

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting 13 Tohono O'odham Code Chapter 3 - Whistleblower Protection)**

RESOLUTION NO. 23-225

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation provides that "[t]he sovereign
2 powers, authority and jurisdiction of the Tohono O'odham Nation and its
3 government shall extend to all persons and activities carried on within the
4 boundaries of the Tohono O'odham Nation consistent with federal law"
5 (Constitution of the Tohono O'odham Nation, Article I, Section 2); and
6 **WHEREAS,** the Tohono O'odham Legislative Council is vested with the power "to govern the
7 conduct of members of the Tohono O'odham Nation and other persons within its
8 jurisdiction;" "to promote, protect and provide for public health, peace, morals,
9 education and general welfare of the Tohono O'odham Nation and its members;"
10 "to manage any funds within the exclusive control of the Tohono O'odham Nation,
11 including proceeds derived from lands and resources of the Tohono O'odham
12 Nation, and to appropriate these funds for the benefit of the nation and its
13 members;" "to authorize, charter and regulate public or private corporations
14 and associations;" and "to enact laws, ordinances and resolutions necessary or
15 incidental to the exercise of its legislative powers" (Constitution of the Tohono
16 O'odham Nation, Article VI, Section 1(c)(1), Section 1(c)(2), Section 1(d)(2), Section
17 1(e), and Section 1(l)); and
18 **WHEREAS,** the Tohono O'odham Legislative Council is vested with substantial control over
19 the Nation's 11 local district governments and over district finances; the districts
20 "are organizations of fairly limited power and authority which may act only under
21 the supervision of the Tohono O'odham Council" (Juan v. Juan, 2 TOR3d 62 (Trial
22 Ct., Jan 27, 2000), appeal dismissed, 3 TOR3d 1 (Jan. 4, 2005); Constitution, Article
23 IX, Section 7); and
24 **WHEREAS,** the Tohono O'odham Nation has an ongoing fiduciary obligation to ensure that
25 district funds are expended under valid authority (Ortiz v. Montana, 3 TOR3d 34,
26 consolidated with Tohono O'odham Nation v. Gu-Vo Governing Council, 3 TOR3d
27 34 (Ct. App., Aug. 24, 2011)); and
28 **WHEREAS,** the Tohono O'odham Nation must further ensure that net gaming revenues,
29 including gaming revenues allocated to districts and funding Nation and district
30 enterprises, are used exclusively to fund government operations or programs or
31 for another of the specific purposes authorized by tribal law, federal law, and the
32 Nation's Gaming Compact (Gaming Ordinance, 16 Tohono O'odham Code,

1 Chapter 1, Section 302; Tohono O'odham Nation-State of Arizona Gaming
2 Compact, Section 16(d); 25 U.S.C. § 2710(b)(2)(B)); and

3 **WHEREAS,** it is critical that employees of the Nation, districts, and enterprises of the Nation
4 or districts are provided working environments where disclosures of
5 information intended to shield the Nation, districts, or enterprises from fraud,
6 theft, or other detrimental effects may be made without retaliation or fear of
7 retaliation; and

8 **WHEREAS,** the Human Resources Development Committee has drafted the Whistleblower
9 Protection law, which provides procedures and protections for employees of the
10 Nation, districts, and enterprises of the Nation or districts who submit statements
11 disclosing evidence of misconduct; establishes timeframes for investigating
12 statements of misconduct; creates the Office of Administrative Appeals as the
13 Nation's administrative hearing body; and provides remedies for claims of
14 retaliation; and

15 **WHEREAS,** the Human Resources Development Committee held public hearings on March
16 23, 2023 and April 3, 2023 and provided the public an opportunity to review the
17 proposed law and comment; and

18 **WHEREAS,** the Human Resources Development Committee recommends that the Legislative
19 Council enact 13 Tohono O'odham Code Chapter 3 - Whistleblower Protection.

20 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council enacts 13
21 Tohono O'odham Code Chapter 3 - Whistleblower Protection with an effective
22 date of October 20, 2023.

23 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 20TH
24 day of JUNE, 2023 at a meeting at which a quorum was present with a vote of 3,218.0 FOR;
25 -0- AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by,
26 Authority: Article I, Section 2, Article VI, Section 1(c)(1), Section 1(c)(2), Section 1(d)(2), Section
27 1(e), and Section 1(l)); Article IX, Section 7 of the Constitution of the Tohono O'odham Nation,
28 adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy
29 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the
30 Act of June 18, 1934 (48 Stat.984).

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32 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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36 Alberta J. Ray, Legislative Vice Chairwoman

37
38 22 day of June, 2023
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RESOLUTION NO. 23-225
(Enacting 13 Tohono O'odham Code Chapter 3 - Whistleblower Protection)
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1 **ATTEST:**

2 *Evonne Wilson*
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4 **Evonne Wilson, Legislative Secretary**

5 22 day of June, 2023

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8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono
9 O'odham Nation on the 22 day of June, 2023 at 4:43 o'clock, P.m.,
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
11 effective upon his approval or upon his failure to either approve or disapprove it within 48
12 hours of submittal.

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14 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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16 *Alberta J. Ray*
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18 **Alberta J. Ray, Legislative Vice Chairwoman**

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23 **APPROVED**

on the 26 day of June, 2023

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25 **DISAPPROVED**

at 4:36 o'clock, P.m.

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28 *Ned Norris, Jr.*
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30 **NED NORRIS, JR., CHAIRMAN**
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32 **TOHONO O'ODHAM NATION**

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35 Returned to the Legislative Secretary on the 26 day of
36 June, 2023, at 4:46 o'clock, P.m.

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39 *Evonne Wilson*
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41 **Evonne Wilson, Legislative Secretary**

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ACTION: ENACTING 13 TOHONO O'ODHAM CODE CHAPTER 3 - WHISTLEBLOWER PROTECTION

MOVED: COUNCILMAN DANIEL L.A. PRESTON, III

SECOND: COUNCILWOMAN JANICE FELIX

DATE: JUNE 20, 2023

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 245.6	1. MARY LOPEZ (Ann M. Garcia) 2. LUCINDA ALLEN (Francis Homewytewa)	122.8 122.8	X X			X
SELLS 556.5	1. ARTHUR WILSON (<i>Absent</i>) (Shelia Espino) (<i>Present</i>) 2. EVELYN JUAN MANUEL (Arvada Liston)	278.25 278.25	X X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza) 2. DELISA M. RAMON (Sharon A. Francisco)	95.25 95.25	X X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Wilson-Stoner) 2. JANICE FELIX ()	121.3 121.3	X X			
SAN LUCY 243.8	1. LORRAINE M. EILER () 2. ROGER MANUEL (Christina Andrews)	121.9 121.9	X X			
PISINEMO 232.7	1. MARIETTA MARTIN () 2. EDWARD D. MANUEL (Monica Morgan)	116.35 116.35	X X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ () 2. DELMA M. GARCIA ()	108.3 108.3	X X			X
GU VO 270.7	1. GRACE MANUEL () 2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35 135.35	X X			X
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN () 2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25 139.25	X X			
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez) 2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8 175.8	X X			
BABOQUIVARI 388.9	1. ALBERTA J. RAY (Frances G. Antone) 2. LEANDER MASE (Francine Schooling)	194.45 194.45	X X			
	TOTAL	3,218.0	3,218.0	-0-	-0-	[03]