

**RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** All persons who owe funds to the Tribe should expect to have to pay back those funds to the Tribe, to the extent they are able; and
- WHEREAS,** From time to time and for various reasons, persons who are employed by the Three Affiliated Tribes owe funds to the Tribe, through loans obtained following approval by the Tribal Business Council, housing provided to the person, or for other reasons excluding pay advances and travel advances; and
- WHEREAS,** For some time, it has been the policy of the Tribal Business Council, in approving any loan to an employee of the Tribe, that the employee will have to agree to have a wage deduction made to have the loan repaid or if the loan is not repaid according to its terms, that the loan agreement with the individual will provide for a wage deduction in the event of non-repayment; and
- WHEREAS,** For various reasons, at the present time, some Tribal employees owe funds to the Tribe where such an agreement was not reached prior to the Tribal employee becoming indebted to the Tribe; and
- WHEREAS,** The Tribal Business Council desires to collect the indebtedness owed by various Tribal employees by imposing a wage withholding system on such employees, with the wage withholding plan to be in effect on the individual employee until the debt owed to the Tribe by the individual employee has been repaid in full; and
- WHEREAS,** Prior to requiring an employee to submit to a wage withholding process, the Tribal Business Council desires to provide due process protections to each Tribal employee the Tribe believes owes funds to the Tribe; and
- WHEREAS,** Notwithstanding any provision of this Resolution, the Tribe desires to retain the option of suing any individual Tribal employee for debts owed to the Tribe and utilizing any other collection process authorized by Tribal law or other applicable law;

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the following requirement of all employees, to become a part of the Tribal Personnel Policies at the appropriate place and in the appropriate form:

Debt Repayment Policy

Each employee of the Three Affiliated Tribes, whether or not full time, and including consultants and others who perform compensated services for the Tribe, (which shall include members of the Tribal Business Council) is expected to repay any debt owed by the employee to the Tribe and, if an agreement has been entered into regarding the indebtedness, in accordance with the terms of that agreement.

In the event the employee is unable or unwilling to pay the debt, or is unable or unwilling to pay the debt the terms of the agreement that established the indebtedness, the Tribe will, pursuant to the procedure stated below, impose a wage withholding plan on the employee for repayment of the debt.

Any person who is selected for employment with the Tribe and who owes money to the Tribe will be required to establish a wage withholding agreement for repayment of the debt at the time of initial employment and shall have the right to challenge the amount of the debt claimed to be owed pursuant to the process outlined below.

The "Tribe" as used in this policy and the following procedure shall include the Tribal government and any entity owned or controlled by the Tribe, and the phrase "Tribal employee" shall include all persons covered by the Tribal Personnel Policies and in addition any part-time employee, consultant or other individual providing personal services to the Tribe on a regular basis.

Wage Withholding Procedure

1. All employees of the Three Affiliated Tribes who owe funds to the Tribe shall have in place a wage withholding plan or other repayment plan approved by the Credit Committee.
2. Employees shall include all part-time employees, consultants, members of the Tribal Business Council and any other person who performs compensated services for the Tribe.

a. For those employees who have a wage withholding plan already in place or who have an agreement with the Tribe that requires wage withholding or allows for another plan of repayment, such wage withholding plan will be implemented in accordance with the existing plan or in accordance with the wage withholding agreement with the Tribe.

b. For those employees who owe funds to the Tribe, but for whom no wage withholding plan exists, or with whom the Tribe does not have an agreement for wage withholding or another plan of repayment, a wage withholding plan will be established as follows:

i. Each employee who owes funds to the Tribe as of the date of this resolution will be notified in writing of the amount of the debt, when the debt was incurred, the expected time and amounts of repayment of the debt, any payments made on the debt and all other relevant information which the Tribe may have about the nature of the indebtedness.

ii. At the same time, the employee will receive notice in writing of the intention of the Tribe to commence a wage withholding plan no earlier than the pay period following the pay period in which the notice of intention is given. In the notice, the employee will be offered an opportunity to admit to the debt and agree, in writing, that the debt stated is owed to the Tribe and that the employee agrees to the wage withholding plan stated in the notice. The employee will also be given notice of the opportunity for an informal resolution of amount or existence of the indebtedness as provided below in subsection 7.

