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108TH CONGRESS, 2d Session | SENATE | REPORT 108–404

A BILL TO ESTABLISH A NATIVE AMERICAN-OWNED FINANCIAL ENTITY TO PROVIDE FINANCIAL SERVICES TO INDIAN TRIBES, NATIVE AMERICAN ORGANIZATIONS, AND NATIVE AMERICANS, AND FOR OTHER PURPOSES

NOVEMBER 10, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of October 11, 2004

Mr. CAMPBELL, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 519]

The Committee on Indian Affairs, to which was referred the bill (S. 519) to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

PURPOSE

The purpose of S. 519, as introduced, is to establish a Congressionally-chartered corporation under the jurisdiction of the U.S. Department of Housing and Urban Development that would be capitalized and owned by tribal shareholders, the Department of Hawaiian Homelands, Alaska Native Corporations and other entities that wish to invest in the corporation.

BACKGROUND

Despite a national unemployment rate of 5.4%, the jobless rate in Native American communities hovers around 50%, with some Indian economies experiencing unemployment rates near 80%. These rates are nearly twice that of the national unemployment rate in the Great Depression of the 1930's. Despite some recent successes with casino gaming, energy ventures, and other business opportu-

nities, many tribes still suffer a severe lack of jobs and high unemployment, intense poverty and a lack of physical infrastructure.

In addition to the litany of unmet needs in Native communities, there is a severe lack of economic information and analyses of economic conditions in tribal economies.

With existing Federal assistance uncoordinated, fragmented and spread thinly, Indian tribes have difficulty obtaining sufficient funds to undertake meaningful development efforts.[1]

Further, the current budget constraints limits prospects for major increases in assistance funding in the foreseeable future.[2]

It is also well-documented that native entrepreneurs and communities lack access to capital for both home mortgages and commercial purposes.[3] While existing Federal programs such as the Indian Loan Guaranty Program[4] provide business loan guarantees to Native entrepreneurs, these programs do little to assist tribes in identifying inhibitors to growth and conversely to attract and retain private sector investment and business activity.

As such, there is a need for a new Indian economic development paradigm as well as creative sources of economic analysis, capital, and technical expertise to spur growth and development in Native communities.

FEDERALLY-CHARTERED CORPORATION

As introduced, S. 519 would establish the Native American Capital Development Corporation (NACDC), a Congressionally-chartered corporation under the jurisdiction of the U.S. Department of Housing and Urban Development (HUD). The NACDC would be capitalized and owned by Indian tribal shareholders, the Department of Hawaiian Homelands, Alaska Native Corporations and other entities that wish to invest in the corporation.

The primary mission of the Corporation would be to provide financing, including loan guarantees, to member tribes for infrastructure and commercial ventures and project financing, including loan syndications, for majority Native-owned businesses.

It should be made clear that S. 519 does not propose a retail or commercial bank, but rather a new entity designed to supplement and assist the efforts of commercial banks now serving Native communities.

DEVELOPMENT AND DIAGNOSTIC FUNDS

As introduced, S. 519 would have established two initiatives aimed at stimulating investment and economic development in Native economies:

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[1] See Report of the General Accounting Office: Relationship to EDA Grants and Self Determination Contracting is Mixed, September 2004, GAO–04–847; see also Report of the General Accounting Office: Economic Development, Federal Assistance Programs for American Indians and Alaska Natives, December 2001, GAO–02–193.

[2] See FY1995–FY2005 Interior Appropriations Legislation for recent trends in economic spending for Indian Country.

[3] See Report of the General Accounting Office: Native American Housing: Home-ownership opportunities on Trust Lands Are Limited, February 24, 1998, GAO/FCED–98–49; see also The Report of the Native American Lending Study, Community Development Financial Institutions Fund, November 2001.

[4] See the Indian Financing Act of 1974, 25 U.S.C. 1451 et. seq., as amended.

(1) The "Native American Economies Diagnostic Studies Fund" to assist tribes in identifying inhibitors to economic growth and job creation; and

(2) The "Native American Incubation Center Fund" to provide capital and technical support to tribal governments to identify and make feasible opportunities and activities designed to bring investment, growth and job creation.

THE SUBSTITUTE AMENDMENT

For nearly ten years the Committee has conducted formal hearings and informal discussions related to the concept and mechanics of establishing a Tribally-Owned Development Corporation, as envisioned in S. 519. Since 1995 when the Native American Financial Services Organization Act (S. 436) was first introduced in the Senate, formal and informal discussions have failed to resolve a number of key issues including, but not limited to, capitalization, choice and methods of incorporation, the ownership structure of the Corporation and the lending activities of such a Corporation.

Accordingly, rather than formally establishing such a Corporation, a substitute amendment was developed to direct a study be undertaken to determine the feasibility of forming an Indian tribal development corporation and the results of that study be reported back to Congress within 9 months.

The substitute amendment also directs the Native Business Development Office (NABDO) within the Department of Commerce to undertake the study in conjunction with the Study Group. The NABDO was established in 2000 within the office of the Secretary of Commerce by the Native American Business Development, Trade Promotion, and Tourism Act, Pub. L. 106–464, which, in turn, was enacted to bring greater focus and resources to the problems surrounding economic development in Native communities.

SUMMARY OF SUBSTITUTE TO S. 519

The substitute amendment launches a feasibility study to determine whether a Tribally-Owned Development Corporation should be undertaken in future legislation. A section-by-section description of the changes contained in the substitute amendment follows.

Section 1. Short Title.

This Act may be cited as the "Indian Tribal Development Corporation Feasibility Study Act of 2004".

Section 2. Feasibility Study.

Section 2 amends the Native American Business Development, Trade Promotion, and Tourism Act (25 U.S.C. 4303(b)) by inserting a new section (6) entitled the "Tribal Development Corporation Feasibility Study".

The Secretary of Commerce is directed to establish the "Tribal Development Corporation Feasibility Study Group" to consist of 12 members from Indian Tribes, Alaska Natives, Native Hawaiians, a representative from the private sector and an official from the Department of the Treasury.

Within 270 days after enactment of this Act, the Study Group is responsible for conducting a study on the feasibility of establishing

an Indian Tribal Development Corporation. The study will be submitted to the Senate Committees on Indian Affairs, Appropriations, and the House Committees on Resources and Appropriations.

The Study will discuss the financial feasibility of establishing a corporation and whether that corporation would have a positive economic impact on Native American reservation communities.

The Study will contain a discussion and determination of the best alternatives in the structure, organization, and lending terms and conditions of the Corporation, including the most appropriate structure of capital contributions to best serve, and be acceptable to, Native interests. The discussion should also determine the basic terms and conditions under which funding would be provided to member Indian tribes.

The Study should identify tribal, Federal, or State policies and legal and regulatory conditions and infrastructure deficiencies that impede investment, both private and public, needed to promote economic development and to provide recommendations for remedial actions that can be undertaken by an Indian tribe to overcome such inhibitors of investment.

Finally, the Study shall determine the capital structure of the Corporation and the financial instruments needed to ensure its success. The Study Group will disband 120 days after the Group submits its report to Congress.

LEGISLATIVE HISTORY

The Native American Capital Formation and Economic Development Act of 2003 (S. 519) was introduced on March 5, 2003, by Senator Campbell and was referred to the Committee on Indian Affairs. Hearings were held on the bill on April 30, 2003 and on July 21, 2004. On September 29, 2004, the Committee convened a business meeting to consider S. 519 and other measures that had been referred to it, and on that date, the Committee favorably reported a substitute amendment to S. 519.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On September 29, 2004, the Committee on Indian Affairs, in an open business session, adopted an amendment in the nature of a substitute to S. 519 by voice vote and ordered the bill, as amended, reported favorably to the Senate.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 519 as calculated by the Congressional Budget Office, is set forth below:

S. 519—Indian Tribal Development Corporation Feasibility Study Act of 2004

Summary: S. 519 would direct the Department of Commerce to establish the Tribal Development Corporation Feasibility Study Group. CBO estimates that implementing this legislation would cost $5 million over the 2005–2009 period, assuming appropriation of the specified amounts.

Enacting the bill would not affect direct spending or revenues. S. 519 contains no intergovernmental or private-sector mandates as

defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1438 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	3	2	0	0	0
Estimated Outlays	3	2	0	0	0

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2005, that specified amounts will be appropriated for each year, and that outlays will occur at historical rates for similar programs.

S. 519 would amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000 to authorize the appropriation of $3 million in 2005 and $2 million in 2006 for the Tribal Development Corporation Feasibility Study Group. That group would be composed of 12 members from varied Indian interests, the private sector, and the federal government. The group would examine various aspects of a potential Indian Tribal Development Corporation and report on those efforts within 270 days following enactment of the bill. The group would dissolve within 120 days after completing a report.

Intergovernmental and private-sector impact: S. 519 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Mike Waters; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Karen Raupp.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory paperwork and impact that would be incurred in implementing the legislation. The Committee has concluded that enactment of S. 519 will create only de minimis regulatory or paperwork burdens.

EXECUTIVE COMMUNICATIONS

The Committee has received no official communication from the Administration on the provisions of the bill.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the enactment of S. 519 will result in the following changes in 25 U.S.C. Sec. 4303(b) et seq., with existing language which is to be deleted in black brackets and the new language to be added in italic:

(b) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary, acting through the Director, shall ensure the coordination of Federal programs that provide assistance, including financial and technical assistance, to eligible entities for increased business, the expansion of trade by eligible entities, and economic development on Indian lands.

(2) The Secretary, acting through the Director, shall coordinate Federal programs relating to Indian economic development, including any such program of the Department of the Interior, the Small Business Administration, the Department of Labor, or any other Federal agency charged with the Indian economic development responsibilities.

(3) In carrying out the duties described in paragraph (1), the Secretary, acting through the Director, shall ensure the coordination of, or, as appropriate, carry out—

(A) Federal programs designed to provide legal, accounting, or financial assistance to eligible entities;

(B) market surveys;

(C) the development of promotional materials;

(D) the financing of business development seminars;

(E) the facilitation of marketing;

(F) the participation of appropriate Federal agencies or eligible entities in trade fairs;

(G) any activity that is not described in subparagraphs (A) through (F) that is related to the development of appropriate markets; and

(H) any other activity that the Secretary, in consultation with the Director, determines to be appropriate to carry out this section.

(4) In conjunction with the activities described in paragraph (3), the Secretary, acting through the Director, shall provide—

(A) financial assistance, technical assistance, and administrative services to eligible entities to assist those entities with—

(i) identifying and taking advantage of business development opportunities; and

(ii) compliance with appropriate laws and regulatory practices; and

(B) such other assistance as the Secretary, in consultation with the Director, determines to be necessary for the development of business opportunities for eligible entities to enhance the economics of Indian tribes.

(5) PRIORITIES.—In carrying out the duties and activities described in paragraphs (3) and (4), the Secretary, acting through the Director, shall give priority to activities that—

(A) provide the greatest degree of economic benefits to Indians; and

(B) foster long-term stable economies of Indian tribes.

(6) TRIBAL DEVELOPMENT CORPORATION FEASIBILITY.—

(A) IN GENERAL.—The Secretary shall establish the Tribal Development Corporation Feasibility Study Group (referred to in this paragraph as the "Group").

(B) MEMBERS.—The Group shall be comprised of 12 members, as follows:

(i) REPRESENTATIVES OF INDIAN TRIBES.—Five members of the Group shall be representatives of federally recognized Indian tribes.

(ii) REPRESENTATIVES OF THE ALASKA NATIVE COMMUNITY.—Three members of the Group shall be representatives of the Alaska Native Community.

(iii) REPRESENTATIVE OF THE NATIVE HAWAIIAN COMMUNITY.—One member of the Group shall be a representative of the Native Hawaiian Community.

(iv) REPRESENTATIVE OF THE PRIVATE SECTOR.—Two members of the Group shall be representatives of nongovernmental economic activities carried out by private enterprises in the private sector.

(v) FEDERAL OFFICIALS.—One member of the Group shall be a representative of the Department of Treasury with demonstrated experience in international economic development and international financial institutions.

(C) CHAIRPERSON.—The members of the Group shall select a Chairperson

(D) PERSONNEL AND SERVICES.—

(i) IN GENERAL.—The Chairperson of the Group may appoint and terminate such personnel as are necessary to enable the Group to perform its duties.

(ii) PROCUREMENT OF SERVICES.—The Chairperson may procure such services as are necessary to enable the Group to perform the duties of the Group.

(E) STUDY.—

(i) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the group shall—

(I) conduct a study to determine the feasibility of establishing an Indian Tribal Development Corporation (referred to in this subparagraph as the "Corporation"); and

(II) submit to the Committee on Indian Affairs and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives a report that describes the results of the study and any recommendations of the Group for further legislative action.

