



**RESOLUTION OF THE GOVERNING BODY
OF THE THREE AFFILIATED TRIBES
OF THE FORT BERTHOLD INDIAN 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, also known as the Mandan, Hidatsa, and Arikara Nation (or “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 the enrolled members thereof; and
- WHEREAS,** Title V, Chapters 24 and 25 of the Fort Berthold Tribal Code specifically authorizes and establishes the Three Affiliated Tribes Division of Child Support (or “TAT DCSE”) with authority and responsibility to provide child support enforcement services; and
- WHEREAS,** Title V, Chapter 26 of the Fort Berthold Tribal Code provides the Tribal Child Support Guidelines, and such guidelines are to be reviewed by the Three Affiliated Tribes at least once every four (4) years; and
- WHEREAS,** The Three Affiliated Tribes did form a committee to review the Tribal Child Support Guidelines and said committee was made up of Council members Fred Fox and Monica Meyer, members of the general public, the Tribal Court, and TAT DCSE. The committee agreed that certain modifications of the Tribal Child Support Guidelines are necessary to ensure consistent and uniform child support obligations; and
- WHEREAS,** The proposed modifications to modify and re-enact Chapter 5-26 of Title V – Domestic Relations Code were approved at second reading on Motion of Councilman Cory Spotted Bear, and a second by Councilman Fred Fox, on April 8, 2021 by a vote of 7-0; and
- WHEREAS,** Pursuant to the Three Affiliated Tribes’ Procedures for Enacting Tribal Codes, the proposed Child Support Guidelines changes went through a public Notice and Comment period, including publication in the official Tribal Newspaper a total of four (4) times – on April 14, 2021, April 21, 2021, April 28, 2021, and May 5, 2021 - and after the expiration of thirty (30) days, said Guidelines underwent a third and final reading on July 7, 2021.



Resolution No. 21-147-FWF

NOW, THEREFORE, BE IT RESOLVED that the Tribal Business Council of the Three Affiliated Tribes does hereby modify and re-enact Chapter 5-26 of Title V – Domestic Relations Code, as follows:

- 5-26-2 Definition – 6. “Extended Visitation” – re-define as visitation between the obligor and a child allowing credit for all overnight visitation on an annual basis.
- 5-26-2 Definitions - 10. “Net Income” – net income shall be defined as gross annual income, less:
- a. Hypothetical Federal income tax obligation.
 - b. Hypothetical Federal Insurance Contributions Act (FICA) tax.
 - c. Medicare taxes.
 - d. Portion of Health Insurance to afford coverage for child(ren) for whom support is sought.
 - e. Actual medical expenses of child.
 - f. Employee retirement contributions.
 - g. Net Income is only used for calculation purposes for persons who are self employed.
- 5-26-2 Definition – 17. “Self-Employment” – re-define “Self-employment” to mean employment that results in an obligor earning income from any business organization or entity which the obligor is, to a significant extent, able to directly or indirectly control. For purposes of this Chapter, it also includes any activity that generates income from rental property, royalties, business gains, partnerships, trusts, corporations, and any other organization or entity regardless of form and regardless of whether such activity would be considered self-employment activity under the Internal Revenue Code. Self-employed individuals will have their child support obligations set based upon their net income.
- 5-26-3 (3.) Gross Income received by an obligor from all sources must be considered in the determination of the child support obligation.
- 5-26-3 (5.) In applying the child support guidelines, an obligor’s monthly gross income amount ending in fifty dollars or more must be rounded up to the nearest one hundred dollars, and must otherwise be rounded down to the nearest one hundred dollars.
- 5-26-3 (6.) The annual total of all income considered in determining a child support obligation must be calculated and then divided by twelve in order to determine the obligor’s monthly gross income.



