

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Opposing House Bill 2397 in the Arizona Legislature)**

**RESOLUTION NO. 99-056**

1   **WHEREAS, the Arizona archaeological discovery laws were rewritten in 1973 and**  
2                   **1990, with significant input from the Indian tribes of Arizona, to require**  
3                   **issuance of permits to archaeological consultants by the Arizona State**  
4                   **Museum and to require notification of the discovery of human remains,**  
5                   **funerary objects, sacred ceremonial objects and objects of cultural**  
6                   **patrimony to Indian tribes through the Arizona State Museum; and**

7   **WHEREAS, the Arizona State Land Department, without any consultation with the**  
8                   **Indian tribes of Arizona, has introduced a bill entitled H.B. 2397 in the**  
9                   **1999 legislative session of the Arizona Legislature which shifts many**  
10                  **responsibilities related to archaeological discoveries from the Arizona**  
11                  **State Museum to the State Historic Preservation Officer, and creates a**  
12                  **new entity called the Arizona Historic Properties and Antiquities Board**  
13                  **to give oversight to the work of the State Historic Preservation Officer and**  
14                  **the Arizona State Museum; and**

15   **WHEREAS, the Cultural Preservation Committee of the Tohono O'odham Legislative**  
16                  **Council and the Cultural Affairs Office of the Tohono O'odham Nation**  
17                  **have studied the bill and object to the bill for the following reasons:**

- 18                  **1. The bill was drafted by the State Land Department without any**  
19                  **consultation with the Indian tribes of Arizona.**
- 20                  **2. The bill creates an additional layer of bureaucracy in the chain of**  
21                  **notification of discovery of human remains, funerary objects, sacred**  
22                  **ceremonial objects and objects of cultural patrimony to Indian tribes,**  
23                  **requiring notice of discovery by the developer or the archaeological**

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1                   consultant to the State Historic Preservation Officer and the land  
2                   managing agency, and then notice by the State Historic Preservation  
3                   Officer to the Arizona State Museum which then notifies Indian tribes  
4                   claiming affinity to the human remains and other objects and ensures  
5                   that the human remains and other objects are repatriated in accordance  
6                   with the wishes of the Indian tribes. This chain of notification will  
7                   create delays which work against the interests of Indian tribes.

8                   3. The Tohono O'odham Nation and the other Arizona Indian tribes have  
9                   created a good working relationship with the Arizona State Museum,  
10                  and are satisfied with the way the Arizona State Museum handles  
11                  matters related to human remains and tribal notification and  
12                  consultation. Since changes to the law in 1990 the Indian tribes have  
13                  had an opportunity to educate the staff of the Arizona State Museum  
14                  and have worked out beneficial understandings and procedures. If  
15                  the State Historic Preservation Office is inserted as the notification  
16                  agency, the tribes will be required to educate a new agency and new  
17                  staff regarding their concerns.

18                  4. The State Historic Preservation Office is not equipped to handle the  
19                  large flow of work involved in issuing permits to archaeological  
20                  consultants and providing notice regarding the discovery of human  
21                  remains, funerary objects, sacred ceremonial objects and objects of  
22                  cultural patrimony.

23                  5. The bill creates a dual system for supervision of archaeological work  
24                  and for notification of discoveries. On private lands the current

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- 1                   system of notification will be maintained, as provided in A.R.S.  
2                   Section 41-865. The changes only apply to state lands, and modify  
3                   A.R.S. Section 41-844. A dual system will create confusion, especially  
4                   where a development project covers both private lands and state lands.
- 5                   6. The bill amends A.R.S. Section 41-844(E) to require that the State Land  
6                   Department will have a voice in decisions regarding disposition of  
7                   human remains, funerary objects, sacred ceremonial objects or objects  
8                   of cultural patrimony discovered on state lands, when it previously  
9                   had no voice. The decision on disposition of remains is best left to the  
10                  Indian tribes claiming affinity and the Arizona State Museum staff,  
11                  and should not involve the land management agency. The State Land  
12                  Department has no expertise in disposition of human remains and  
13                  other objects.
- 14                  7. The bill creates a new entity called the Arizona Historic Properties and  
15                  Antiquities Board (the "Board"), which is given responsibility to  
16                  advise the Arizona State Museum and the State Historic Preservation  
17                  Officer regarding protection of archaeological sites, the curation of  
18                  archaeological materials, and other matters. The Board has no  
19                  representation from Indian tribes. The inclusion of the Director of the  
20                  Arizona Commission of Indian Affairs is not sufficient to represent  
21                  the interests of the Arizona Indian tribes.
- 22                  8. The bill is opposed by the Arizona State Museum, the Arizona  
23                  Department of Transportation, and the Arizona State Parks agency.  
24                  The sole supporter of the bill is the State Land Department; and

1 WHEREAS, the Cultural Preservation Committee recommends that the Tohono  
2 O'odham Legislative Council adopt this resolution opposing H.B. 2397.