(ii) CONTENTS.—The report shall contain—

(I) a discussion and determination of the financial feasibility of the Corporation, including whether the Corporation can be, over the long term, financially self-sustainable;

(II) a discussion and determination of the probable economic impact of the Corporation, including a demonstration of the quantitative and qualitative economic impact on Native American communities;

(III) a discussion and determination of the best alternatives in the structure, organization, and lending terms and conditions of the Corporation,

including the most appropriate structure of capital contributions to best serve, and be acceptable to, Native interests;

(IV) a discussion and determination of the basic terms and conditions under which funding would be provided to member Indian tribes;

(V) a discussion of nonfinancial and advisory activities to be undertaken by the Corporation, including the use of diagnostic studies by the Corporation to—

(aa) identify tribal, Federal, or State policies and legal and regulatory conditions and infrastructure deficiencies that impede investment, both private and public, needed to promote economic development;

(bb) the financial instruments that will be required by the Corporation to ensure its success.

(F) TERMINATION OF STUDY GROUP.—The Group shall terminate 120 days after the date on which the Group submits the report under subparagraph (E).

(G) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

(i) $3,000,000 for fiscal year 2005; and

(ii) $2,000,000 for fiscal year 2006.

[(6)**]** *(7)* PROHIBITION.—The Secretary may not provide under this section assistance for any activity related to the operation of a gaming activity on Indian lands pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2710 et. seq.)

SUPPLEMENTAL MATERIALS

SALISH KOOTENAI COLLEGE,
Pablo, MT, April 29, 2003.

Senator BEN NIGHTHORSE CAMPBELL,
Committee on Indian Affairs,
Hart Senate Office Building, Washington, DC.

HONORABLE SENATOR NIGHTHORSE CAMPBELL: This letter is to support S 519 Native American Capital Formation and Economic Development Act of 2003. I am writing to request your help and support, especially for Tribal Business Information Centers.

We sincerely appreciate your consideration of supporting S 519. We know there is a budgetary pressure in Washington however, if you are willing to support S 519 we will provide you with whatever information and assistance you need, on a timely basis.

Thank you Senator and we invite you to Salish Kootenai College to see our Tribal Business Information Center. If you or your staff should have any questions about our Tribal Business Information Center or request of support, please do not hesitate to call me at (406) 275–4959.

Yours truly,

JOE MCDONALD,
President.

UNITED SIOUX TRIBES OF SOUTH DAKOTA,
Pierre, SD, September 3, 2004.

Re Support of S. 519.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the United Sioux Tribes of South Dakota, North Dakota, and Nebraska, we write in general support of S. 519, which would establish an Indian-owned financial entity to provide a variety of services to Indian organizations, tribes and individual Indians. We are willing to endorse this legislation because we understand that the corporate structure of this entity is designed to guarantee majority Indian ownership. While we also feel that this might not be enough to guarantee total "buy-in" from Indian country immediately, we believe that it has tremendous potential to begin to fill the current overwhelming need for capital and technical assistance that frustrates economic development within reservation communities.

In particular we endorse the "Native American Economies Diagnostic Studies Fund," which would support investment policy reforms, facilitate diagnostic studies of reservation economies, and allow financial and other data to be collected nationwide throughout Indian country. While many different Federal agencies have collected data and issued reports on this problem, a centralized clearinghouse for such data is sorely needed, as is a centralized and accessible location for technical assistance and support. Although the legislation does not include this kind of detail, we would recommend that through this fund, websites and materials are developed that would make it easier for intertribal organizations, tribes, and Indian individuals to evaluate and utilize the economic development resources provided by many different Federal agencies today, sometimes with very little coordination.

We also support establishment of the "Native American Economic Incubation Center Fund." We believe that nation building goes hand in hand with true and lasting economic success, and this fund is designed to both reward and facilitate this process.

We understand that legislation is always a work in progress and can be amended as conditions and ideas about what is workable change. Overall, we support the bill as a significant step in the right direction, and we thank you for your continued dedication to promoting healthy economies in Indian country.

Sincerely,

CHAIRMAN MICHAEL B. JANDREAU,
UST Board of Directors.

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

Materials from

The July 20, 2004 Forum on Establishing a Tribally Owned Development Corporation

and

The July 21, 2004 Hearing on S. 519, *the Native American Capital Formation and Economic Development Act of 2003*

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

Forum on Establishing a Tribally Owned Development Corporation

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5. Economic Development Articles

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   B. *Economics Focus Roots of Development*, the Economist (October 5, 2002).
   C. *Aid Policy: Short Change*, the Economist (November 2, 2002).
   D. *Sustaining the Poor's Development*, the Economist (August 31, 2002).
   E. *Afghanistan: Learning to Love the Market*, the Economist (February 22, 2003).
   F. *The Santa Ysabel Band of Diegueno Indians Secured Funding From an Arizona Tribe to Build a $30 Million, 70,000-square-foot Casino on its Reservation in the Volcan Mountains*, the San Diego Union Tribune (July 15, 2004).
   G. *Hotel Moves Ahead Near American Indian Museum*, Washington Business Journal (March 7, 2003).
   H. *Mohegan Tribe Looks to Capitalize on Success*, Record-journal.com (Sept. 2, 2004).
   I. *Tribes Bet on Portlanders*, Portland Tribune (August 17, 2004).

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United States Senate
COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-6450
http://indian.senate.gov

September 3, 2004

Dear Mr. Attendee:

Thank you for attending the *Forum on Establishing a Tribally-Owned Development Corporation* held here in Washington, D.C. on July 20, 2004. I hope that the forum provided you and others with an opportunity to discuss economic issues and ways to reinvigorate Indian economies.

Enclosed please find materials from the July 20th forum as well as testimony from the July 21st hearing on S.519, legislation to create a tribally-owned development corporation.

Again, I thank you for attending the conference. If you have any questions, please contact Jim Hall or Perry Riggs of my Committee staff at (202) 224-2251.

Sincerely,

BEN NIGHTHORSE CAMPBELL
Chairman

SENATE COMMITTEE ON INDIAN AFFAIRS

FORUM ON

ESTABLISHING A TRIBALLY OWNED DEVELOPMENT CORPORATION

JULY 20, 2004
485 RUSSELL SENATE OFFICE BUILDING

BEN NIGHTHORSE CAMPBELL, COLORADO, CHAIRMAN
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HARRY REID, NEVADA
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TIM JOHNSON, SOUTH DAKOTA
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United States Senate
COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-6450
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July 20, 2004

Dear Friends:

Greetings and welcome to the Senate Committee on Indian Affairs' *Forum on Establishing a Tribally-Owned Development Corporation*. I am pleased that you are here to participate in this exciting discussion and laud your interest in focusing on building and diversifying Native economies.

The purpose of this Forum is to provide tribal leaders, development experts, and others, an opportunity to discuss inhibitors to growth in Native American economies with the goal of expanding economic opportunity for Native people. A Committee legislative hearing on these matters will take place tomorrow, July 21, 2004.

Thank you for your participation at this Forum and I look forward to working with you on these important issues in the future.

Sincerely,

BEN NIGHTHORSE CAMPBELL
Chairman

U.S. Senate Committee on Indian Affairs Forum

On Establishing A Tribally-Owned Development Corporation

July 20th Forum - Event Abstract

Date: Tuesday, July 20, 2004, 1:00 p.m. to 5:00 p.m.

Location: 485 Russell Senate Office Building, Washington, D.C.

Format: Two panels of speakers will discuss inhibitors to economic growth and development in Native American communities and creative ways to overcome those inhibitors and infuse capital into Native American communities.

Agenda

1:00 Inhibitors to Economic Growth and Development in Native America

Panel

1. Physical Infrastructure Needs - Chester Carl, Chairman, National American Indian Housing Council, Washington, D.C.

2. Human Capital and Development - Jackie Johnson, Executive Director, National Congress of American Indians, Washington, D.C.

3. The Ineffectiveness of Federal Development Programs, Julie Kitka, President, Alaska Federation of Natives, Anchorage, AK

4. Good Governance and Economic Growth - Professor Joe Kalt, Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University, Cambridge, MA

3:00 Investment, Economic Growth, and Development in Native America

Panel

1. Indian-Owned Banking Institutions - Mr. Frank Riollo, Borrego Springs Bank, Palm Springs, CA

2. Diversifying Native Economies - Hon. Phillip Martin, Chief, Mississippi Band of Choctaw Indians, Philadelphia, MS

3. Investor Perspectives - Hon. Mark Brown, Mohegan Indian Tribe, CT and Mr. Chris McNeil, Sealaska Corporation, AK, Mr. Eric Natwig, New West Partners, Inc., Santa Monica, CA.

4. A Tribally-Owned Development Entity - Mr. Paul Moorehead, U.S. Senate Committee on Indian Affairs, and Mr. Carl T. Bell, International Finance Consultant (Ret.), Washington, D.C.

* * *

A Tribally-Owned Development Corporation - Concept Overview

Introduction. Native American economic development is hindered by the lack of capital, particularly with respect to large capital-intensive infrastructure projects. Few, if any tribes, have the resources to adequately service these needs. Native entrepreneurs face equal challenges. Further, Native communities need a mechanism that allows them to tap into U.S. and international financial markets.

The economic needs of the Native communities are inadequately known and quantified and thus many times tribes are unsuccessfully represented to the governmental agencies. Moreover there is no "voice" which can speak to Native economic interests with undisputed authority. U.S. Government assistance is so fragmented and spread so thinly that no tribe is awarded sufficient funds to undertake meaningful development efforts. Realistically, there is little prospect in the foreseeable future for major increases in assistance funding.

Corporation Activities. The concept of a Tribally-Owned Development Corporation is that it would assist all tribes in overcoming these problems. The primary responsibility of the Corporation will be to provide financing, including loan guarantees, to member tribes for infrastructure and commercial ventures and project financing, including loan syndications, for majority Native-owned businesses.

It should be made clear that what is proposed is not a retail, commercial bank and is in fact designed to supplement and assist the efforts of such extant commercial banks now serving Native communities.

Secondarily, the Corporation will be the central repository of economic data and expertise pertaining to Native economic affairs: it is to conduct research into Native economic activities and to provide tribes, their governments, and associations advanced economic advice and technical support. Third, the Corporation will be charged to undertake such other activities as are requested and supported by the members on matters relating to promoting investment flows into Native communities.

* * *

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

The July 20, 2004 Forum on Establishing a Tribally Owned Development Corporation

PRESENTATION MATERIALS

Presentation Materials

July 20, 2004 Forum on Establishing a Tribally Owned Development Corporation

Chester Carl
Navajo Housing Authority

Navajo Housing Authority

Senate Committee on Indian Affairs

Native American Capital Formation and Economic Development Forum

Navajo Housing Authority

NHA Mission Statement

- To meet the needs of the Navajo Nation by providing affordable quality homes, professional management services and to promote economic development
- Vision Statement: "Committed to Excellence in building your future"

Navajo Housing Authority

NHA's Economic Strategy

- NHA executes 50 years "Master Lease" with Navajo Nation
- Assignment of "lots" from Master Lease
- Subleasing from Master Lease for;
  - Mortgages
  - Business development
  - "is hereby authorized to sublease the Leased Premises, in whole or in part, with the prior approval of the Lessor, but without further approval of the Secretary..."
- Creates Opportunity for Residents to start own Child Care, Laundromat, Convenience Store, Gas Stations etc...