Resolution No. 21-147-FWF

- 5-26-3 (10.) Each child support order must include a statement of the gross income of the obligor used to determine the child support obligation.
- 5-26-3. (12.) No amount may be deducted to determine net income unless that amount is included in gross income, when determining the support obligation of a self-employed individual.
- 5-26-7 Net Income from self-employment means total income, or 50% of total income from a married individual, for internal revenue and child support determination purposes, of the obligor.
- 5-26-7 (4.) Self-employment activities may experience significant changes in production and income over time. To the extent that information is reasonably available, the average of the most recent three years of each self-employment activity, if undertaken on a substantially similar scale, must be used to determine self-employment income. When self-employment activity has not been operated on a substantially similar scale for three years, a shorter period may be used.
- 5-26-7 (6.) When less than three years were averaged under subsection 4 above, a loss resulting from the averaging may not be used; and an amount equal to sixty percent (60%) of the gross earnings will be used for averaging purposes, or a sum equal to annual federal minimum wage, whichever is greater.
- 5-26-7 (7.) When three or more years were averaged under subsection 4 of this section, a loss resulting from the averaging may not be used and an amount equal to eighty percent (80%) of the gross earnings will be used for averaging purposes, or a sum equal to annual federal minimum wage, whichever is greater.
- 5-26-8 Determining the cost of supporting a child living with the obligor.
The cost of supporting child(ren) living with the obligor, who are not also child(ren) of the obligee, may be deducted from gross income under subsection 4 of section 5-26-9 and shall be calculated by the use of the Appendix F.
- 5-26-9 Determination of support amount in multiple-family cases.
This section must be used to determine the child support amount presumed to be the correct amount of child support in all cases, and will be calculated, as set forth in Appendix F.
- 5-26-12 Adjustment for regular visitation.



Resolution No. 21-147-FWF

For purposes of this section, “regular visitation” means overnight visitation between an obligor and a child living with an obligee, and a deduction for regular visitation may be granted, as calculated in Appendix F.

5-26-14 Medical support included in child support obligation.

1. A child support obligation set upon application of this Chapter shall address the child’s health care coverage and reimbursement for medical support provided to the child by the obligee, Three Affiliated Tribes, another tribe, or a state.
2. The child support order may require the obligor to provide satisfactory health care coverage whenever that coverage is available at reasonable cost or becomes available at reasonable cost. The term “Reasonable Cost of Health Insurance” shall be defined as a cost that is equal to or less than five percent (5%) of annual “Gross Income”.
3. After verification of a child’s unreimbursed or uninsured medical expenses, the Court may order these expenses to be paid by the obligor as part of child support obligation in addition to the regular child support required or ordered.
4. Each obligor that provides health insurance coverage to a child, will be able to receive a deduction from their child support obligation, by an amount calculated pursuant to Appendix F.

5-26-17 Modify language from “net income” to “gross income” throughout this section.

5-26-20 Guidelines Schedule – Determining the child support amount.
The amount of child support payable by the obligor is determined by the application of the following schedule to the obligor’s monthly gross income and the number of children for whom support is being sought in the matter before the Court. Monthly sums ending in a 1 or 2 will be rounded down to 0; sums 3 or 4 shall be rounded up to 5; sums ending in 6 or 7 shall be rounded down to 5; and sums ending in 8 or 9 shall be rounded up to 10.

APPENDIX E. – MONTHLY GROSS INCOME CHART – is available for viewing and copying at the Office of the Division of Child Support Enforcement, 22 Minne Tohe Drive, New Town, ND 58763.



Resolution No. 21-147-FWF

- APPENDIX F. -
1. HOW TO FACTOR IN CHILD SUPPORT DEDUCTION FOR SUPPORTING OTHER CHILDREN
 2. HOW TO FACTOR IN REGULAR VISITATION WITH CHILDREN – BASED UPON COURT ORDERS
 3. HOW TO FACTOR IN HEALTH INSURANCE COVERAGE.

Appendix F. - is available for viewing and copying at the Office of the Division of Child Support Enforcement, 22 Minne Tohe Drive, New Town, ND 58763; and

BE IT FURTHER RESOLVED that the Tribal Business Council hereby finds that such legislative action is in the best interest of our Tribal children; and

BE IT FINALLY RESOLVED that the aforementioned Code changes shall become effective and in force upon publication of this Resolution on the MHA Nation website.

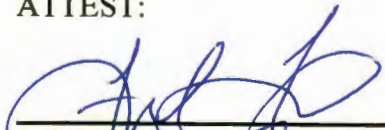
CERTIFICATION

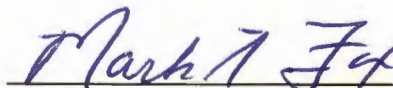
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum; 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 7 day of July, 2021, that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] Voting. [] Not voting.

Dated this 7 day of July, 2021.

ATTEST:


 Tribal Secretary, Fred W. Fox
 Tribal Business Council
 Three Affiliated Tribes


 Tribal Chairman, Mark Fox
 Tribal Business Council
 Three Affiliated Tribes