3 NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Nation opposes  
4 passage of House Bill 2397 in the Arizona legislature and recommends that  
5 all Indian tribes of Arizona actively oppose H.B. 2397.

6 The foregoing Resolution was passed by the Tohono O'odham Council on the 09TH day  
7 of FEBRUARY, 1999 at a meeting at which a quorum was present with a vote of 1,927.0  
8 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers  
9 vested in the Council by Section 1(c)(8) of Article VI of the Constitution of the Tohono  
10 O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and  
11 approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on  
12 March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

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15  
16 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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19 \_\_\_\_\_  
20 Dennis Ramon, Legislative Chairman

21 12<sup>th</sup> day of February, 1999

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25 ATTEST:

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28 \_\_\_\_\_  
29 Julianna Saraficio, Acting Legislative Secretary

30 9<sup>th</sup> day of February, 1999.

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34 Said Resolution was submitted for approval to the office of the Chairman of the Tohono  
35 O'Odham Nation on the 12<sup>th</sup> day of February, 1999 at  
36 3:15 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the  
37 Constitution and will become effective upon his approval or upon his failure to either  
38 approve or disapprove it within 48 hours of submittal.

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
\_\_\_\_\_  
Dennis Ramon, Legislative Chairman

APPROVED on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

DISAPPROVED at \_\_\_\_\_ o'clock, \_\_\_\_\_.M.  
**EXCEEDED 48 HOURS**

\_\_\_\_\_  
EDWARD D. MANUEL, Chairman  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 17<sup>th</sup> day of

February, 19 99, at 4:10 o'clock, P.M.

  
\_\_\_\_\_  
Julianna Saraficio, Acting Legislative Secretary

ACTION: OPPOSING HOUSE BILL 2397 IN THE ARIZONA LEGISLATURE

MOVED: COUNCILMAN LOUIS JOHNSON

SECOND: COUNCILMAN TONY BURRELL

DATE: FEBRUARY 09, 1999

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>CHUKUT KUK</b> 189.0	1. DAVID GARCIA (Marvin Thomas)	94.5	X			X
	2. KENNETH WILLIAMS (Arnold F. Smith Sr.)	94.5	X			
<b>HICKIWAN</b> 146.0	1. ALEX JOSE ( )	73.0	X			
	2. LLOYD FRANCISCO (Susan Sam)	73.0	X			
<b>GU VO</b> 142.0	1. FERN SALCIDO (Larry Montana)	71.0	X			
	2. GLORIA MONTANA (Phillip Antone)	71.0	X			
<b>SAN LUCY</b> 114.0	1. JOHN RENO (Mary Hoffman)	57.0	X			
	2. ALBERT MANUEL, JR. (Jana Montana)	57.0	X			
<b>PISINEMO</b> 139.0	1. BARBARA SALVICIO ( )	69.5	X			
	2. JOHNSON JOSE ( )	69.5	X			
<b>GU ACHI</b> 190.0	1. LOUIS JOHNSON ( )	95.0	X			
	2. ALEX J. RAMON ( )	95.0	X			X
<b>BABOQUIVARI</b> 258.0	1. FRANCES MIGUEL ( )	129.0	X			
	2. FRANCES G. ANTONE (Edward N. Kisto)	129.0	X			
<b>SAN XAVIER</b> 146.0	1. TONY BURRELL ( )	73.0	X			
	2. DENNIS RAMON ( )	73.0	X			
<b>SCHUK TOAK</b> 120.0	1. JOSEPH JUAN ( )	60.0	X			
	2. AMBROSE ENCINAS ( )	60.0	X			
<b>SELLS</b> 322.0	1. DENNIS E. JOSE ( )	161.0	X			
	2. EVELYN JUAN ( )	161.0	X			
<b>SIF Oidak</b> 161.0	1. RITA MARTINEZ (Maxine Norris)	80.5	X			
	2. MARY ANN ANTONE (Darlene Andrew)	80.5	X			
<b>TOTAL</b>		<b>1,927.0</b>	<b>1,927.0</b>	<b>-0-</b>	<b>-0-</b>	<b>[02]</b>

\*\*PASSED VOTES