Navajo Housing Authority

NHA's Economic Strategy

- Resident Self-Sufficiency Initiative NHA Guiding Principle
- Resident Organization/Resident Management Corporations
  - Handbook provides general guidelines for residents to establish and conduct activities
  - Capacity building – Leadership development, Board Responsibilities, Goal Setting, and Goal Implementation
- Three RMC contracted with NHA for property management services, implements own residential rules and collection of rent
- RMC Contracts NHA on unit renovation, Tax Credit project and launderette

Navajo Housing Authority

NHA's Economic Opportunity

- NHA Self Insurance Program
  - Reduce payment of premiums to Amerind Insurance $800,000 plus to in house liability of $150,000 a year
  - Establish $10 million reserve to pay for staffing and risk management program
- Equipment Leasing Program
  - Greater control on Cost of Service
  - Allows use of heavy equipment by all department for fee

Navajo Housing Authority

NHA's Economic Opportunity

- NHA Mortgage Program
  - Promotes Self Sufficiency, leverages NAHASDA funds to expand development and growth of private capital
  - Establishes a market and relationship with lenders
  - Transitions from Mutual Help Program to Mortgage Concept program
- NHA Loan Guarantee Program
  - Contracts processes to handle Homebuyer Education and Mortgage Equipment Leasing Programs
  - Guarantees for higher risk applicant
  - Subsidy for low income fee

Navajo Housing Authority

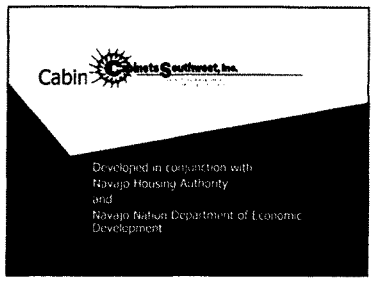
NHA's Economic Opportunity

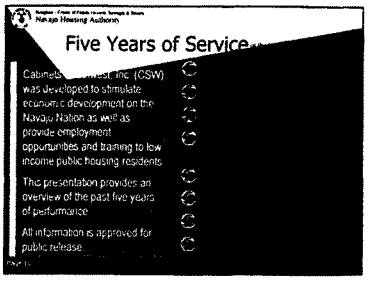
- NHA Loan Guarantee Program
  - NHA purchases seriously delinquent account from offset reserve account
  - NHA cures early delinquencies
  - NHA conducts foreclosure
  - Fannie Mae approved

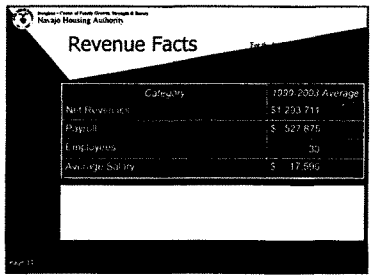
Navajo Housing Authority

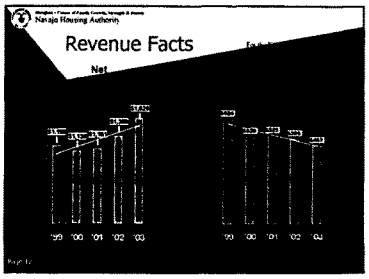
NHA's Economic Opportunity

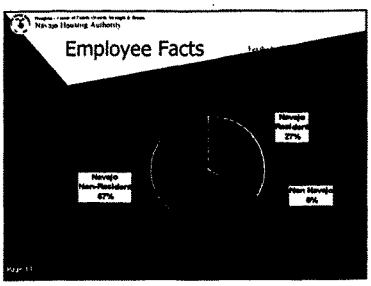
- Cabinet Southwest


Cabin Cabinets Southwest, Inc.
Developed in conjunction with
Navajo Housing Authority
and
Navajo Nation Department of Economic Development

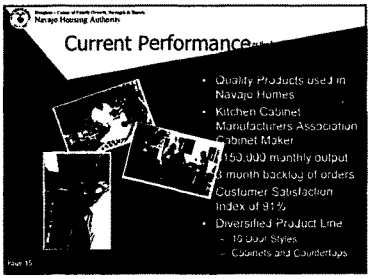

Navajo Housing Authority
Five Years of Service
Cabinets Southwest, Inc. (CSW) was developed to stimulate economic development on the Navajo Nation as well as provide employment opportunities and training to low income public housing residents
This presentation provides an overview of the past five years of performance
All information is approved for public release

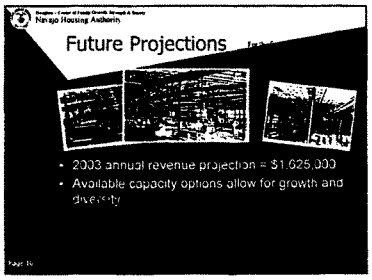

Navajo Housing Authority
Revenue Facts
Category
1999-2003 Average
Net Revenues
$1,293,711
Payroll
$ 527,875
Employees
30
Average Salary
$ 17,590


Navajo Housing Authority
Revenue Facts
Net
'99 '00 '01 '02 '03
'99 '00 '01 '02 '03


Navajo Housing Authority
Employee Facts

Return on Economic Investment


Navajo Housing Authority
Current Performance
• Quality Products used in Navajo Homes
• Kitchen Cabinet Manufacturers Association Cabinet Maker
150,000 monthly output
month backlog of orders
Customer Satisfaction Index of 91%
• Diversified Product Line
– 16 Door Styles
– Cabinets and Countertops


Navajo Housing Authority
Future Projections
• 2003 annual revenue projection = $1,625,000
• Available capacity options allow for growth and diversity

Navajo Housing Authority

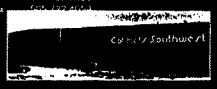
CSW Fact Sheet

- CSW Cabinets meet all Kitchen Cabinet Manufacturing Association, HUD and military requirements
- Providing multiple door style and cabinet combinations for kitchens and baths
- Employing Navajo crafts people - many of whom reside in the communities they serve
  - Providing employment and training opportunities
  - Building pride in the workforce
- Meeting customer needs and earning their satisfaction
- Sustaining positive revenue growth and production capacity
  - Stimulating economic growth on the Navajo Nation

Navajo Housing Authority

CSW Contact Information

- Randy Stokes - General Manager
- P.O. Box 160
  Old Historic Highway 66
  Church Rock, NM 87311
  - Office: 505-726-0826
  - Fax: [illegible]



Navajo Housing Authority

FlexCrete™ Building Systems, LC

- New company formed to commercialize FlexCrete™
  - LLC Resolution on 9/2[illegible]
  - Navajo Housing Authority [illegible]
- Product similar to Autoclaved Aerated Concrete
  - AAC developed in Europe about 70 years ago
  - AAC is lightweight, easily worked, fireproof, with good insulation properties
  - AAC manufacturers report high [illegible] costs are approximately 10% more expensive than wood frame
- FlexCrete - Aerated Concrete
  - Uses Fly ash and bottom ash, [illegible] fly ash, and no autoclave, resulting in substantially lower costs
  - Fly ash quality is not critical, making the FlexCrete an attractive CCP utilization technology

Navajo Housing Authority

FlexCrete™ Advantages

- Low Cost
- Ease of Use
- Physical Strength
- Durability
- Energy / Acoustic Efficiency
- Environmental Sensitivity

Navajo Housing Authority

Manufacturing Capacity

- Annual single shift production capacity of standard facility equals:
  - 1,100 homes (~1,200 sq. ft.)
  - 4.5 million CMU equivalents
  - 100,000 cubic yards
- Full single shift production would utilize approximately 23,000 tons of fly ash
- Production capacity can be doubled with a second shift and an investment of approximately $750,000 for additional forms

Navajo Housing Authority

Product Configurations

- FlexCrete™ manufactured in solid blocks or panels in a variety of standard and custom sizes, including:
  - 8x8x24 inch blocks
  - 8x8x72 inch blocks
  - Wall, floor and roof panels up to 22x7x1 feet
- All dimensions to have a tolerance of +/-.015 inch
- Works with all standard thin-set and thick-set mortars and adhesives, as well as standard aerated concrete fasteners and fixtures
- Finished construction cost of FlexCrete™ structures about 15 percent lower than wood frame assembly at high facility utilization rates

Navajo Housing Authority

Project Update

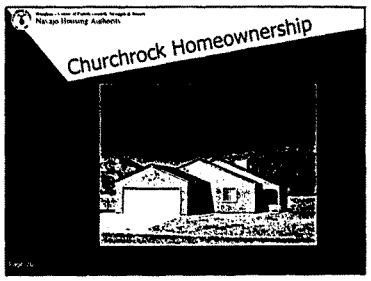
- Navajo Housing Authority participation secured
  - NHA to participate as 10% equity investor in LC
  - NHA to build first commercial manufacturing facility in Page, Arizona
  - NHA to retain LC for management and off-Nation sales
- Technology licensing activities underway
  - License negotiations near completion in Midwestern States, Puerto Rico / Caribbean and Texas
  - License discussions advancing in Georgia, Alabama, North Dakota, Minnesota, Utah, Nevada, Mexico and China

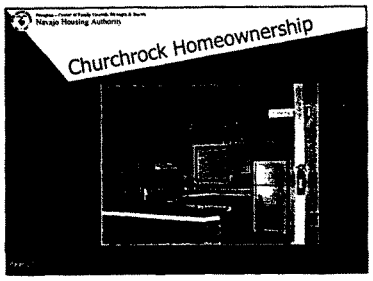
Navajo Housing Authority

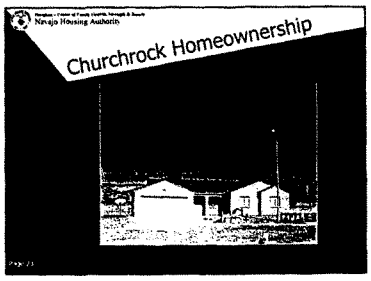
Project Update (Continued)

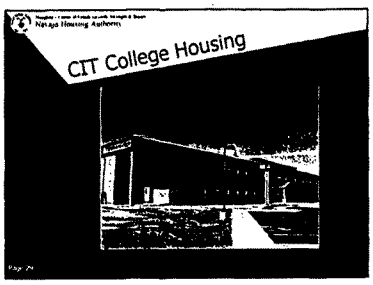
- Pilot Manufacturing Facility producing material for homes

Navajo Housing Authority
Project Update (Continued)
• Pilot Manufacturing Facility producing material for commercial applications


Navajo Housing Authority
Churchrock Homeownership

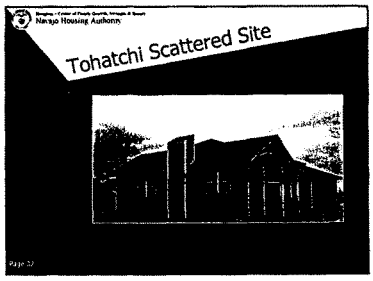

Navajo Housing Authority
Churchrock Homeownership

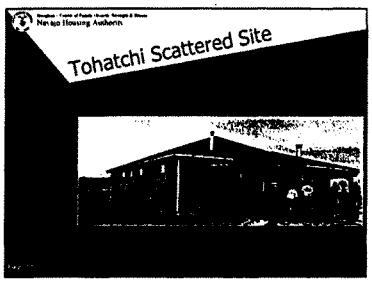

Navajo Housing Authority
Churchrock Homeownership


Navajo Housing Authority
CIT College Housing

Navajo Housing Authority
Teesto Scattered Site

Navajo Housing Authority
Teesto Scattered Site


Navajo Housing Authority
Tohatchi Scattered Site


Navajo Housing Authority
Tohatchi Scattered Site

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Northern Cheyenne Tribe

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Prairie Band Potawatomi Nation

SOUTHWEST
Manuel Heart
Ute Mountain Ute Tribe

WESTERN
Brian Melendez
Reno-Sparks Indian Colony

EXECUTIVE DIRECTOR
Jacqueline Johnson
Tlingit

NCAI HEADQUARTERS
1301 Connecticut Avenue, NW
Suite 200
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Human Capital and Soft Spending Needs

Statement of Jacqueline Johnson, Executive Director

Most tribes continue to suffer the effects of rampant poverty in their communities. Unemployment is far above average, education levels are astonishingly low, and investment is nearly non-existent. Community cohesiveness and cultural integrity are severely challenged when the bulk of a tribe's energies are spent trying to provide basic needs for tribal members. Many tribal governments are also economically disenfranchised. In order to perform the duties and responsibilities of a government, tribes must be able to sustain their own activities. Therefore, it goes without saying that economic development is a top priority for tribal leadership.

Nearly every aspect of federal Indian policy bears some relationship to economic development. Building effective government structures, improving the health of tribal members, constructing an adequate physical and technological infrastructure educating our youth and training adults for employment, creating tribal codes and laws that are business-friendly, providing adequate social programs for members in need, utilizing natural resources, reconsolidating land, preserving heritage and other cultural resources, and reclaiming tribal jurisdiction are all facets of successful economic development. Many communities suffer from disproportionate poverty rates, lack of economic base, lack of job skills and opportunities, rural geography, and lack of facilities and infrastructure.

The economic health of a community is directly tied to the overall physical and behavioral health of the people within the community. The health struggles of Indian people have had a tremendous impact on the economic struggles of Indian Country. There is an enormous disparity that exists in both the overall health and access to healthcare facilities. Indians experience exponentially higher rates of diabetes, mental disorders, cardiovascular disease, pneumonia, influenza and injuries.

The U.S. Commission on Civil Rights, Office of the General Counsel recently issued "Broken Promises: Evaluating the Native American Health Care System," which is a follow-up to "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country." The report identified the contributors to American Indian health disparities and categorized them as social and cultural barriers, structural barriers and financial barriers, which frequently overlap.[1] The social and cultural barriers contributing to health disparities include the patients' socioeconomic status, including poverty and educational attainment. Native Americans have the highest poverty rate of any ethnic group and remain at the bottom of every measurable economic category, earning half the wage of the average American.[2] Elevation of income relates directly to health status because it increases access to care, improves homes and increases the opportunity to engage in healthy living.

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[1] "Broken Promises: Evaluating the Native American Health Care System," Draft Report for Commissioners' Review, U.S. Commission on Civil Rights, Office of the General Counsel, July 2, 2004. (hereinafter cited as Broken Promises).

