

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Supporting Constitutionality of the Affordable Care Act and Authorizing Nation's**  
**Participation as an *Amicus* in the National Indian Health Board's *Amici Curiae* Brief**  
**in *States of Florida, et al. v. Department of Health and Human Services, et al.*)**

RESOLUTION NO. 12-020

1 **WHEREAS, the Legislative Council is vested with the authority to “consult with the Congress of**  
2 **the United States and appropriate federal agencies regarding federal activities that**  
3 **affect the Tohono O’odham Nation. . .” and “to promote, protect and provide for**  
4 **public health, peace, morals, education and general welfare of the Tohono O’odham**  
5 **Nation and its members. . .” (Constitution, Article VI, Section 1(j) and Section 1(c)(2));**  
6 **and**

7 **WHEREAS, the Affordable Care Act, enacted on March 23, 2010, is a major piece of federal**  
8 **legislation directed at comprehensive health insurance reforms with several**  
9 **provisions affecting the Tohono O’odham Nation and its members, including the**  
10 **permanent reauthorization of the Indian Health Care Improvement Act (Public Law**  
11 **111-148, 124 Stat. 119); and**

12 **WHEREAS, immediately after President Barack Obama signed the Affordable Care Act into law,**  
13 **twenty-six states, including Arizona, joined in a constitutional challenge of the**  
14 **Affordable Care Act and specifically the Affordable Care Act’s requirement that every**  
15 **individual maintain minimum health insurance coverage (i.e. “minimum coverage**  
16 **provision”); and**

17 **WHEREAS, in *States of Florida, et al. v. Department of Health and Human Services, et al.* the**  
18 **federal district court judge held that Congress exceeded its authority by enacting the**  
19 **minimum coverage provision of the Affordable Care Act and that the unconstitutional**  
20 **provision could not be severed from the rest of the law; and**

21 **WHEREAS, on appeal to the 11<sup>th</sup> Circuit Court of Appeals, the National Indian Health Board filed**  
22 **an *amici curiae* brief arguing that the Indian Health Care Improvement Act and the**  
23 **Indian-specific provisions of the Affordable Care Act are valid and severable from the**  
24 **rest of the Affordable Care Act; and**

25 **WHEREAS, the 11<sup>th</sup> Circuit Court of Appeals held the unconstitutional minimum coverage**  
26 **provision to be severable from the other valid portions of the Affordable Care Act; and**

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**RESOLUTION NO. 12-020**

**(Supporting Constitutionality of the Affordable Care Act and Authorizing Nation's Participation as an Amicus in the National Indian Health Board's Amici Curiae Brief in *States of Florida, et al. v. Department of Health and Human Services, et al.*)**

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1 **WHEREAS, on November 14, 2011, the United States Supreme Court granted certiorari in *States***  
2 ***of Florida, et al. v. Department of Health and Human Services, et al.*; and**

3 **WHEREAS, the National Indian Health Board plans to file an amici curiae brief in the case before**  
4 **the Supreme Court and has urged tribal nations to support its efforts and join in the**  
5 ***amici curiae* brief; and**

6 **WHEREAS, the Nation in previous resolutions has continuously supported the reauthorization**  
7 **of the Indian Health Care Improvement Act (Resolution No. 65-87, Resolution No.**  
8 **2000-388, Resolution No. 2000-541, Resolution No. 01-120, Resolution No. 01-367); and**

9 **WHEREAS, the state of Arizona is a petitioner in the *States of Florida, et al. v. Department of***  
10 ***Health and Human Services, et al.* arguing against the constitutionality of the**  
11 **minimum coverage provision of the Affordable Care Act and against the severability**  
12 **of otherwise constitutionally valid provisions; and**

13 **WHEREAS, the National Indian Health Board's *amici curiae* brief, which argues for the**  
14 **severability of the Indian-specific provisions of the Affordable Care Act and the**  
15 **Indian Health Care Improvement Act, would benefit from the support of tribes within**  
16 **the state of Arizona.**

