



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

**A Resolution entitled, “*Fair and Equitable Treatment for Indian Nations in Administration and Congressional Tax and Regulatory Reform.*”**

- WHEREAS,** This Mandan Hidatsa and Arikara Nation (the "MHA Nation"), having accepted the Indian Reorganization Act of June 18, 1934 and the authority under said Act, and having adopted a Constitution and By-laws under said Act, and
- WHEREAS,** Pursuant to Article III, Section 1 of its Constitution and By-Laws, the Tribal Business Council is the governing body of the MHA Nation; and
- WHEREAS,** The Tribal Business Council has authority to engage in activities on behalf of and for the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** Indian nations and tribes were independent sovereign nations prior to the formation of the United States, *McClanahan v. Arizona Tax Comm'n*, (1974), with vibrant cultures and vital ways of life, sustainable self-sufficient economies, and prosperous international trade networks; and
- WHEREAS,** From its first days, the United States entered into treaties with Indian nations acknowledging our sovereign status, guaranteeing our original territory, and promising peace, friendship and protection; and
- WHEREAS,** The 1787 Northwest Ordinance pledges the utmost good faith shall always be observed towards the Indians, and in our liberty and property, Indians shall never be invaded; and
- WHEREAS,** The U.S. Constitution acknowledges Indian nations as sovereigns in the Treaty and Supremacy Clauses, establishes government-to-government relations between the U.S. and Indian tribes through the Commerce Clause, and affirms the status of Native citizens as “Indians not taxed,” subject to tribal jurisdiction in the Apportionment Clause and the 14<sup>th</sup> Amendment; and
- WHEREAS,** Indian nations and tribes are governments that must provide programs and services necessary to make our Indian lands livable “permanent homes,” and the United States has a treaty and trust responsibility to assist us in those efforts; and
- WHEREAS,** American Indians face severe housing shortfalls and poor housing conditions, as reported by HUD:



- U.S. Census reports that 1 of every 4 Native Americans lives in poverty, including 1/3 of all Native American children; far too many Native American families live in unacceptable circumstances and face a future that lacks educational and economic opportunity;
- In the last 14 years, the number of low-income families in the Indian Housing Block Grant (IHBG) areas grew by almost 44%, and now exceeds 322,000 Native American families;
- The number of overcrowded households, or households without adequate kitchens or plumbing, grew by 23%, to over 111,000 Native American families;
- The number of Native American families with severe housing costs grew by 58%, to over 66,000 Native American families;
- American Indian people living in tribal areas in 2006-2010 had a poverty rate and unemployment rate that were at least twice as high as those rates for non-Indians nationally;
- American Indian people in large tribal areas were more than 3 times as likely to live in overcrowded housing, and more than 11 times as likely than the national average to live in housing that did not have adequate plumbing facilities; and

**WHEREAS,** The Low Income Housing Tax Credit (“LIHTC”) is the largest resource for creating affordable housing in the United States today—the LIHTC database contains information on 43,092 projects and 2.78 million housing units placed in service between 1987 and 2014; and

**WHEREAS,** In 2016 alone, the LIHTC program provided state and other allocating entities nearly \$8 billion in budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of low income rental housing; and

**WHEREAS,** Indian tribes must apply to state government LIHTC programs, and many states use criteria that benefit only urban areas—ignoring the unmet low income housing needs of Indian Country and while low income Native Americans are included in a state government’s per capita LIHTC allocation calculation, state approvals to allocate LIHTC for low income housing projects on Indian lands is disproportionately low compared to the critical housing needs in Indian country; and

**WHEREAS,** In 2000, Congress established the New Markets Tax Credit (“NMTC”) to spur investment in low-income communities and has allocated \$70 billion in tax credits under NMTC program creating 750,000 new jobs, Indian country has been underserved by the NMTC program; and

**WHEREAS,** In the last three funding cycles, despite the potential of the NMTC program to enhance Indian country economic development and create jobs in underserved



Native communities, only one Native American Community Development Entity has received funding under the NMTC program, and the competitive grant cycle is not working for Indian country; and

**WHEREAS,** Chronic underfunding of Tribal Trust and Treaty obligations, the lack of private investment in Indian country, and differential and unfair treatment of Tribes under the Internal Revenue Code impedes the ability of Indian nations and tribes to restore economic self-sufficiency by hindering economic development and limiting Tribal access to Federal tax benefits that are afforded to state and local governments; and

**WHEREAS,** Although the United States, through treaty, agreement, statutes, executive orders, and court decisions, has recognized the status of Indian nations and tribes as sovereigns, Indian nations are frequently treated less favorably under the Internal Revenue Code than state and local governments; and