[2] Broken Promises, 37 citing Peter Carlson, "In the Year of 'Dances with Wolves,' Everybody Wanted to Be on the Senate Indian Affairs Committee. Nearly a Decade Later, It Can Hardly Get a Quorum," Washington Post, Feb. 23, 1997, p.W06.

Lack of employment opportunities on reservations leads to poverty and inadequate housing. An example is the Navajo reservation where more than half of the residents live below the poverty line and almost half are unemployed.[3] Many homes lack adequate plumbing, rely only on wood burning for heating and lack telephone service.[4] The Pine Ridge Reservation in South Dakota's unemployment rate is approximately 80 percent.[5] There, two out of three residents lives below the poverty line.[6]

Some tribal communities are experiencing public water supply problems. Lack of safe drinking water, adequate sanitation systems, and clean air in our communities places everyone on or near tribal lands at risk. Eight percent of Indian homes lack running water, compared to less than one percent of the non-Indian population. In these situations, they often have no water other than what they themselves haul in, which greatly increases the risk for waterborne disease. Thirty-three percent of tribal homes, fully one-third, lack adequate solid waste management systems.

Disproportionate poverty is among the key causes for health disparities in Indian Country. The "Broken Promises" report cited a new study by the Housing Assistance Council which determined that poverty, economic opportunity and the shortage of financing for affordable housing have been the causes of these atrocious conditions.[7] Studies have shown that inferior housing is a contributing factor to bad health conditions.[8] Therefore, if Indian Country has the opportunity to provide more economic opportunities then the poverty rate and unemployment rates will improve and as a result, the health, housing and educational conditions will undoubtedly improve.

Our infrastructure, roads, bridges, telecommunications connections, and access to training often cannot support our basic economic plans. Traditional sources of capital such as lending, banking and bonding are all but non-existent on reservations.

Vibrant reservation economies not only help tribes, but increase economic health of America as a whole. In many cases tribal businesses employ many more non-Indians than Indians. In numerous regions, we are integral to the economics of towns, counties and states. One example is the Ute Mountain Ute Tribe in southwestern Colorado. The tribe is the largest employer in the Four Corners area, for both Indians and non-Indians. Strong tribal governance structures have been recognized as the key to effective economic development in areas that have consistently struggled for economic stability.

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[3] Broken Promises, citing Kathy Helms, "Navajo Poverty Cited in Pursuit of Fed Funds," Gallup Independent; Roanhorse Testimony, Briefing Transcript p.139.
[4] Id.
[5] Broken Promises, 37 citing Carlson.
[6] Id.
[7] Broken Promises, 37.
[8] Id.

We are faced with the challenge of duplicating the success that a small handful of tribes have seen, in the vast majority of tribal communities. Job creation in tribal communities can go hand-in-hand with the building of physical and technological infrastructure on our reservations.

Basic infrastructure such as road construction and maintenance can facilitate development, or become a major obstacle when the infrastructure is lacking. Each year, there are 2 billion vehicle-miles traveled on roads across Indian Country, by tribal members and visitors alike. However, only 33 percent of roads in Indian Country are paved, a full quarter of the bridges on tribal lands are structurally deficient, and 72 percent of the roads in Indian Country are officially rated as "poor." These road conditions are a massive barrier to economic development, with many tribes lacking any way to transport the employees, customers, and goods that fuel healthy economies. It also affects the overall community. Based on these hazardous roads, the Indian Health Service found that the fatality rate for vehicle-related deaths on tribal roads is 400% of the national average, and the leading killer of Native youth. Therefore, when a development project comes to a reservation, it not only improves the transportation capacity of employees, it also saves lives of children on their way to school, and tribal elders' access to healthcare facilities.

While the rest of the country is seeing the arrival of DSL and wireless communications systems, many tribal communities still await the arrival of basic telephone service. Nearly a quarter of rural Native American households have no telephone service. An even larger proportion functions without emergency 911 service and other basic communication necessities. These facts transcend inconvenience. The lack of communications infrastructure poses a very real public safety threat when emergency services must be summoned quickly, and creates a crippling barrier to economic development. Tribal lands are grossly underserved by electricity services. Nearly one sixth of Indian households have no electricity, which is ten times greater than the number of American households that lack electricity nationwide.

Indian Country yearns for greater sustainable, comprehensive economic development. Development projects lead to overall community development. We see that when a development project comes into the community, it spurs the tribal council to focus on land use and land use planning, zoning and on long-term plans. It is broader than the development project, it presents an opportunity for overall economic improvement of the community. For example, when trenches are dug for water and sewer lines, there is a valuable opportunity to lay internet cable. This not only increases communication for it also increases computer literacy among tribal members, provides new educational opportunities and brings more jobs to the reservation because it is a more attractive location for companies to relocate. There is also an opportunity for the tribe to enhance its labor and other tribal ordinances. Development projects have the ability to transform a tribal community. Historically, community development organizations and non-profit organizations have made a major difference in improving conditions in economically depressed communities. Indian Country has very few such organizations. Initiatives to promote the creation of these organizations in Indian Country is necessary to address many of the obstacles to economic prosperity.

Reservation economies must be invigorated so that tribes themselves can provide employment and investment, strengthen and maintain infrastructure, and bring tribal communities full-force into the American and international markets. Development in Indian Country is an initiative of the tribes themselves. Tribes are driven to serve the needs of their people, preserve their traditions and cultures, and honor their ancestors and future generations.

Economic development in Indian Country means economic development for America. Stimulus in Indian communities is not only needed to increase standards of living for tribal populations or even to ensure the long-term success of tribal governments, but it is necessary to secure the overall health of the United States.

Mississippi Band of Choctaw Indians

Economic Development and Diversification

Presented By Chief Phillip Martin
At a Forum of the
U.S. Senate Committee on Indian Affairs
July 20, 2004

The Choctaw Economy

The Mississippi Band of Choctaw Indians owns and operates a diversified portfolio of manufacturing, service, retail, hospitality, and tourism enterprises. The Tribe's twenty-three business enterprises provide permanent, full-time jobs for Tribal members and area residents, while also generating Tribal revenues to fund government services for the Choctaw people.

The success of Choctaw enterprises has enabled the Tribe to become more self-reliant and self-sufficient while making significant and very favorable economic impact on the people of East Central Mississippi. The Tribe is now Mississippi's second largest employer, with 9,000 permanent, fulltime employees. Employment opportunities are anticipated to expand within the coming three years, with the growing Pearl River Resort, Lake Pushmataha Recreational Complex development, and high tech job opportunities.

Economic impact studies are completed every five years by area universities. The latest, conducted in 2002, revealed that the Tribe's economic impact on the State of Mississippi exceeded $1.2 billion that year. Future impact is anticipated to be even greater as the Tribe continues its successful diversification efforts.

The Development Philosophy

Tribal governmental leaders work with a philosophy of building up Tribal *financial security and self-sufficiency*. The goal is to make the Tribe capable of financing its own needs without the strings attached by non-Tribal lending institutions. In the future, a Tribally-owned and operated bank may be established, which could include a lending agency within it. The challenge for tribal government is to "catch up" economically from generations of neglect by the federal government, and from the absence of any state support or private sector confidence.

Self-Determination

During the past four decades, the Tribe has been experiencing a rebirth socially, economically, and educationally largely because of strong, stable Tribal government leadership. Good Tribal government has made, and continues to make, an extraordinary and very important difference in the lives of the Choctaw citizens. Since 1979, with the first stages of economic development being established, the Tribal government has grown into a very large and complex organizational structure. The Tribe is well known and highly respected for its successful exercise of Choctaw Self-Determination, and for its serious-minded approach to good government and good business. The Tribe has long enjoyed wide recognition as an industrious, progressive, and fair business partner.

Job Creation

The Tribe has created approximately 9,000 permanent, full-time jobs since 1979, when the first phase of an 80-acre Choctaw Industrial Park opened. Today the Tribe is

Mississippi's second largest employer. With the relatively small size of the Choctaw population, a total of 9,200 enrolled Tribal members, approximately 6,000 of whom live on-Reservation in Mississippi, some 60% of the Tribe's employees are non-Indian. The Tribe has managed to create far more jobs than there are Tribal members of working age to fill the positions. So the economic expansions that the Tribe is undertaking are very beneficial to the residents of surrounding communities, in addition to the Choctaw workforce.

Business Relationships

The Tribe's positive reputation for business know-how is recognized nationally and internationally for the success gained in lifting the Tribe from poverty through economic achievement and the creation of a diversified industrial economy both on and off the Reservation. The Tribe is pro-business and has found great confidence in its work capabilities and quality for a broad variety of industries.

During the past quarter century, the Tribe has continuously succeeded in business relationships with such major U.S. corporations as Ford Motor Company, American Greetings, Delphi Packard, Daimler-Chrysler, General Motors, Caterpillar, Club Car, Navistar International, McDonald's Restaurants, Pepsi Cola Company, Panasonic, and Harman International, just to name a few of the Choctaws' clients and business partners. In the years preceding legalized gaming in Mississippi, the Tribe focused primarily on manufacturing of wire harness systems for automobiles, as well as automotive speaker systems.

Mississippi Choctaw's current capabilities and product lines are highly diversified and include the following categories:

- Electronic Assembly
- Printing and Direct Mail
- Plastic Molding and Packaging
- General Contracting
- Retail/Commercial Development and Operations
- Oil and Gas Exploration
- Office Supplies and Furnishings
- Full-Service Manufacturing and Distribution
- Digital Mapping and Related Goals
- Automotive Dealership
- Commercial Laundry
- Resort Development and Operations
- Nursing Home Operations
- Advertising Agency

Gaming

From the late 1970s through the early 1990s, the Tribe reinvested the majority of its revenues gained through manufacturing enterprises into its various production plants in order to maintain and improve operations, and create employment. There was, however, very little discretionary profit available in manufacturing. In order to generate increased revenues for the operation of the Tribal government, the Tribe chose to commence gaming on the Reservation when it became legalized in Mississippi. Contrary to the

misunderstanding of some, Indian gaming in this country is not a federal program designed to aid tribes. Gaming is an economic development option available to tribes residing in gaming states. Those tribes choosing to open casinos on their lands also take on all of the risks associated with owning and operating those casinos including the difficult task of locating and attracting sufficient investment capital. Locating capital and instilling confidence in investors is an especially daunting problem for tribes due to the history of economic hardship associated with reservations.

Reinvestment of Earned Income

Since the Tribe's Silver Star Hotel and Casino opened in the summer of 1994, it has been successful, and the new Golden Moon Hotel and Casino, which opened in 2002, is equally successful. The Tribal government's revenue base has increased the Tribe's ability to meet some of the needs of the Choctaw people in terms of education, health care, and job development. The Tribe has managed to become more self-supporting, although we remain dependent upon the federal government. The creation of more and more jobs and the increasing diversification of the Reservation economy are benefiting the entire region of east central Mississippi.

Entrepreneurship

The Tribe encourages education, advanced training, and entrepreneurship among the Choctaw population. The Tribal government, the various Choctaw businesses and enterprises, and the Tribe's hotels and casinos offer tremendous opportunities and benefits to Tribal members wishing to enter into contractual agreements with these Tribal enterprises to provide goods and services required.

This approach helps to create individual prosperity, and is a positive step in the right direction to move further away from dependence on tribal government and closer towards self-reliance and self-sufficiency.

Economic Diversification

Looking at the Tribe's increasing business growth, one can clearly see that the Tribe's economic diversification has been an important key to Choctaw overall success. In 2002, the Tribe was awarded a license to operate a Ford automobile dealership in Carthage, Mississippi. The Mississippi Band of Choctaw Indians is the first American Indian tribe to own and operate an automobile dealership in the United States. This is another example of the Tribe's innovative and forward-thinking approach to business.

The Tribe is also succeeding in its efforts to get a foot-hold in high-tech industry, thus bringing more high-skill, high-salaried jobs to the Reservation. In late 2001, the Tribe opened Applied Geo Technologies, Inc. to secure large technology-based federal contracts. Through early successes the company has three divisions: geospatial, engineering, and manufacturing services.

Geospatial services include satellite and aerial imaging and digital mapping. These cutting-edge technologies give customers enhanced decision making capabilities. *Engineering services* include environmental laboratory support and highly precise calibration and measurement services for NASA's Space Shuttle program. *Manufacturing services* include fabrication and assembly of advanced equipment for Department of Defense customers.

The Tribe also includes hospitality and entertainment in its economic mix in order to further diversify through the development of a major family destination resort that will be unrivaled in the Southeast. This is, of course, the new Pearl River Resort at Choctaw, Mississippi, encompassing the Silver Star Hotel and Casino, the Golden Moon Hotel and Casino, the 285-acre Lake Pushmataha recreational complex with its many indoor and outdoor entertainment options, Geyser Falls Water Theme Park, Clear Water Key, Hard Rock Café and Beach Club, and the 36-hole championship golf club, Dancing Rabbit. Many additional resort attractions, such as the physical fitness center, RV Park, War Memorial, and new Hard Rock Hotel are on their way.

