

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting Amendment to Gaming Ordinance Authorizing Expenditure
of Gaming Revenue for Per Capita Payments)**

RESOLUTION NO. 97-303

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4 **WHEREAS, on June 28, 1997 the voters of the Tohono O'odham Nation**
5 **(the "Nation") approved the "O'odham Voice on use of**
6 **Gaming Revenues" Initiative, No. IN-01-97 (the "Initiative"),**
7 **by a majority of votes cast; and**

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9 **WHEREAS, the Initiative provides for a "one time" \$2,000 per capita**
10 **payment to all enrolled members of the Nation living as of**
11 **the date of passage of the Initiative, and a \$2,000 per capita**
12 **payment to members every two years thereafter provided**
13 **"Gaming Revenues are available"; and**

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15 **WHEREAS, the Initiative provides that the per capita payments shall be**
16 **made from available revenues received from the Nation's**
17 **gaming operations; and**

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19 **WHEREAS, pursuant to Resolution 93-296, the Nation enacted an**
20 **Ordinance for the Regulation of Gaming Activities within the**
21 **Tohono O'odham Nation (the "Gaming Ordinance"), as**
22 **amended by Resolution 97-168; and**

23
24 **WHEREAS, Section 302 of the Ordinance prescribes the permissible**
25 **categories for expenditure of revenues from Class II and**
26 **Class III gaming activities (the "Gaming Revenues"); and**
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WHEREAS, Section 302 of the Gaming Ordinance does not authorize expenditure of Gaming Revenues for per capita payments; and

WHEREAS, the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2710 (b) (3) and (d) (1) (A) (ii) , prohibits the Nation from using Gaming Revenues to make per capita unless the Secretary of the Interior (the "Secretary") has approved a revenue allocation plan which prescribes the terms and conditions for such payments; and

WHEREAS, on December 21, 1992 the Secretary, acting through the Assistant Secretary for Indian Affairs, issued Guidelines to Govern the Review and Approval of Per Capita Distribution Plans (the "Guidelines") which set forth the criteria which must be met to secure the Secretarial approval required by the Indian Gaming Regulatory Act; and

WHEREAS, one of the preconditions for approval is a determination that the Per Capita Distribution Plan (the "Plan"), when submitted by the Nation, is consistent with the laws of the Nation; and

WHEREAS, satisfaction of this criterion requires that the Nation amend

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the Gaming Ordinance, prior to submission of its Plan, to allow expenditure of Gaming Revenues for per capita payments; and

WHEREAS, the Tohono O' odham Legislative Council and the Chairman of the Nation are committed to use their best efforts to implement the per capita distribution proposal as soon as reasonably possible and in a manner consistent with applicable law.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. The Tohono O'odham Legislative Council hereby amends Section 302 of the Gaming Ordinance, by inserting a semicolon in place of the period at the end of subsection (d) and adding thereto a new subsection (e) to read as amended:**

Section 302. Use of Net Revenues. The net revenues received by the Nation from all Gaming Activities shall be utilized exclusively for one or more of the following purposes:

- (a) to fund government operations or programs of the Nation or Districts;**

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- (b) to provide for the general welfare of the Nation and its members;**
- (c) to promote the Nation's economic development;**
- (d) to benefit charitable organizations providing services within the Nation;**
- (e) to make per capita payments to enrolled members of the Nation, subject to compliance with all applicable laws of the United States and the Nation.**

2. The Executive Director of the Gaming Office is authorized and directed to submit this amendment to the Gaming Ordinance to the National Indian Gaming Commission for approval, and to take all other reasonable and necessary steps for implementation of this Resolution.

3. The Gaming Ordinance shall be reprinted in its entirety bearing Ordinance Number 93-01 and showing a revision date of July 1997.