

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Urging Governor Janice K. Brewer to Expand the Arizona Health Care Cost
Containment System in Accordance with the Affordable Care Act)**

RESOLUTION NO. 12-458

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the**
2 **authority "to promote, protect and provide for public health, peace, morals, education**
3 **and general welfare of the Tohono O'odham Nation and its members..." and "to**
4 **consult, negotiate and conclude agreements and contracts on behalf of the Tohono**
5 **O'odham Nation with Federal, State and local governments..." (Constitution, Article**
6 **VI, Section 1(c)(2) and Section 1(f)); 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 and the**
11 **expansion of Medicaid eligibility, beginning January, 2014, to all individuals under**
12 **133% of the federal poverty level (Public Law 111-148, 124 Stat. 119); and**

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

18 **WHEREAS, in previous resolutions, the Legislative Council expressed its position in the**
19 **constitutionality of the Affordable Care Act as whole but also authorized the Nation's**
20 **participation as an *amicus* in the National Indian Health Board's *amici curiae* brief**
21 **in *States of Florida, et al. v. Department of Health and Human Services, et al.* to argue**
22 **the severability of the Indian Health Care Improvement Act in the event the Supreme**
23 **Court of the United States invalidated portions of the Affordable Care Act; and**

24 **WHEREAS, on June 28, 2012, the Supreme Court of the United States issued its opinion in *States***
25 ***of Florida, et al. v. Department of Health and Human Services, et al.* upholding the**
26 **constitutionality of all the provisions of the Affordable Care Act with the exception of**
27 **the Medicaid expansion; and**

28 **WHEREAS, in its opinion, the Supreme Court held that the Medicaid expansion unconstitutionally**
29 **infringed upon state's rights and therefore states had the option to adopt the Medicaid**
30 **expansion or not without threat of losing all of the state's Medicaid federal funds; and**

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(Urging Governor Janice K. Brewer to Expand the Arizona Health Care Cost Containment System in Accordance with the Affordable Care Act)

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1 **WHEREAS, to date, Governor Janice K. Brewer hasn't expressed intent whether Arizona will**
2 **expand Arizona's Medicaid, the Arizona Health Care Cost Containment System**
3 **("AHCCCS"), to include all individuals under 133% of the federal poverty level; and**

4 **WHEREAS, prior to June, 2011, Arizona's AHCCCS eligibility and services were far more expansive**
5 **and benefited non-disabled childless adults and other services utilized by members**
6 **of the Nation, but in an effort to balance the State's budget, Arizona requested and**
7 **received a Demonstration Waiver which excluded previously eligible childless adults;**
8 **and**

9 **WHEREAS, the Legislative Council opposed all proposed provisions in the Demonstration Waiver**
10 **which would eliminate eligibility or reduce services greatly needed by the Nation's**
11 **members and other tribal members in Arizona (Legislative Council Resolution No. 11-**
12 **278); and**

13 **WHEREAS, the Medicaid expansion under the Affordable Care Act would restore eligibility to**
14 **many of the Nation's members and benefit other Arizona citizens and it is in the best**
15 **interest of the Nation's members to advocate for its expansion; and**

16 **WHEREAS, under the Medicaid expansion, states receive a 100% federal medical assistance**
17 **percentage ("FMAP") to cover the costs of expanding eligibility to those individuals who**
18 **were previously ineligible under the state's Medicaid plan, but because Arizona**
19 **previously offered greater Medicaid eligibility than other states, including childless**
20 **adults, the federal government will not reimburse the state at the 100% FMAP coverage**
21 **for childless adults; and**

22 **WHEREAS, it would be in the Nation's best interest to join AHCCCS and advocate for an enhanced**
23 **federal medical assistance percentage to cover childless adults; and**

24 **WHEREAS, the Legislative Health and Human Services Committee recommends joining other**
25 **Arizona tribes in urging Governor Janice K. Brewer to accept the federal matching**
26 **funds and expand Arizona's Medicaid, AHCCCS, to include all individuals under 133%**
27 **of the federal poverty level and to advocate for the enhanced FMAP to cover childless**
28 **adults.**

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1 **NOW, THEREFORE, BE IT RESOLVED** by the Tohono O'odham Legislative Council that it urges

2 **Governor Janice K. Brewer to accept the federal matching funds and expand Arizona's**

3 **Medicaid, AHCCCS, to include all individuals under 133% of the federal poverty level.**

4 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that it urges the Centers

5 **for Medicaid and Medicare to approve AHCCCS' request for enhanced FMAP at 83%-**

6 **90% for childless adults.**

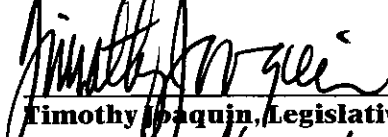
7 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that it authorizes and directs

8 **the Nation's chairperson or authorized delegate to advocate for the expansion of**

9 **AHCCCS and enhanced FMAP in accordance with this resolution.**

10 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 09TH Day**
11 **of NOVEMBER, 2012 at a meeting at which a quorum was present with a vote of 2,568.70 FOR; -0-**
12 **AGAINST; -0- NOT VOTING; and 211.90[07] ABSENT, pursuant to the powers vested in the Council**
13 **by Article VI, Section 1 (c)(2) and (f) of the Constitution of the Tohono O'odham Nation, adopted by**
14 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
15 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
16 **18, 1934 (48 Stat. 984).**

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18 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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22 **Timothy Joaquin, Legislative Chairman**

23 13 day of November, 2012

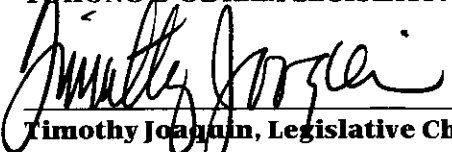
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27 **ATTEST:**

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30 **Evonne Wilson, Legislative Secretary**

31 13 day of November, 2012.

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34 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham**
35 **Nation on the 13 day of November, 2012 at 4:19 o'clock, P.M.,**
36 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
37 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
38 **submittal.**

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40 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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44 **Timothy Joaquin, Legislative Chairman**

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APPROVED

on the 14 day of November, 2012

DISAPPROVED

at 9:47 o'clock, A .M.

Wendell Hancock/Vice Chairman
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 14 day of

November, 2012, at 9:54 o'clock, A .M.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: URGING GOVERNOR JANICE K. BREWER TO EXPAND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM IN ACCORDANCE WITH THE AFFORDABLE CARE ACT

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON

SECOND: COUNCILWOMAN SANDRA ORTEGA

DATE: NOVEMBER 09, 2012

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	171.0	X			X
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X			X
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Roselda Lewis)	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			X
	2. SANDRA ORTEGA ()	93.15	X			
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
SAN LUCY 204.6	1. LORRAINE EILER ()	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
SAN XAVIER 215.8	1. HILARION CAMPUS (Racheal Vilson-Stoner)	107.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (Anthony J. Rios)	84.90	X			X
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (<i>Absent</i>) (Kimberly Mull) (<i>Present</i>)	237.85	X			X
	2. EVELYN B. JUAN MANUEL ()	237.85	X			
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95				X
	2. MARY LOPEZ ()	105.95				X
TOTAL		2,780.60	2,568.70	-0-	-0-	211.90 [07]