In addition, the Tribe established the Choctaw Hospitality Institute, which provides employing training services to the resort enterprise. This is a particularly important undertaking due to the State of Mississippi's continued prohibition on providing gaming-related programs within the state's university system.

Conclusion

In the days of total dependence on the federal government, there was never sufficient funding to meet all of the needs that the Tribal government had identified locally. Therefore, the Tribe is now using its tax-equivalent revenues to catch up from years of neglect and under-funding.

In the face of our achievements, Tribes are increasingly being criticized for our tax exempt status. However, our tax status is often misrepresented as there are some good reasons for us to enjoy this status. Poor and undeveloped tribes have had to deal with no state government support, insufficient federal support, the high cost of financing our own development, and the expensive and difficult task of finding financial capital in order to bring progress to Indian Country.

That the Mississippi Band of Choctaw Indians is a major contributor to Mississippi's economic growth is extraordinarily evident. That the Tribal government is an outstanding, upright, and highly respected neighbor in all aspects of its business dealings, government-to-government working relationships, and private sector partnerships has been demonstrated time and again - and has been documented. The Tribe is making positive contributions to the State of Mississippi, to Indian Country, and to the nation in a number of meaningful ways. Through the exercise of Choctaw Self-Determination, the Tribe and especially its economic, educational, and social achievements are coming into the limelight.

U.S. SENATE COMMITTEE ON INDIAN AFFAIRS FORUM

On Establishing a Tribally Owned
ECONOMIC DEVELOPMENT CORPORATION

July 20, 2004

"An Overview of the Potential Functions of the Corporation"

Carl Bell
International Finance Consultant (Ret.)
Washington, D.C.

This afternoon the pressing case for economic development in Indian lands has been most ably and persuasively made – there can be no arguing the need nor the urgency by which the problem must be addressed. Likewise the special, if not unique, challenges which must be overcome by those who are striving to make this happen and the shortcomings of well-intentioned Federal assistance programs have been laid before the panel.

It is axiomatic that economic development may best be described or modeled as a rather large and complex set of simultaneous equations. Health and education services, financial and human capital resources, the legal environment, tax policies, governance and cultural structures, motivated leadership, physical infrastructure, entrepreneurship and unexploited economic opportunities are the principal interdependent sets of variables.

Shortcomings of any one set will tend to not only retard economic development, but may well blunt the effectiveness of efforts to improve in other areas. As most practitioners will tell you, there is no silver bullet and no universal solutions. What works here, may well not work there.

Nevertheless, there is considerable truth to the adage that money is the root of economic development. As much as we would like to believe that small is beautiful, the harsh reality is that when it comes to funding development, size counts. Nowhere is this more evident than in the Federal Government's capital funding programs where too little is spread to thinly with the result that no single recipient can secure enough funding to do much of any consequence.

Reviewing, for example, the Department of Commerce's Economic Development Administration's grants over the last ten years is heartbreaking. They have funded more 5-year programs over the past ten years than probably the Soviet Union did during its heyday – with precious little to show for it.

This is not a finger-pointing of fault finding exercise. Those who design the programs and those who administer them do so with the best of intentions but are boxed in by structural constraints. The fact is that it is the nature of the beast. Reforming around the edges will not solve the problem. An entirely new approach is required.

The capital gap in Indian country has been eloquently presented not only today but for years and years in endless congressional hearings, administration studies, GAO reports, academic papers and, most importantly by the testimony of Indian peoples. The facts are established beyond any reasonable doubt.

The Federal Government cannot and is little inclined to close the gap. If it is to be closed, the initiative must come from within the Indian community.

The Committee recognizes that the capital gap is perhaps the single most important impediment to sustainable Indian economic development. It has realistically resigned itself to the futility of appealing to the largesse of the public weal to close the gap. And, it has concluded, perhaps reluctantly so, that restructuring or throwing more money (even it that were possible) into existing Federal programs, which were never designed to address the problem in the first place, is a dead-end street.

The Committee has concluded that the only viable route left is the creation of a tribally-owned and managed Economic Development Corporation – created with the encouragement and assistance of the Federal government, but in the end an Indian initiative. It is, to my knowledge, the only realistic option on the table and perhaps the last chance left.

It has fallen to me the prosaic task of sketching out for you what such a corporation might look like and what purposes it might serve. This is offered in the spirit of trying to draw some general guidelines. At this time how the Corporation would be structured, its capitalization, its operating parameters and financing criteria have yet to be detailed. It is my understanding this will be done in the coming months during extensive consultations with committed Indian constituents and over the course of the subsequent in-depth feasibility study. With this in mind, what might be the principal functions? I foresee three. The Corporation would provide:

1. Project Financing (both public and private);
2. Technical assistance; and
3. Monitoring and oversight of their investment portfolio – an often

overlooked but extremely important function.

Before fleshing out these functions, I think it important to make certain that everyone is quite clear as to what the proposed Corporation would not be.

First, it would not be a commercial bank. It would not engage in retail banking activities of any kind. However, it might well help in the capitalization or recapitalization of commercial Indian-owned and run commercial banks.

Second, it would not be an investment bank as traditionally defined. For one thing, its portfolio risk profile would be quite different. For another, the Corporation would not finance projects where sufficient funds could be raised in commercial markets on terms and conditions satisfactory to the project's viability. But it should be pointed out that there may be situations where the Corporation's presence would be necessary to secure those terms and conditions.

Third, it would not be a mortgage bank and would not directly engage in housing finance. But as in the case of commercial banks, the Corporation might well help Indian organizations establish such institutions and might also help in establishing an Indian mortgages secondary market.

Fourth, it would not provide social assistance funding nor would it disturb existing flows of USG funding streams for these purposes. But, one could envision it working closely with social agencies particularly where infrastructure is needed to enhance the delivery of social services, particularly in the area of health services where not only is such infrastructure desperately needed, but costly to provide and where intertribal cooperation might be brokered.

Fifth, it would not be a US Government agency nor subject to USG approvals beyond those oversight requirements normally required where USG funding or guarantees are involved. Investments and mostly public decisions, for example, would be subject only to the Corporation's Board whose members would be from member tribes.

It is not possible in the time available to cover the functioning of the Corporation in great detail. And more importantly, as stated earlier, this is the job of the founders. This is not to say, however, that the Chairman has not given considerable thought as to what kind of institution he feels is needed to close the capital gap. He has.

Here are a few conceptual highlights of his thinking to give you a flavor of what is being proposed – taking each of the functions previously noted in turn. I must note at this point that I have no formal status or relationship with the Committee or its staff. What I pass on to you is what I have concluded from informal discussions I have had over the past two and a half years. What I pass on are my thoughts and as such are not necessarily those of the Committee.

PROJECT FINANCING

The Corporation's primary function would be to provide capital funding (both term and equity) to Tribes, Tribal approved private investors, or approved joint ventures for viable projects within Tribal lands.

Earlier speakers have eloquently made the case that the unique economic and institutional conditions in Indian country are such that development capital for reservation-based economic ventures (whether they be infrastructural or commercial) is extremely difficult to assemble. Because of protective devices placed around Indian reservations (granted - some of which are self imposed) Indians experience great difficulty in accessing capital and credit from private financial institutions. Most tribes, lacking internal capital and cut off from private capital and credit, are almost totally dependent upon the Federal government for development capital – recognizing, of course, there are some notable exceptions.

As stated earlier, the problem is that not only are Federal funds inadequate in their aggregate (and most likely will continue to shrink), but the politics are such that what little exists is thinly spread so that no one loan, grant or guarantee is large enough to accomplish much of significance. As envisaged, the Corporation would address both problems.

One of the principal benefits of the Corporation would be its ability to leverage its paid-in callable capital both by accessing outside capital markets and by being able to attract project specific investment co-financing. How so?

First there is a pooling of funds. Tribes who wish to participate would take up ownership in the Corporation through share capital contributions based, most likely, on some sort of wealth index, or ability to pay. This may or may not be supplemented by a one-time Federal capital contribution. No tribe would be "required" to participate – although only member tribes would be able to access the Corporation's funds and services. It could be said that objections by any tribe to the Corporation's creation can be resolved neatly – they can decline to participate – this is not a proposal that requires unanimity within the Community.

Second, based on its credit rating, which is dependent in no small degree on the extent of the USG guarantee coverage, the Corporation would tap commercial credit markets through bond offerings up to some multiple of its capital base. Thus, it could have the potential of leveraging $1.00 of capital contributions to as much as $15.00 to $20.00 of investable funds over time.

Third, in financing a project the Corporation would seek out co-financiers. Perhaps the best way to explain this is by way of an example: Say Tribe X undertakes $50 million project of which there is need for $40 million of debt financing (set aside the equity portion for a moment). The Corporation issues a $40 million loan with a 12-year fixed rate that is covered, at least in part, by a USG guarantee. The Corporation could then in turn lay off a portion of the loan, say $25 million by syndicating (in effect "selling" that portion of the loan) to third parties.

These may be tribal investment banks or individual tribes seeking to place excess funds in investment grade instruments in Indian country, or they could be non-Indian financial institutions. Further, to make the deal more attractive, the Corporation might split the loan and offer a portion of the earlier maturities to the third party investors – thereby lowering their risk exposure. The third party investors have further comfort knowing there is professional due diligence and a thorough project appraisal standing behind the loan and that the loan will be carefully monitored throughout its life.

It is envisioned that the Corporation would have the capacity to provide both loan and equity for tribal sanctioned infrastructure as well as tribal or private sector commercial projects. In fact, given the rather unique circumstances in Indian country, I believe that most investments will necessarily have to combine infrastructure and commercial objectives into a single project.

TECHNICAL ASSISTANCE

Five areas are identified as being critical to the Corporation's mission.

a. Opportunity Identification – Assisting tribes to identify commercial and infrastructure endeavors which are not only viable (i.e. able to service the debt) but which also have a sufficiently high economic rate of return or return on equity. While many might be stand-alone projects, I would suggest that most would involve both private and public undertakings as well as in some cases funding for policy reforms.

b. Policy Assessments and Assistance – The question and importance of governance has been discussed at some length. Matters of tax and legal policies and practices, treatment of private investments among others have been shown to be critical in attracting investors and fostering economic development. Policy reforms are often not only difficult to fashion, but can be expensive to implement. The Corporation could support such efforts.

These two functions might be wrapped into what has been called a "Diagnostic" study and undertaking such might be a precondition for accessing funding.

c. Project Appraisal, Pre-appraisal and Financial Engineering Services - As part of any financing request, the Corporation would undertake both a preliminary project assessment and later an extensive appraisal to determine the project's viability. However, it is recognized that many tribes or individuals do not have the experience or resources to put together a bankable proposal. Therefore the Corporation must be prepared to provide assistance to those who are not experienced in assembling the necessary documentation.

Finally there is the problem of devising the most appropriate financial package – what is called "financial engineering." Here, in the later stages of the project's pre-development, the Corporation would work closely with no only the applicants, but with third party potential co-financiers to fashion the best financing possible.

d. Macro-Economic Analysis and a Repository for Data Regarding Economic Conditions on Indian Lands - Frankly this function is cited because it is desperately needed. The lack of such information often leaves Indian peoples without the means to forcefully present their case before policy makers. While, there is a great deal of very good analysis undertaken – particularly by academics – there is no authoritative Indian voice on these matters which can command attention in the corridors of power in Washington or in the State capitals. Think of the World Bank's Annual Development Report. People sit up and take notice as to what it says and its statistical appendices (with those of the IMF) are the standard references. It is quoted as the authoritative voice on development matters throughout the world. American Indians have no such voice and their appeals,

while quite legitimate, are fragmented and most often anecdotal and just as often ignored.

e. Another Key piece in the financing equation is the lack of experienced and well trained project administrators and others with sufficient business skills to ensure the success of a project. Ideally the Corporation should be able to offer training facilities to develop such skills to all member tribes – perhaps as a subcontractor to existing training programs.

It is recognized that the concept as it has been outlined may be too ambitious. It will try to take on too much. This may be case for at least the last two functions and that they may have to be introduced over time – but perhaps not. They are included at this point because they are recognized as being important aspects of the Corporation's mission and will, I suspect, be carefully looked at during the course of the feasibility study.

The question naturally arises as to how will the Corporation be able to support what might first appear to be non-income generating activities. It is envisioned that some of the services will be fee based. For example, appraisals are expensive propositions. However, their costs could be in whole or in part capitalized and included as part of the project financing. For some what might be considered "off-balance sheet" activities, the Corporation could absorb some as overheads and other could be covered by grant funds through the consolidation of USG agency programs. Some financing related activities such as syndications could be covered in large part through syndication or placement fees. These are a few examples of how technical assistance costs might be covered.

