

North Dakota Senate Bill 2304
Finance and Taxation Committee
Testimony of Todd Hall, Private Citizen
January 28, 2025

Good morning, Chairman Weber and members of the Finance and Taxation Committee. My name is Todd Hall. I am a private, tax-paying citizen who has both surface and mineral ownership interests on the Fort Berthold Indian Reservation. I own land that is held in trust by the United States of America, and I own deeded land, which is in fee simple status and I pay property taxes to the State of North Dakota.

I am a family man, rancher, an Awaxxawii Hidatsa. My Indian name is Mashee. I am an enrolled member of the Three Affiliated Tribes of the Fort Berthold Indian Reservation. I was adopted into the Hidatsa clan, Awaxxe' by my grandpa, a World War I combat veteran. I am Magadishda Apuxxga Wigaa.

I AM HERE IN SUPPORT OF SENATE BILL 2304. In doing so, I am humbly asking the North Dakota Legislature to right a wrong. However, the current bill is in need of two amendments or addendums.

First, on line 11, Number 1. Needs to be amended to include: a tribal governing body and the governor for tribal land and an allottee(s) who holds at least a 51% majority controlling ownership interest in a surface allotment or tract of land affected by any agreement, consistent with federal law.

Second, on line 14, Number 2. Needs to be amended to include: an independent audit of all monies collected and disbursed to the Tribal governing body under past agreements, to determine the amount of proceeds which were collected on allotted lands and due back to the Individual Indian beneficial surface interest landowner(s) of an affected tract(s) of land. The Individual Indian landowners are entitled to a full accounting and return of their full and rightful tax benefit(s).

Currently the oil and gas gross production tax sharing agreement (the agreement) allows the State to collect and administer a tax on all lands within the exterior boundaries of the reservation, including allotted lands. It is **NOT** a tribal tax.

Under the terms of the State/Tribal Oil and Tax Agreements: The MHA Nation Tribal Business Council (TBC) waived its own sovereign immunity from taxation by the State of North Dakota by entering in to the Agreement.

The tax agreements are a great economic development concept and should continue, BUT, the State and Tribe are receiving tax dollars they are not entitled to. Immediate reform measures need to be taken to bring the law and/or agreements into lawfulness and constitutional compliance. New agreements are needed. The proposed legislation addresses the one major flaw of all past agreements:

While the Tribal Council has the authority to negotiate the terms of a tax agreement, only the people through referendum vote, have the authority to approve its enactment to be binding upon the Tribal Lands. The Tribal Council lacks Executive Authority under its own constitution.

The Indian Civil Rights Act of 1968 amended **Public Law 280** so states could no longer assume civil and criminal jurisdiction over Indian Country unless the affected tribes consented at special elections called for this purpose.

Article VI – POWERS, Section 2 of the TAT Constitution states: The exercise of powers granted by this Constitution is subject to any limitations imposed by the Statutes of the United States or by this Constitution and Bylaws.

As a part of my testimony, I am invoking Article 6, of the Horse Creek Treaty, which is otherwise known as the Fort Laramie Treaty of 1851.

Article 6 of the Horse Creek Treaty states: *“The parties to the second part of this Treaty have selected principals or head-chiefs for their respective nations, through whom all national business will hereafter be conducted, do hereby bind themselves to sustain said chiefs and their successors during good behavior.”* The Indian Reorganization Act of 1934 federally chartered Tribal Council (the Tribe) and its non-compliance with its ministerial duties according to the Constitution and Bylaws of the Three Affiliated Tribes, its federal corporate charter, its alleged misspending, mismanagement, and outright theft from the grassroots landowners like me, is NOT good behavior.

A temporary moratorium is needed to safeguard the funds in question from being disbursed, squandered and hidden from the public’s eyes.

The portion of the proposed legislation dealing with federal audits is warranted but needs to be expanded to include **all** income derived from resources and assets held in federal trust for the benefit of the Tribe and its members. Audits must be conducted and findings addressed to restore the public’s faith in government. As we all know, the lack of accountability of public tax dollars often translates to undelivered services to the demographic populations which well-intended legislation is meant to benefit.

The State of North Dakota, as the apparent controlling interest co-signer to the compact agreement and pass-through funding agency to the Tribe, should not expend or disburse any more publicly funded tax dollars to the Tribe until all the public's monies are accounted for.

A demand for public transparency and accountability is not a threat to tribal sovereignty. In fact, Senate Bill 2304 seeks to uphold tribal sovereignty through a demand of transparency and accountability by the people and of the people of the Three Affiliated Tribes and the State of North Dakota.

Allotted lands are tax exempt. Tribal lands and Allotted lands are two separate and distinct land ownership classifications according to tribal, state, and federal law.

The TBC has NO LEGAL AUTHORITY to speak on behalf of any individual beneficial allottee landowner(s) who own(s) the controlling interest in his, her or their own Allotment, unless an allottee's consent is given.

Tribal and Allottee lands are subjected to taxation without representation or participation under current State/Tribal Oil and Gas Compacts.

Allottee lands are subject to the exemptions for oil and gas production and extraction taxes from trust lands under chapter 57-51 and 57-51.1.

Allottees with the controlling interest in their own allotment have the sole authority to consent to a tax agreement with the State on their own property. Allottee lands account for over 70% of all trust lands within the exterior boundaries of the Fort Berthold Indian Reservation.

Coincidentally, nationally, it is estimated over 70% of American Indians live outside the exterior boundaries of their respective reservation homelands and do not receive services or protection under the law by Indian Reorganization Act chartered tribal organizations.

My allottee relatives and I are tired of being the Tribe's golden goose while being simultaneously economically and socially starved out of existence along with our own lands. Basic environmental mitigation efforts are critically lacking. The allottees and our lands pay a heavy toll for the overall benefit of North Dakota.

The MHA Nation does not provide significant services to the oil and gas lessees, the deeded landowners whether Indian or non-Indian, or the landowner of an allotment. The Tribe lacks legitimate regulatory authority and/or interest in the deeded and allotted lands which may justify their collection of any tax or tax benefit which rightfully belongs to the Individual Indian Allottee landowner, the deeded landowner or the State of North Dakota.

As a part of my testimony, I have attached another document that goes into further detail, background, justification and in support of Senate Bill 2304. The paper makes references to the laws associated including:

The Enabling Act which created North Dakota and admitted it into the Union. The North Dakota State Constitution, the Dawes Act, the Indian Reorganization Act of 1934, the Indian Civil Rights Act of 1968, Public Law 280, the Constitution of the Three Affiliated Tribes, and more.

Thank you, if you have any questions, I would be happy to answer.

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