



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

*A Resolution entitled, "Adoption of Motor Fuels Excise Tax".*

**WHEREAS,** The Three Affiliated Tribes Tribal Business Council is the governing body of the Three Affiliated Tribes, pursuant to Article III of the Constitution and By-laws of the Three Affiliated Tribes; and

**WHEREAS,** The Three Affiliated Tribes retains inherent sovereign authority to exercise its governmental powers, including the power to tax, unless the United States Congress has explicitly and specifically limited or removed a particular authority, and the Congress has not done so with respect to Motor Fuel Taxation; and

**WHEREAS,** Article I of the Constitution and By-laws defines the territorial jurisdiction of the Three Affiliated Tribes; and

**WHEREAS,** Article IV of the Constitution and By-laws of the Three Affiliated Tribes provides for certain enumerated powers of the Three Affiliated Tribes' Tribal Council; and

**WHEREAS,** Article IV, Section 1 (h) provides that the Three Affiliated Tribes' Tribal Business Council is empowered to levy taxes upon members of the Tribe, and to levy taxes or license fees upon non-members doing business within the Fort Berthold Indian Reservation under certain conditions; and

**WHEREAS,** Article IV, Section 1 (k) provides that the Three Affiliated Tribes' has the authority to promulgate and enforce Ordinances governing the conduct of persons on the Fort Berthold Indian Reservation; and

**WHEREAS,** Article IV, Section 1 (g) of the Constitution and By-laws, provides that the Three Affiliated Tribes' Tribal Business Council has the authority to appropriate for public purposes any available Tribal Council funds; and

**WHEREAS,** In order to carry out its Constitutional and Governmental functions, the Three Affiliated Tribes' Tribal Business Council requires revenues sufficient to finance the discharge of its responsibilities; and

**WHEREAS,** The financial burdens of tribal government should fairly fall upon those who use and benefit from the facilities and economy of the Fort Berthold Indian Reservation; now

**THEREFORE BE IT RESOLVED,** that a "Motor Fuels Excise Tax" is hereby imposed upon all motor fuel imported onto the Fort Berthold Indian Reservation. For purposes of imposing this



Resolution, the following definitions and provisions shall apply:

**Section 1.** Definition of terms:

- a. **Business license:** means a license issued pursuant to the Three Affiliated Tribes' Tribal Licenses Code.
- b. **Exterior Boundaries of the Fort Berthold Indian Reservation:** means all areas encompassing the exterior bounds of the Three Affiliated Tribes (the geographic extent of which is defined in the Constitution of the Three Affiliated Tribes) as well as such areas which hereafter may be acquired by or for the Three Affiliated Tribes or its members.
- c. **Import:** means the delivery by any means of motor fuel into the exterior boundaries of the Fort Berthold Indian Reservation for sale or distribution thereof.
- d. **Importer:** means any person who purchases motor fuel from outside the exterior boundaries of the Fort Berthold Indian Reservation for wholesale purposes within the exterior boundaries of the Fort Berthold Indian Reservation.
- e. **Motor fuel:** means gasoline, blended gasoline, diesel, jet fuel, propane, or any equivalent thereof, used to power vehicles, boats or implements.
- g. **Permit:** means a wholesaler, importer or retailer permit issued pursuant to Section 5 of this Ordinance.
- h. **Person:** means a natural person, a partnership, a limited partnership, a joint venture, a firm, an association, a corporation, a cooperative, or any other entity.
- i. **Retailer:** means any person who sells or distributes motor fuel to the end user within the exterior boundaries of the Fort Berthold Indian Reservation.
- j. **Transporter:** means any person who engages in the activity of movement of fuel within the exterior boundaries of the Fort Berthold Indian Reservation by transport truck or by any other means in quantities in excess of fifteen hundred gallons.
- k. **Transport truck:** means a vehicle or combination of vehicles designed to transport motor fuel in bulk, in lots greater than fifteen hundred gallons.



1. Wholesaler: means any person who purchases motor fuel from an importer, another wholesaler or from a terminal rack for sale to another wholesaler or retailer.

**Section 2.** The Motor Fuel Excise Tax shall be levied at the rate of twenty-two and one-half (22.5) cents per gallon or at whatever greater rate is charged by the State of North Dakota;

**Section 3.** No Wholesaler or Importer of Motor Fuel within the exterior boundaries of the Fort Berthold Indian Reservation shall conduct business on the Fort Berthold Indian Reservation without first applying for and obtaining a Motor Fuel Wholesaler Permit or Motor Fuel Importer Permit from the Three Affiliated Tribes' Tax Commission Office.

No retailer within the exterior boundaries of the Fort Berthold Indian Reservation shall conduct business on the Fort Berthold Indian Reservation without first applying for and obtaining a Motor Fuel Retailers Permit from the Three Affiliated Tribes' Revenue Office.