**WHEREAS,** Indian tribes should be treated as states for tax exempt bond purposes, child care and adoption tax credits, pensions and charitable foundations to provide tax parity and fairness for tribal governments, and Rep. Ron Kind has introduced a bill to provide tax parity for tribal governments, H.R. 4943, the Tribal Tax and Investment Reform Act; and

**WHEREAS,** The MHA Nation has been unfairly subjected to dual state taxation of oil and gas production on the Fort Berthold Indian Reservation, contrary to our 1825 and 1851 Treaties, and Congress should provide tax credits, economic incentives and provisions to promote Indian country energy development and to overcome economic barriers created by dual taxation; and

**WHEREAS,** The MHA Nation supports fair and equitable inclusion of Indian tribes in the Administration and Congressional Tax Reform proposals; and

**WHEREAS,** The MHA Nation supports the efforts of the Tribal Economic Growth Alliance to work jointly with NCAI, NIGA, NAFOA, NACA, and NCAIED to ensure fair and equitable treatment of Indian nations and tribes in Administration and Congressional Tax Reform legislation.

**NOW THEREFORE BE IT RESOLVED,** the Tribal Business Council hereby supports enactment of S. 548, Low Income Housing Tax Credit Bill (sponsored by Senators Hatch and Cantwell), which would increase the Low Income Housing Tax Credit and generally supports reauthorization of Low Income Tax Credit to help defray the costs of building and maintaining low income housing, provided that the legislation includes the following Indian country provisions:



- Indian nations and tribes should be treated as states for purposes of Low Income Housing Tax Credit allocation and Congress should establish a 10% set-aside of low income housing tax credits for Indian country;
- Indian tribes should be authorized to use the national average median income in lieu of the area average because in many areas of Indian country local area incomes are too low to benefit actual low income housing users; and
- Indian tribes should be eligible to receive the low income housing tax credit directly and transfer it to the building manager or developer through a long-term lease to accommodate the unique status of Indian trust lands.

**BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby supports a 10% set-aside in the New Market Tax Credits program for Indian nations and tribes to spur investment and create jobs in underserved areas of Indian country.

**BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby supports the enactment of H.R. 4943, the Tribal Tax and Investment Reform Act (sponsored by Congressman Kind) because if enacted, H.R. 4943 would address:

- **Tax Parity:** Treat Indian Nations and Tribes the Same as States For Bond Issuances and Excise Taxes;
- **Indian Sovereignty:** Treat Indian Nations and Tribes as Governments for Purposes of Pension and Employee Benefit Plans Maintained by Tribal Governments;
- **Tax Fairness:** Treat Tribal Government Charities as Charities Funded by Government Funders and Sponsors;
- **Tax Enforcement:** Provide Tribal Governments Access to Federal Parent Locator Systems to Enforce Child Support; and
- **Tribal Self-Government:** Recognize the Decisions of Indian Nations and Tribes Concerning Determining Children with Special Needs for Adoption Tax Credit.

**BE IT FURTHER RESOLVED**, that the Tribal Business Council calls upon Secretary of the Interior Zinke to move forward with updating and revising the Federal Indian Traders License Regulations to preempt dual state taxation of Indian country value, Indian commerce, economic activity, Indian energy development, and Indian natural resource production.

**BE IT FURTHER RESOLVED**, that the Tribal Business Council calls upon Congress to provide tax credits, economic incentives and legislative provisions to promote Indian country energy development and to overcome economic barriers created by dual taxation.



**BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby supports Congress's efforts to establish Economic Empowerment Zones for Indian Country and Economic Incentives for Intertribal Trade and Investment to promote Indian nation-to-nation trade throughout Indian country.

**BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby supports the efforts of the Tribal Economic Growth Alliance to work jointly with NCAI, NIGA, NAFOA, NACA, and NCAIED to ensure fair and equitable treatment of Indian nations and tribes in Administration and Congressional Tax Reform legislation.

**BE IT FINALLY RESOLVED**, that the Chairman is hereby authorized to take such further actions as are necessary to carry out the terms and intent of this Resolution.

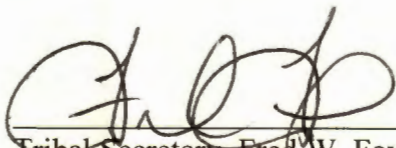
#### CERTIFICATION

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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 11<sup>th</sup> day of May, 2017, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

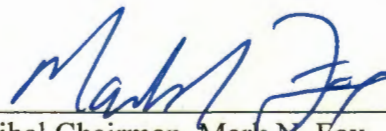
Chairman [ X ] Voting. [ ] Not Voting.

Dated this 11<sup>th</sup> day of May, 2017.

**ATTEST:**



Tribal Secretary, Fred W. Fox  
Tribal Business Council



Tribal Chairman, Mark N. Fox  
Tribal Business Council