, the State law in question operates to materially infringe on the**
23 **Tohono O'Odham Nation's rights of self-government,**
24 **particularly with respect to serving the educational interests of**
25 **O'Odham children essential to protect their health, safety and**
26 **welfare; and**

27
28 **WHEREAS, the Human Resource Development Committee has recommended**

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the following action to protect the fundamental interests of the
Nation and its members.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Legislative Council hereby authorizes participation by the Tohono O'Odham Nation in a lawsuit or other proceedings before any Court or governmental body of competent jurisdiction for the purpose of seeking (a) a declaration that the State law on Cash Balance Reversions, as applied to Indian Oasis and other Indian school districts, is unlawful and unenforceable, (b) a permanent injunction against enforcement of the law against Indian Oasis, (c) restitution of Cash Balance Reversions remitted by Indian Oasis to the State of Arizona, and (d) such other relief as may be appropriate.

2. The Attorney General of the Nation is authorized and directed to represent the Nation in the foregoing proceedings.


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The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 14TH day of JULY, 1993 at a meeting at which a quorum was present with a vote of 1,701.0 FOR; -0- AGAINST; 62.0 NOT VOTING; and 02 ABSENT, pursuant to the powers vested in the Council by Section 1 (c)(2) of Article VI 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).

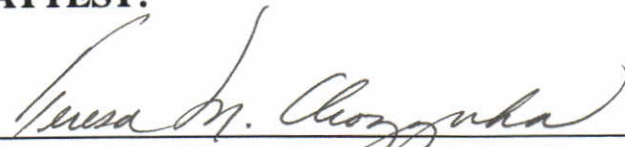
TOHONO O'ODHAM LEGISLATIVE COUNCIL



For Alex J. Ramon, Legislative Chairman

19 day of July, 1993

ATTEST:



Teresa M. Choyguha, Legislative Secretary

19th day of July, 1993.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 20 day of July, 1993, at 4:32 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



For Alex J. Ramon, Legislative Chairman

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APPROVED on the 21 day of July, 1993

DISAPPROVED) at 6:56 o'clock, P..M.



SYLVESTER LISTO, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 22nd day of July,
1993, at 3:09 o'clock, P.M.



Teresa M. Choyguha, Legislative Secretary

ACTION: AUTHORIZING PARTICIPATION BY NATION IN LAWSUIT AFFECTING FUNDING FOR INDIAN SCHOOL DISTRICTS

Moved: COUNCILMAN EUGENE ENIS

SECOND: COUNCILWOMAN FRANCES FRANCISCO

DATE: JULY 14, 1993

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 151.0	1. WILLARD JUAN, SR. (Delbert Thomas)	75.5	X			
	2. MARY ANN ANTONE (Nellie Miguel)	75.5	X			
SELLS 290.0	1. ANDREW M. PATRICIO (Lucille Encinas)	145.0	X			X
	2. JOSEPH T. JOAQUIN (Allen W. Garica, Jr.)	145.0	X			
SCHUK TOAK 113.0	1. FRANCES FRANCISCO ()	56.5	X			
	2. KENNETH J. ANTONE ()	56.5	X			
SAN XAVIER 135.0	1. EUGENE ENIS, SR. ()	67.5	X			
	2. DENNIS RAMON ()	67.5	X			
BABOQUIVARI 230.0	1. FRANCES MIGUEL ()	115.0	X			
	2. EARL A. FRANCISCO (Lucilda Norris)	115.0	X			
GU ACHI 180.0	1. WILLARD ANITA ** ()	90.0	X			
	2. ALEX J. RAMON (Marian Johnson)	90.0	X			
PISINEMO 128.0	1. CHESTER ANTONE (Fernando Valentine)	64.0	X			
	2. JOHNSON M. JOSE (Roseleen Antone)	64.0	X			
SAN LUCY 98.0	1. JOHN RENO ()	49.0	X			
	2. ALBERT MANUEL, JR. (Ernestine Marquez)	49.0	X			X
GU VO 124.0	1. EMILIO LEWIS ()	62.0	X			
	2. MICHAEL FLORES (Fern Salcido)	62.0			X	
HICKIWAN 136.0	1. MANUEL OSEQUEDA, JR. ()	68.0	X			
	2. LLOYD FRANCISCO (Henry A. Ramon)	68.0	X			
CHUKUT KUK 178.0	1. ALBERTA M. LOPEZ (Berdella Jose)	89.0	X			
	2. KENNETH WILLIAMS ()	89.0	X			
TOTAL		1,763.0	1,701.0	-0-	62.0	02

****PASSED VOTES**