**Section 4.** The Tax Commission of the Three Affiliated Tribes shall prescribe such Motor Fuel Wholesaler and Importer Permit Forms, which may include electronic filing and such other forms as may be necessary to carry out the purposes for this Ordinance, but each such Motor Fuel Wholesaler and Importer Permit Form shall provide that:

- a. The Motor Fuel wholesaler or importer, by his signature upon said permit, agrees that a consensual business relationship is established with the Three Affiliated Tribes and thereby consents to the jurisdiction of the Fort Berthold Tribal Court over his activities on the Fort Berthold Indian Reservation.
- b. The Motor Fuel wholesaler or importer, by his signature upon said permit, expressly agrees that the Motor Fuel Wholesaler or Importer permit remains valid only for such periods that he complies with the provisions of this Ordinance and any other applicable tribal law;
- c. The Motor Fuel wholesaler or importer, by his signature upon said permit, expressly agrees that failure to comply with applicable provisions of Tribal Law, including this Ordinance, may subject the Wholesaler or Importer to sanctions provided under tribal law, including this Ordinance, by the Three Affiliated Tribes, the Three Affiliated Tribes' Tax Commission, or the Fort Berthold Tribal Court, and that said Wholesaler or Importer consents and submits to such jurisdiction.

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DISCUSSION: This grant application will in no way affect our current grants.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not voting. Motion carried.

15. **RESOLUTION NO. 04-025-RP, THE NORTH DAKOTA AMERICAN INDIAN BEHAVIORAL RISK FACTOR SURVEILLANCE SURVEY OF WILLING NATIVE RESIDENTS OF THE FORT BERTHOLD RESERVATION.**

Councilman Phelan moved for approval entitled, "Authorization for Health Resources and Services Administration, U.S. Department of Health and Human Services and Associates to and conduct the North Dakota American Indian Behavioral Risk factor surveillance survey of willing native residents of the Fort Berthold Reservation. Councilman Wolf seconded the motion.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not voting. Motion carried.

16. **RESOLUTION NO. 04-026-RR, DEMENTIA SCREENING AND DEMENTIA ASSESSMENT OF WILLING ELDER OF THE MANDAN, HIDATSA AND ARIKARA NATION.**

Councilman Phelan moved for approval of a Resolution, entitled, "Authorization for the UND Psychology Department to conduct a dementia screening and dementia assessment of willing elder of the Mandan, Hidatsa and Arikara Nation." Councilman Packineau seconded the motion.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not voting. Motion carried.

17. **RESOLUTION NO. 04-027-RP, VOCATIONAL REHABILITATION PROGRAM GRANT APPLICATION.**

Councilman Phelan moved for approval of a Resolution, entitled, "Authorization and Support for the Vocational Rehabilitation Program Grant Application." Councilman Gillette seconded the motion.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not voting. Motion carried.

18. **YOUNG BIRD & ASSOCIATES:**

The Legal Counsel will send the Young Bird and Associates a Notice of Termination of Agreement. Councilman Gillette disagreed with the decision as part of the record.

19. **RESOLUTION NO. 04-028-RP: GAS TAX MOTOR FUELS PROPOSED TAX ORDINANCE:**

~~(Steve Kelly will bring the resolution on gas revenue from this point forward.)~~  
Councilman Phelan moved for approval the adoption of the Motor Fuels, Special Tobacco Tax Code amending the excise tax from 21 to 22 cents. Councilman Wolf seconded the motion.

~~VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 0 Not voting. Motion carried.~~



**Section 5.** Any wholesaler or importer of Motor Fuel on the Fort Berthold Indian Reservation shall file an electronic monthly report to the Three Affiliated Tribes' Tax Commission with specified soft ware that shall be required to be utilized by said wholesaler or importer. The reports shall contain schedules of receipts and disbursements with detail as designated on said schedules. The owner or agent in case of corporations, and the owner or agent of non-corporate entities, shall swear to all motor fuel reports.

**Section 6.** Monthly reports shall be filed electronically on or before the 20<sup>th</sup> of each calendar month with the Tax Commission or the designated administrator and shall contain information as set forth in Sections 7 and 9 herein.

**Section 7.** Any wholesaler or importer of motor fuel shall, on or before the 20<sup>th</sup> day of each calendar month, render to the Tax Commission a statement under oath setting forth the number of gallons of motor fuel sold to motor fuel retailers on the Fort Berthold Indian Reservation as prescribed on the schedules submitted or such other information that shall be requested from time to time by the Three Affiliated Tribes.

**Section 8.** The Motor Fuel Excise Tax shall be due and payable on the 25<sup>th</sup> day of the calendar month and shall be remitted in full via electronic funds transfer to the Three Affiliated Tribes.

**Section 9.** Sections 3-8 shall not apply if the Three Affiliated Tribes enters into a tax agreement with the State of North Dakota for the collection and distribution of this tax.

**CERTIFICATION**

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, \_\_\_\_\_ were present at a \_\_\_\_\_ Meeting thereof duly called, noticed, convened and held on the 16<sup>th</sup> day of February, 2004, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of \_\_\_\_\_ members, \_\_\_\_\_ members opposed, \_\_\_\_\_ members abstained, \_\_\_\_\_ members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman  Voting. [ ] Not Voting.

Dated this 16<sup>th</sup> day of February, 2004.

Randy Phelan  
Executive Secretary, Randy Phelan  
Tribal Business Council

TEST: \_\_\_\_\_  
for Chairman, Tex G. Hall  
Tribal Business Council