17 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it supports**  
18 **the constitutionality of the Affordable Care Act as a whole but in the event the**  
19 **Supreme Court determines certain provisions of the Affordable Care Act to be**  
20 **unconstitutional, the Nation supports severing the Indian Health Care Improvement**  
21 **Act and the Indian-specific provisions of the Affordable Care Act.**

22 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council authorizes the Nation's**  
23 **participation as an *amicus* in the National Indian Health Board's *amici curiae* brief**  
24 **in *States of Florida, et al. v. Department of Health and Human Services, et al.* before**  
25 **the Supreme Court of the United States.**

26 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10<sup>TH</sup> Day**  
27 **of JANUARY, 2012 a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0-**  
28 **AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**  
29 **Section 1 (j) and 1 (c)(2) of Article VI of the Constitution of the Tohono O'odham Nation, adopted**  
30 **by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**  
31 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**  
32 **18, 1934 (48 Stat. 984).**

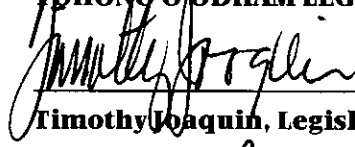
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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

12 day of January, 2012

ATTEST:

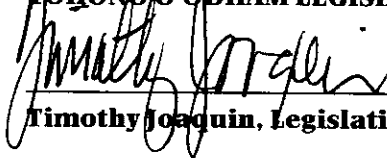


Evonne Wilson, Legislative Secretary

11 day of January, 2012.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 12 day of January, 2012 at 8:36 o'clock, A.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



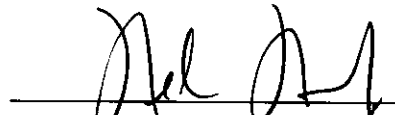
Timothy Joaquin, Legislative Chairman

APPROVED

on the 12 day of January, 2012

DISAPPROVED

at 10:40 o'clock, A.M.

  
NED NORRIS, JR., CHAIRMAN  
TOHONO O'ODHAM NATION

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1 Returned to the Legislative Secretary on the 12 day of

2  
3 January, 2012, at 11:08 o'clock, a.M.

4  
5 Evonne Wilson

6 **Evonne Wilson, Legislative Secretary**

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**ACTION:** SUPPORTING CONSTITUTIONALITY OF THE AFFORDABLE CARE ACT AND AUTHORIZING NATION'S PARTICIPATION AS AN *AMICUS* IN THE NATIONAL INDIAN HEALTH BOARD'S *AMICI CURIAE* BRIEF IN *STATES OF FLORIDA, ET AL. V. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL.*

**MOVED:** COUNCILWOMAN SANDRA ORTEGA

**SECOND:** COUNCILWOMAN FRANCES G. ANTONE

**DATE:** JANUARY 10, 2012

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	171.0	X			
<b>CHUKUT KUK</b> 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ( )	151.10	X			
<b>GU ACHI</b> 244.9	1. TIMOTHY L. JOAQUIN (Rose Johnson Antone)	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
<b>GU VO</b> 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Roselda Lewis)	113.35	X			
<b>HICKIWAN</b> 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ( )	93.15	X			
<b>PISINEMO</b> 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
<b>SAN LUCY</b> 204.6	1. LORRAINE EILER ( )	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
<b>SAN XAVIER</b> 215.8	1. HILARION CAMPUS ( )	107.90	X			X
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
<b>SCHUK TOAK</b> 169.8	1. FRANCES B. CONDE ( )	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
<b>SELLS</b> 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			
	2. EVELYN B. JUAN MANUEL ( )	237.85	X			
<b>SIF OIDAK</b> 211.9	1. NICHOLAS JOSE ( )	105.95	X			
	2. MARY LOPEZ ( )	105.95	X			
<b>TOTAL</b>		<b>2,780.60</b>	<b>2,780.60</b>	<b>-0-</b>	<b>-0-</b>	<b>[01]</b>