iii. The employee will have five (5) business days after receipt of the notices mentioned above in which to file with the Personnel Director a notice, in writing, that the employee appeals and contests either 1) the existence or amount of the indebtedness stated in the notice; or 2) the proposed wage withholding plan; or both, and which will also state the reasons for the appeal or contest. The five (5) day notice may be waived by the finance office.

iv. If the employee contests or appeals the contents of either of the notices provided above, the wage withholding plan will not go into effect until the appeal as provided herein is completed, except that an appeal to the Tribal Court (the District Court of the Fort Berthold Reservation) of any decision made pursuant to this policy

will not act to prevent the wage withholding plan from going into effect unless specifically ordered by the Court.

v. The appeal or contest of the employee to the either or both of the notices as provided above will be heard by a hearing officer appointed by the Tribal Business Council within a reasonable amount of time following the notice of appeal or contest filed by the employee. The Tribal finance department will present to the hearing officer all information previously provided to the employee concerning the indebtedness. The employee will have the right to present to the hearing officer additional evidence, including testimony or written documents, concerning the indebtedness. The hearing will be informal, and standard rules of evidence will not apply, but all information presented to the hearing officer shall be relevant to the appeal or contest. The hearing officer will not have any power to require any particular witnesses, other than other Tribal employees, to be present. Time taken for the appeal will not result in loss of pay or benefits to the employee contesting or appealing the notices required by subsections 1 or 2 of this subsection.

vi. The hearing officer will consider all information provided to it and will render a decision, in writing, and provide the notice to the employee either in person or by certified mail, within five (5) business days following the date of the hearing. If the decision is not favorable to the employee, the wage withholding plan stated in the notice provided to the employee will be implemented in the pay period immediately following the one in which the decision of the hearing officer was rendered, notwithstanding any action that the employee may commence against the Tribe in Tribal Court, unless otherwise ordered by the Court.

vii. The employee may also seek to have the matter resolved informally with the Tribal small loan office or with the finance department, provided that the employee notify the finance office within five (5) business days after notification of the indebtedness is provided under subsection 2(b)(ii), above. The five day notice requirement may be waived by the Tribal small loan office or the finance office. If a determination is made informally by the finance office or the Tribal small loan office that a different amount or no funds are owed by the employee, that information will be provided in writing to the employee. The employee will

retain the right to appeal from the informal written decision as provided in subsections 2(b)(iii) –(vi) of this section.

2. Unless the employee, pursuant to the notice provided under this policy or otherwise, has admitted to the indebtedness owing by the employee to the Tribe, nothing in this policy and in its implementation will affect the rights of the employee and of the Tribe to bring any action concerning the debt in Tribal Court.

3. At any time following imposition of a wage withholding plan on a Tribal employee, including any wage withholding plan now in existence or put in place in the future, the Tribal employee may make a request to the Human Resources Committee that the wage withholding plan be suspended or cancelled or otherwise modified, by filling in writing such a request with the Personnel Director of the Tribe. The Human Resources Committee will consider the request at the first meeting it has following receipt of the request. In an emergency situation, the Personnel Director may suspend or modify the wage withholding plan for not more than two pay periods.

4. Any person who owes money to the Tribe and who is selected to be employed by the Tribe must enter into a wage withholding agreement pursuant to this resolution, and shall have the right to appeal the amount the Tribe claims the employee owes in the manner stated in this wage withholding procedure.

NOW THEREFORE BE IT FURTHER RESOLVED, that this Resolution supersedes and any other Resolution as enacted by the Tribal Business Council concerning repayment of debt owed to the Tribe by Tribal employees; and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Tribal Business Council hereby encourages all other entities owned or controlled by the Tribe which are subject to personnel policies adopted by that entity's board or management that are separate and apart from the Tribal Personnel Policies to adopt a policy and procedures similar to the ones set forth in this resolution; and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Tribal Finance office, the Tribal Small Loan Officer, and any other agency, department, division, corporation or other entity wholly owned and controlled by the Tribe shall provide a list to the Executive Committee of all employees of the Tribe or Tribal members who owe the Tribe money at a date to be determined by the Tribal Executive Committee.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 8th day of June, 2000; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 3 members, 2 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 8th day of June, 2000.

Daylon Spotted Bear
Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:

Tex G. Hall
Tex G. Hall
Chairman, Tribal Business Council