LOAN ADMINISTRATION AND OVERSIGHT

Perhaps the weakest part of existing Federal capital programs is the lack of monitoring and oversight. This has been cited as a continuing and endemic problem in study after study and is freely admitted to by most agencies who have neither the resources, specialized skills nor incentives to provide such services.

The Corporation must be in a position to quickly recognize when a project is going off track and move just as quickly to provide, where possible, remedial assistance to the borrower.

Regarding the expected loan default rate and possible shortfalls in expected project returns; I think there are potentially some positive factors that

will work in the Corporation's favor. Aside from due diligence and oversight disciplines imposed on the lending and investing programs as a matter of Corporate policy, there is another consideration. Many of you may be aware of the rather successful small-business lending program that was launched some years back in Bangladesh. I believe there are some parallels between what made that program successful and the social dynamics under which the Corporation's program will operate.

Apropos to this point is the question of conditionality, i.e. the terms and conditions under which financing is provided, arises. It should be made very clear from the outset that conditionality, at the very least equal to commercial terms, should be applied.

SOME CONCLUDING REMARKS

There is much I would like to talk about how the Corporation could work to enhance tribal social welfare programs – but there isn't the time. I believe the potential is really very significant. To take one very obvious example: what if in the area of health services a macro-project could be developed which would coordinate Corporate financing with on-going annual streams of Federal health funding whose effectiveness is hampered by the lack of potable water and adequate sewerage or testing laboratories or regional hospitals or clinics? I believe the benefits could be not only significant but would result in a greater effectiveness of the USG programs.

One other point I would like to close with. Much has been made of applying the Development Finance Corporation (DFC) model used for so many years by the International Financial Institutions such as the World Bank Group. I note that several of whom have graciously attended today's meeting and who can provide this effort with priceless advice and counsel based on years of experience come out of the international development disciplines.

Granted, the DFC model is looked upon with less favor than in previous years, but I believe it is for reasons which in some part may not apply in this instance – except for one very important consideration. One of the reasons that some DFC's have failed is that they became politicized and funding decisions were made on other the financial and economic considerations. The Corporation must have from the outset protective barriers against such practices.

Taking a broader view, I have no doubts that the implied analog should not be pressed beyond its relevance. Among others, the limited land and population

base, varied geography and tribal traditions and the existence of reservation economies within a larger nation-state economic system distinguish this effort from the developing country models. Frankly, many of these differences work in favor for the success of this effort. Perhaps for policy makers it would be more fruitful to look at the experiences of Italy – as one example – where the parallels might be better found between it Southern and Northern regions.

Finally, but still somewhat on the subject of parallels between the IFIs and the Corporation, it is my opinion that a somewhat different paradigm for institutional investing will have to be developed. For example, to provide a sovereign loan of $100 million to a nation with a population of 150 million with a predictable tax base is one thing. To provide a similar loan to a nation of 2,000 souls with no predictable tax base is quite another. But I am confident it can be done and in fact already the financial engineering for several lending models have been successfully worked through.

End/

Before the
United States Senate
Committee on Indian Affairs

Forum on

Establishing a Tribal Development Corporation

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INTRODUCTION: THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT

Thank you for the opportunity to speak today. My name is Joe Kalt and I am co-director of The Harvard Project on American Indian Economic Development. I also serve as the faculty chair of the Harvard University Native American Program, and I am the Ford Foundation Professor of International Political Economy at Harvard's John F. Kennedy School of Government.

For more than fifteen years, I and my colleagues at the Harvard Project on American Indian Economic Development have been focused on a central research question: Why is it that, amidst well-documented and widespread poverty and social distress among American Indian reservations, an increasing number of tribes are breaking old patterns and putting together economies, social institutions and political systems that work? From the dotcom and retail industries of Ho-Chunk, Inc. in Nebraska to the manufacturing-based enterprises at Mississippi Choctaw, from sustained energy-based development at Southern Ute to the bootstrapped gaming economies of places like Muckleshoot and Fond du

Lac, we are seeing jobs created, social problems addressed, and lives built and rebuilt on tribes' own terms. At the same time, unemployment and attendant social and physical health maladies remain rampant at places like Crow and San Carlos Apache. What explains the stark differences in development we now see across Indian Country?

Since the mid-1980s, the Harvard Project has worked closely with tribes and tribal leaders and decision makers to get at these issues. The Project's co-directors, Prof. Stephen Cornell and Dr. Manley Begay (now directing the Udall Center for Studies in Public Policy and the Native Nations Institute at the University of Arizona, respectively) and I recognized early on that Indian Country did not need another group of professors sticking their noses into tribes' affairs without providing anything of use to Native communities. Accordingly, we run a number of programs designed to both get at the research questions at the heart of the Project and to channel what is learned back to those who must deal daily with the challenges of improving reservation economies and social conditions.

Toward these ends, our graduate students have produced more than 300 field research reports over the last decade and a half on matters requested by tribes and tribal organizations. These field projects have ranged from judicial reform at Hualapai to ski resort management at White Mountain Apache, and from bison ranching at Cheyenne River to welfare reform at the Navajo Nation, and are available on our website for all tribes to learn from.[1] Our *Honoring Nations* program, directed by Mr. Andrew Lee, serves as an annual competitive awards program that identifies, celebrates and shares outstanding success stories in tribal governance. The executive education programs of our partner, the Native Nations Institute, bring strategic education in leadership, economic development and public administration to senior executives and managers from Native communities

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[1] www.ksg.harvard.edu/hpaied

throughout the US and Canada. At the behest of a dozen tribes in the throes of fundamental governmental reform, our *Constitutional Reform Initiative* provides recurring symposia where tribal leaders and scholars can share their strategies for building tribal governmental structures that work for tribes today. Our forthcoming volume on *Native America at the New Millennium* worked with a sounding board of fifteen thoughtful Native leaders in all walks of life to try to capture the challenges and opportunities Indian Country confronts as it faces the future.

In short, through these and many other projects and programs, the Harvard Project on American Indian Economic Development has been and remains heavily engaged with Indian Country – always focused on that key question of what is working as tribes strive to assert their powers of self-determination and chart a course to a healthy future. What have we learned?

I hope you will find it useful if I address this question so as to link what we think we are learning with the themes and lessons found in the broader field of economic development internationally. There are lessons from Indian Country which mirror those from the international context, and there are lessons that Indian Country teaches that may be of use to those who work in the desperate locales of Africa, Central Europe, Latin America, and elsewhere.

RESEARCH FINDINGS

A review of what meager research and writing existed on economic development in Indian Country twenty or twenty-five years ago turns up a set of dominant themes. First, the overriding focus of thinking and policymaking was on what the *federal government* could do to create jobs, raise incomes and increase household wealth. This did not emanate solely from an overly intrusive, if not well-intentioned, Bureau of Indian Affairs or other departments and agencies. The

tribes themselves looked to federal monies, expertise, and programs for economic support and, among the optimists, progress.

Second, federal policies and programs that were aimed at living, business, and employment conditions on reservations constituted a "Planner's Approach" to economic and community development. This approach treated development as fundamentally a problem of resources and expertise, rather than incentives and institutions. Reservations were seen as underdeveloped because they lack access to, particularly, financial capital and technical and managerial expertise. From this flowed flavor-of-the-month grants, loans and projects that left Indian Country marked with white elephants and eyesores, from useless federally-backed motels in out-of-the-way settings where the flavor was supposed to be tourism, to mining and other natural resource operations that extracted – rather than injected – wealth, to empty shells of little would-be factory buildings.

From the perspective of tribal leadership, the Planner's Approach meant a "projects" mentality in which grant writers were at a premium and tribal politics revolved around which politicians could farm the federal system most effectively. "Economic development" meant landing the next project the feds were funding. The epitome of this was the day in 1988 when we were addressing the tribal council of a very rural Arizona reservation, where the sun bakes the bare ground so hard the kids can just skateboard across the desert. The tribe's EDA[2] planner was beaming. Having duly filed his five-year plan and submitted his grants to assure continued funding of his position, he had just been notified that he had landed a major economic development project for the tribe. The project was eighteen miles of cement sidewalks.

Finally, the Planner's Approach to economic and community development was oblivious to the impact on, and the role of, Native culture in the development

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[2] Economic Development Administration of the US Department of Commerce.

process. As the Bureau of Indian Affairs put it in submissions to Congress in 1969, Native culture was seen as an impediment to development: "Indian economic development can proceed only as the process of acculturation allows."[3] That is, economic development could only proceed as Native culture changed to look more like mainstream culture. To the extent that Native culture had any prospect of being an *asset* in the development process, it was so only to the extent that Indian arts and crafts and romantic tourism might be marketable to the non-Indian population.

The precepts and policies of the Planner's Approach to economic and community development in Indian Country have proven largely unproductive, if not downright destructive. And I wish I could say that the Planner's Approach had been abandoned, but it lingers on and, in some cases, pervades the advice and thinking of consultants, councils, and policymakers. At the extreme, the results have been reservation "economies" (*sic*) built almost entirely on transfer payments emanating from one federal program or another.[4] More generally, the results have been failed projects, economic stagnation, and continuing poverty. The Planner's Approach has left a legacy of a politics of spoils (or "rent-seeking", as development economists call it) in which the best and the brightest quite rationally are induced to play the grantsmanship game and groom themselves for employment in the transfer economy. Equally reasonably, survival for tribes has meant learning to walk the halls of Congress, harvesting what they can by direct action, and leaving agencies like the BIA without allies or budget.

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[3] Bureau of Indian Affairs, U.S. Department of the Interior, "Economic Development of Indian Communities," in *Toward Economic Development for Native American Communities*, a compendium of papers submitted to the Subcommittee on Economy in Government of the Joint Economic Committee, Congress of the United States (Washington: U.S. Government Printing Office, 1969), p. 333.

[4] Aoki, Andrew and Daniel Chatman, "An Economic Development Policy for the Oglala Nation," Project Report, Harvard Project on American Indian Economic Development, Kennedy School of Government, Harvard University, April 1997.

Where is the fatal flaw in the Planner's Approach? Here the lessons of Indian Country and nations worldwide converge. A nation's economic development is not a mechanical process that is subject to effective imposition of a preconceived blueprint. While it is, of course, sound *business* practice to plan ahead with budgets and investments as best one can in a world of risk, it is a vain hope to think that we can "plan" an economy in the sense of expecting tribal councils, national legislatures, or federal planners to pick the portfolio of businesses, projects and activities that will survive and thrive.

Economic development is an organic process. In an environment in which opportunities are subject to the vicissitudes of competition and continually changing marketplace conditions, economic development occurs as the sum of small, adaptive decisions of myriad individuals who by luck or preparation are in the right place at the right time to take advantage of unplanned prospects. Economic development is much more analogous to tenacious plants looking for places to pop up and take root, than to an engineered system.

What factors can prime the process of economic development? We can begin to answer this question by pointing what some of the factors that do not seem to be so critical – or at least not determinative. Both in Indian Country and internationally, I think it is surprising how often economic development takes root in nations without remarkable endowments of natural resources, good geography (e.g., close to major markets), or a well-educated citizenry. While more resources, better geography, and more worker skills and expertise are better than the contrary, they are not necessary prerequisites for an economy to launch and sustain development.[5] Neither an Asian "tiger" like Taiwan nor an economic engine like Mississippi Choctaw, for example, began their drives to development with abundant natural resources, a great location, or a highly experienced

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[5] Cornell, Stephen and Joseph P. Kalt, "Where's the Glue? Institutional and Cultural Foundations of American Indian Economic Development", *The Journal of Socio-Economics*, vol. 29, 2000.

workforce. Rather, like all human societies, by definition they had one key raw material – labor. In the case Mississippi Choctaw, this has supported a highly productive manufacturing sector in such areas as plastics and electronics, as well as the numerous ancillary services – from fire fighters to retail service workers – that "thicken up" an economy. The record at Mississippi Choctaw is as striking as it is well-known: Over the last two decades, unemployment has effectively been eradicated, welfare dependence has been reduced to far below the US national average, incomes and wealth (such as housing assets) have been steadily rising.[6] On the social side, health conditions have improved dramatically,[7] and the Choctaw have plowed resources into schools, Native language education, and infrastructure.

If natural resources, location and education are not necessary for development to take hold, what are the critical prerequisites? At the heart of the challenge of economic development are *incentives*. The organic process of finding and developing economic opportunities depends most centrally on channeling peoples' labor and resources into productive activity. If the risks are lower and the returns higher to spending one's efforts seeking political favor or chasing government transfers, greater effort will tend to be channeled in that direction. If rules of the game for, say, elected tribal officials punish or put at risk efforts to assert self-determined not-Planner's-Approach strategies of economic development, even officials dedicated to the well-being of their citizens will be pulled toward strategies of dependence on the federal system and federal funding. If a country's incentives improve the payoffs (in terms of power and prestige, as well as wealth) to fighting over the slicing of the economic pie, rather

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[6] Ferrara, Peter J., *The Choctaw Revolution* (American Tax Reform Foundation, Washington, D.C., 1998).

[7] Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 1999*, Kennedy School of Government, Harvard University, 1999, pp. 21-22.

than the making of that pie, the best and the brightest will tend to be used up in the former – as so much conflict in Latin America and Africa continues to illustrate.

Development specialists' use of the term "incentives" may conjure up images of selfish money mongering – but it should not. The concept of "incentives" is more generic and applicable across cultures. Indeed, one culture may foster materialism, and related incentives may produce materialistic behavior. But consider even publicly interested behavior. The new college graduate thinking of dedicating herself to her home community with her accounting degree (or natural resource management expertise, or any other skill) confronts the question of whether building a life in that community is realistic: Will my job be hostage to politics? Will commitment and capable performance be recognized? Will I be able to support myself and perhaps my family members? How a community's or nations' institutions answer these types of questions constitute make-or-break incentives. Particularly for tribes, who are directly competing with the incentive systems of Phoenix or Minneapolis or Billings, if the answers are in the positive, attracting and holding productive resources are more likely.

Institutions Matter: For all human societies, incentives for productive and unproductive activity emanate from *institutions*. And it is fair to say that the focus on institutions as the key ingredient that must undergird economic development is now the widely shared framework within which development economics and policy is proceeding.[8] Governmental institutions of dispute resolution, business regulation, administrative law, property, taxation, and the like lay down the formal rules of the game that determine rewards and penalties, opportunities and risks. But governments are not the only "institutions". Social and cultural institutions – from family structures and religious societies to health care and civil society

[8] See, for example, Rodrik, Dani, "Institutions, Integration, and Geography: In Search of the Deep Determinants of Economic Growth," Center for International Development, Kennedy School of Government, Harvard University, February 2002.

organizations – also impact individuals' and enterprises' incentives to invest their lives and resources in one community rather than another. Healthy and stable social and cultural institutions promote economic development. All else equal, they make it more likely that that recent college graduate will want to come home.

Research on international economic development stresses a number of central traits of institutions as being conducive to economic development. Such institutions as a market economy, secure private property rights, independent court systems, and western-style democracy, for example, have received a great deal of attention in both academic research and the policies of international organizations such as the World Bank and the International Monetary Fund.[9] Indeed, institutions such as the World Bank and the IMF have become famous or infamous (depending on one's politics) for "conditioning" development assistance along the implied lines of governmental reform.

What are the traits of effective institutions in Indian Country? The themes are similar, but the specific's differ in important ways from those found in much of the research on international development. Our research at the Harvard Project consistently finds that economic development in Indian Country does not occur or is severely impeded unless a tribe's institutions embody at least three attributes:

- A Rule of Law: In any society, one of the key tasks of (particularly) government is to resolve disputes – disputes over everything from business contracts and who gets hired and fired to whether we ought to harvest the tribal forest resources. The critical challenge for governments the world over is how to limit those who constitute the government at any moment, and who thereby have the power to resolve disputes, from putting their fingers in the pie and using their power to

[9] See, for example, Rodrik, *op. cit.* and World Bank, *World Development Report 2000/2001: Attacking Poverty* (Oxford University Press, 2001).

commandeer resources and/or power for the benefit of themselves and/or their supporters. From outright corruption under Ferdinand Marcos' Philippines to land grabs in Zimbabwe to petty patronage politics in Cambridge, Massachusetts or an Indian reservation, rule by power and influence rather than law is a killer of economic development.

Phrases such as "the rule of law" may sound like they belong in the high school civics textbooks of mainstream America, but the concept is neither new to Native America nor the exclusive property of Western European culture. Concepts of respect for one's traditions and one's traditional institutions are, at their core, expressions in support of the rule of law, providing prescriptions for making collective decisions and resolving disputes. Indeed, we should have all been reminded of this in our last presidential election, when then-Vice President Gore and now-President Bush leaned on the legitimacy of their founding fathers to resolve their dispute – as the Constitution sat quietly in a box in the National Archives.

Applied to an official or a citizen of a tribe, the admonitions invoking such respect and legitimacy are invocations of the rule of law – tribal law. The resulting payoff to better performance of tribal government is amply demonstrated by cases like the Navajo Nation Court system, where systematic injection and codification of *Dine'* common law serves to resolve disputes legitimately and to constrain would-be self-aggrandizers by putting the weight of culture behind the letter of the law.[10]

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[10] Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 1999*, Kennedy School of Government, Harvard University, 1999, pp. 6-7.

- Separation of Politics from Day-to-Day Administration and Business Affairs: Closely related to the establishment of a rule of law is the need to separate politics from day-to-day decisionmaking and management in bureaucratic and business affairs. Perhaps because most tribes are relatively small and "everybody knows everybody else", this problem can be particularly vexing for tribal governments. The pressures to hire a relative, fire a political opponent, not discipline a recalcitrant renter, and so on are often overwhelming. The results, however, are destructive of effective governance and economic development.

  Tellingly, we consistently find that, for example, tribally-owned enterprises are about four times more likely to be able to sustain themselves when they are managed by boards of directors that are independent of the tribal council.[11] Similarly, the research director of the Harvard Project, Dr. Miriam Jorgensen, finds that a dominant predictor of whether a tribal housing program is well-run (e.g., as reflected in upkeep of the housing stock, rent payments kept current, etc.) is whether a tribe has an independent tribal court.[12] Such an institution aids in keeping petty politics out of such decisions as whom to hire to run a program and when a renter can be evicted.

  Again, notions such as an "independent judiciary" and "independent board of directors" should not be taken to imply that such institutions must necessarily be designed after a US or Western European model. The three "branches" of very-much-intact and functioning traditional Puebloan government at reservations such as

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[11] Cornell, Stephen and Joseph P. Kalt, "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations," in Cornell and Kalt, ed., *What Can Tribes Do? Strategies and Institutions in American in Indian Economic Development* (American Indian Studies Center, UCLA, 1992.

Cochiti Pueblo provide demonstrably effective separations of powers and checks and balances that serve to uphold the rule of law and keep politics out of day-to-day administration. Similarly, a number of Indian nations are teaching the world new governmental designs. The creation of councils of elders and ethics boards, for example, put in place fourth branches of government to complement the familiar civics textbook model of executive-legislative-judicial constitutional structures.[13]

Ultimately, instituting policies and practices that support, rather than thwart, economic development requires leadership and knowledge on the part of tribal officials. This is strikingly demonstrated by case mentioned above of Ho-Chunk, Inc., the wholly-owned business enterprise of the Winnebago Tribe of Nebraska. Winnebago leadership chartered Ho-Chunk, Inc. with the explicit and blunt admonition that: Ho-Chunk, Inc. was established so that tribal business operations would be free from political influence and outside the bureaucratic process of the government."[14] Since its founding in 1995, Ho-Chunk, Inc. has raised its revenues to over $50 million annually, and Winnebago unemployment has fallen from approximately 70% to less than 15%.

- Efficient Bureaucracy: A third key element we find that marks those Indian nations that are building and sustaining effective economies and social systems is perhaps a little mundane: They "push paper" efficiently and effectively. In a competitive world, with businesses, investors, managers and workers readily able to locate on or off

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[12] Miriam Jorgensen, Bringing the Background Forward: Evidence from Indian Country on the Social and Cultural Determinants of Economic Development, Doctoral Dissertation, June 2000.

[13] See, for example, the case of San Carlos Apache, Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 2000*, Kennedy School of Government, Harvard University, 2000, pp. 6-7.

[14] Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 2000*, Kennedy School of Government, Harvard University, 2000, pp. 4-5.

reservations, good record-keeping, clean administration, solid computer networks and the like count for a lot. Similarly, the building and retaining of institutional knowledge on matters ranging from the last round of negotiations with the tribal member who wanted to invest in a restaurant on tribal land to the hydrology of the aquifer under the reservation are assets that enable a tribe to make informed and beneficial decisions.

Thus, the building of "bureaucratic capacity" emphasized by specialists in international development[15] certainly has its counterpart in Indian Country. There is perhaps no better illustration than Kayenta Township, Navajo Nation. Frustrated by the lack of economic activity and high unemployment and encouraged by the Nation's attention to the needs for greater local autonomy in government, Kayenta leadership set about creating in 1997 a Commission of five, staggered-term representatives and implementing a system of Kayenta-specific municipal codes, streamlined business permitting, and expedited infrastructure development – supported by a system of modest local taxes. The result today is a veritable boomtown, as retail businesses from hotels to shopping have flourished. With this development, the Township has been able to invest in improving the quality of life along with the improvement in employment opportunities, including investment in solid waste control, housing, a women's shelter, water supply, and recreation facilities.[16]

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[15] Rodrik, *op. cit.* For interesting illustrations, see Friedman, Thomas L., *The Lexus and the Olive Tree* (Farrar, Straus and Giroux, 1999)

[16] Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 1999*, Kennedy School of Government, Harvard University, 1999, pp. 14-15.

Culture Matters: Indian Country is teaching the world a paramount lesson in development: Because institutions matter, culture matters. International development specialists do occasionally point to the relevance of local conditions and political feasibility as important determinants of *what* kinds of institutions work where in promoting development.[17] Indian Country, however, is demonstrating the critical role of *cultural match*: The structure of a society's formal institutions of governance and economic development must be consonant with underlying norms of political power and authority in order for those institutions to function effectively in service to that society. The reason for this is that, in the language of economics, formal institutions of governance, particularly democratic institutions, are "public goods" of a particular kind. We all share in their processes and outcomes, and each of us has personal incentives to let others bear the costs of supporting their operation, let others intervene to make sure that officials serve the public interest, and spend time and effort informing themselves on the issues. Moreover, our governmental institutions have the attribute that they are the means by which we ultimately make and enforce agreements as to how we will resolve our disputes, regulate our behavior, and the like.

Ultimately, because our laws and constitutions are written on paper, more or less explicit *agreement* as to how we will govern ourselves must rest on more or less shared cultural norms as to how power and authority ought to be used in our society. If, on the other hand, our institutions are not seen as legitimate, their actions will be less able to command our ascent and respect, we will be more likely to rise against them, and less likely to invest in their improvement.[18] This is

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[17] For excellent treatments, see, for example, Acemoglu, Daron, Simon Johnson and James A. Robinson, "An African Success Story: Botswana," working paper, Department of Economics, Massachusetts Institute of Technology, July 2001; Qian, Yingyi, "How Reform Worked in China", working paper, Department of Economics, University of California, Berkeley, July 2001.

[18] Cornell, Stephen and Joseph P. Kalt, "Cultural Evolution and Constitutional Public Choice" in John R. Lott, ed., *Uncertainty and Economic Evolution* (London: Rutledge, 1997).

a long way of saying that government can't work if it's not legitimate in the eyes of the governed.

Compelling research indicates that cultural political and organizational norms are very durable.[19] In fact, we see this in the long-standing animosities that generate so many of the world's current conflicts and wars. The implication in Indian Country has been devastating. The imposition of one-size-fits-all government on tribes through the Indian Reorganization Act (IRA) and similar measures has meant that many tribes attempt to govern themselves under culturally mismatched systems. Thus, our research finds that while tribes such as the western Apache and Choctaw, with deep, pre-reservation histories of strong chief executive government may function relatively well under the IRA system of a dominant tribal chair, relatively weak council and no independent judiciary, we should hardly expect effective governance when the same IRA government is imposed on the tribes of the Northern Plains. The latter (e.g., the Lakota) were historically marked by essentially parliamentary government, with representative councils (which selected *multiple* executive administrators) and quite strong independent law enforcement societies. It is small wonder that government since imposition of the IRA has meant turning over entire councils with each election, never consecutively re-electing a tribal chair, political unrest verging on revolution – and the poorest economies in the United States. And it is small wonder that *self*-determined constitutional reform is the front-burner issue today for so many thoughtful tribal leaders.[20]

The implication that a one-size-fits-all approach does not work in an Indian America made up of scores of different tribes and cultural groups carries over

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[19] Putnam, Robert D., *Making Democracy Work: Civic Traditions in Modern Italy* (New Jersey: Princeton University Press, 1992).

[20] Cornell, Stephen and Joseph P. Kalt, "Where Does Economic Development Really Come From? Constitutional Rule Among the Contemporary Sioux and Apache", *Economic Inquiry*, vol. XXXIII, July 1995, pp. 402-426.

beyond tribal government. A central criticism of, for example, World Bank initiatives is that the Bank is insensitive to variations in local and national political structures and processes. Moreover, in the Indian context, many (but not all – see below re: trade) policy recommendations that are *de rigeur* in international development policy have stark counterpoints in Indian Country. For example, the strong predilection in development theory for the institution of private ownership of enterprises is countered by the many instances of highly successful state (i.e., tribal government) –owned enterprises. In fact, the cases of both Mississippi Choctaw and Winnebago (Ho-Chunk) noted above are cases dominated by tribal ownership – in communities with cultural-based traditions of group ownership of capital assets. Of course, the implication of the concept of cultural match is that in other Indian nations, private ownership might be expected to perform well while tribal ownership is routinely unsuccessful – such as where multiple tribes share a common reservation but not a culture of joint ownership (e.g., the Flathead reservation), or where strong traditions of individual action are respected and subjugation to bosses is not (as among many Northern Plains tribes).

A frequent theme in international development policy sees Western-style democracy as important, if not absolutely necessary for economic development.[21] As with so many other issues, the rapid growth of China's economy over the last decade and a half represents a challenge to this view. In Indian Country, Western-style democracy has been eschewed by some Indian nations. Cochiti Pueblo, for example, follows a "constitutional" structure grounded in its traditional theocratic traditions – and successfully operates a world-class golf resort and retirement community.[22] Similarly, while an independent judiciary typically

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[21] For a discussion, see, e.g., Humphreys, Marcatan and Robert Bates, "Political Institutions and Economic Policies: Lessons from Africa", working paper, Center for International Development, Kennedy School of Government, Harvard University, September 2002.

[22] Cornell, Stephen and Joseph P. Kalt, "Successful Economic Development and Heterogeneity of Governmental Form on American Indian Reservations", in Merilee S. Grindle, ed., *Getting Good*

correlates with better economic performance among tribes,[23] numerous cases of counterpoint exist to challenge orthodoxy – such as Mescalero Apache and Winnebago. The lesson is that successful development must solve the problem of creating a stable rule of law – but the solution is not necessarily a US-style judiciary.

It is important to add that the need for cultural match and the lack of one-size-fits-all institutions that will work in Indian Country is not a blank check for some romantic "return" to some earlier point in a country's or a tribe's history. To "work", institutions must meet two tests: legitimacy in the eyes of the citizens and practical efficacy. When these two are in conflict, it is the culture that is under pressure to change. No better illustration of this can be found than in a country's or tribe's economic policies vis-à-vis trade with others. It is a reality of today's global economy that, although a tribe might follow a nonmarket strategy internally, its external economic fortunes are governed by the marketplace. Just as development specialists consistently find that international trade is beneficial to developing countries,[24] so our research finds that strategies of economic self-sufficiency and hostility to trade with the external economy blocks economic development on reservations.[25] Thus, a tribe that is insular in its norms regarding trade and commerce with those outside the tribe, and adopts policies to restrict such interaction, faces little prospect of economic development and strong realities of continued poverty. Note, however, that this does not mean that tribes that wish to sustain traditional cultural practices and norms can do so only at the expense of economic development. Certainly the cases of pueblos like Cochiti belie such an assertion. In fact, Dr. Jorgensen finds evidence in her research

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Government: Capacity Building in the Public Sector of Developing Countries, Harvard University Press, 1997.

[23] Cornell and Kalt, "Where's the Glue...", *op. cit.*

[24] Rodrik, *op. cit.*

[25] Cornell and Kalt, "Where's the Glue...", *op. cit.*

that, holding the influence of all other factors constant, the economic performance of, for example, tribal logging enterprises improves when tribes take over those enterprises and when such indicators of cultural *non*-acculturation as Native language use are high.[26] As we say, culture matters.

Sovereignty Matters: Because culture matters, sovereignty matters. "Culture" as used here and in our work does not refer in main part to such trappings as personnel appearance, the arts, or any number of other common uses of the term. Rather, as the discussion above makes clear, "culture" here refers to fundamental informal, quasi-constitutional rights and norms that govern what is regarded as proper and legitimate in a society when it comes to such things as the structure and power of government, the scope of individual and property rights, and so forth. Culture in this sense can be quite subtle. Typical American's don't stop like a pointy-headed professor and analyze why it seems right that private individuals own businesses or that elected officials ought to be removable from office when they breach the public trust. Indeed, it is an unhealthy culture that spends its time worrying about itself. It is just the context in which we live. Effective leadership wittingly or unwittingly taps into and matches our cultural norms of propriety and legitimacy. In this process, outsiders are particularly likely to be less successful than members of the community itself when it comes to designing institutional processes and structures that will work for that community.

At least in Indian Country, the paired primacy of effective institutions and cultural match seems to be why policies of sovereignty and self-determination, embarked upon in the mid-1970s and ebbing and flowing since then, have been the only policy strategy that has shown any prospect of breaking the patterns of poverty and dependence that became so familiar on reservations in the 20th

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[26] Jorgensen, *op. cit.*

Century. It takes self-rule to be able to change institutions in ways that have maximum chances of matching tribes' respective cultures. Indeed, economic development success stories in Indian Country are uniformly marked by a three part pattern of (1) aggressive assertions of sovereignty (2) resulting in self-governed institutions (3) that are characterized by cultural match. Time and again, it is the tribe that takes control of its own institutions and runs them by its own lights as much as possible that develops economic, social, and political systems that work.[27] Continued *de facto* dependence on other government's policies and approaches kills accountability for tribal leadership and puts others' norms and desires in charge. The negative results should not be surprising.

POLICY IMPLICATIONS

It is easy to criticize federal policy regarding economic development on America's Indian reservations – a great deal of it has been guided by the Planner's Approach and has blocked the exercise of home-grown institution building that is the necessary prerequisite for sustained development. In the rush to criticize, however, it is important to highlight policy that has worked.

First and foremost, as noted, the self-determination theme launched in the mid-1970s has been the only federal policy that has chalked up verifiable successes. Our research makes it clear, for example, that contracting and compacting, whereby tribes take over the management and delivery of programs otherwise within the domain of the federal government (e.g., under P.L. 638), have been successful in both promoting economic development and enhancing tribes' experience in the business of self-governance. From forestry to health care, the hard, statistical evidence says that tribal takeover of programs is working.[28] This doesn't mean that every case of "638ing" or contracting a

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[27] Cornell and Kalt, "Reloading the Dice...", *op. cit.*

[28] Matthew B. Krepps, "Can Tribes Manage Their Own Resources? The 638 Program and American Indian Forestry" in Cornell and Kalt, *What Can Tribes Do?...*, *op. cit.*; Alyce Adams, "The Road Not Taken:

program is successful. As with any other governments, tribal governments can fall on their faces. But that is part of the point that needs to be made. Tribal self-government works better than control by outside state or federal authorities not only because it brings issues of cultural match into reach; it also shortens the reins of accountability. As one tribal chair put it to me: "This self-governance is a two-edged sword. I get more control, but I don't get to blame the feds anymore when my people complain about failure."

There is an additional, largely untold payoff to federal monies that have been allocated through the P.L. 638 and related processes of tribal control. Through our *Honoring Nations* program and other interactions with tribal governments, we have the opportunity to work with large numbers of tribal managers, program directors, and other professionals. It is increasingly clear that tribal control of programs and projects under contracting and compacting programs with the federal government has been serving as a fertile training ground for talented leadership. Our perception is that there is an avalanche of talent and expertise that is about to come of age and move into positions of senior tribal leadership. These emerging leaders have the commitment and energy of their predecessors, now backed by on-the-job experience that arms them with critical skills. "Effective bureaucracy" is spreading rapidly.

The capacity of Indian Country's emerging leadership is abundantly clear in the programs recognized as honorees by *Honoring Nations*. Whether it is the organizing of a new township at Kayenta, gray wolf recovery efforts at Nez Perce, the Navajo Nation Supreme Court, sewage treatment at Lummi, or diabetes prevention at Winnebago, the excellent programs are marked by a "just do it (ourselves)" approach, capable institutions of self-government, and the implicit

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How Tribes Choose Between Tribal and Indian Health Service Management of Health Care Resources," Doctoral Dissertation, Harvard University, October 1999; National Indian Health Board, *Tribal Perspectives on Indian Self-Determination and Self-Governance in Health Care Management*, completed 1998.

and explicit incorporation of tribe-specific cultural values and management techniques. In cases such as Fond du Lac's pioneering Indian foster care program, salmon restoration by Umatilla, and Jicarilla Apache's wildlife management systems, the Indian models are clearly outperforming state and federal government approaches – to the point that the non-Indian governments are now turning to the tribes for advice and counsel.

Finally, it is critical to understand that just running programs with federal dollars is not enough to lay the groundwork for sustained economic, social and political health. Self-determination in the form of 638ing and contracting without sovereignty is not self-government; it is being a branch of the federal government. If that is all that tribes have, the future is a future of dependency and poverty. To date, the truly notable cases of economic success in Indian Country have entailed the exercise of jurisdictional sovereignty. From the exercise of the right to game or not game, to the assertions of tribal jurisdiction over wildlife (e.g. at Hualapai, the Apache reservations, and many others) otherwise managed by state game and fish departments, to the building of tribal courts that out-compete state jurisdictions in the competition to attract capital (as at Flathead) to *de facto* implementation of tribal business, land use, and environmental codes, sovereignty is a spur to economic development. Putting outside governments that are not culturally matched to tribal communities in charge of the institutional environment that makes or breaks economic development is a recipe for returning to the past. With sovereignty, to be sure, some tribes will fail at effective self-government; but without sovereignty, none of them will succeed. The result will be increased and prolonged dependence on the federal budget. That route seems like a lose-lose policy strategy for everyone.

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

The July 21, 2004 Hearing on Establishing a Tribally Owned Development Corporation

WITNESS TESTIMONY

TESTIMONY
OF
DAVID W. ANDERSON
ASSISTANT SECRETARY – INDIAN AFFAIRS
U.S. DEPARTMENT OF THE INTERIOR
FOR THE HEARING
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITES STATES SENATE
ON
S. 519, THE NATIVE AMERICAN CAPITAL FORMATION
AND
ECONOMIC DEVELOPMENT ACT OF 2003

July 21, 2004

Good morning, Mr. Chairman and Members of the Committee. I am David Anderson, Assistant Secretary – Indian Affairs. Thank you for the opportunity to present the views of the Department of the Interior on S. 519, "The Native American Capital Formation and Economic Development Act of 2003." We understand the Committee will be significantly amending S. 519, therefore, our comments do not speak to provisions of S. 519, but rather address the concepts of the bill. The Department supports exploring creative approaches to economic development in Indian country.

Economic development on tribal reservations poses many challenges. Access to capital in Indian country is extremely limited. This shortage of capital represents one of the primary barriers to comprehensive and lasting economic development. In addition, there are few opportunities to generate capital on Indian reservations. Studies show that unemployment on or near Indian reservations commonly exceeds 50 percent and in some areas that figure jumps to over 90 percent. Unemployment in Indian country has placed more than 500,000 people who live on or near Indian reservations at or below the poverty level. These obstacles are further compounded by the rural location of most Indian reservations. As a result of these factors, Indian country accounts for many of the poorest areas in the United States.

Although poverty and joblessness pose great obstacles to economic development in remote reservation settings, economic development is not impossible. Increasingly, tribes continue to overcome these obstacles and create growth in reservation economies.

The Bureau of Indian Affairs (BIA) is working with tribes to continue discovering creative and long-term solutions to building sustainable tribal economies. Through the recent reorganization of the BIA, the offices of Indian Gaming Management, Self-Governance, and Self-Determination were elevated to the Assistant Secretary's Office under the newly created Deputy Assistant Secretary, Policy and Economic Development. By elevating these and other economic programs, the BIA will emphasize expanding

reservation and tribal community business opportunities and Indian employment. With the creation of the new Deputy Assistant Secretary, the BIA hopes to maximize efficiency in assisting tribal economic development.

Another challenge the BIA is working to address is the issue raised by many investors and private lenders regarding tribal legal infrastructure; inadequate or non-existent legal and business codes. To address this issue, the BIA included in its 2005 budget request $1 million to help tribes develop tribal ordinances and commercial business codes. We view this as a positive first step to help encourage more capital investment on tribal lands.

The Department also encourages the use of self-governance programs as a method of encouraging tribal economic development. Through self-governance programs, the tribes control the administration of federal programs to ensure the programs meet the needs of the individual tribe. For the tribes that choose to engage in self-governance or self-determination compacts and contracts, this direct control creates tailor-made programs that lead to the creation of viable and stable economies and tribal self-sufficiency. We will continue to work with tribes to expand self-governance and self-determination as a way to find creative solutions to economic development.

Currently, the BIA independently administers a program that is addressing some of the financing needs of Indian country. Since 1974, the BIA has successfully administered an Indian Guaranty, Insured, and Interest Subsidy Program. The mission of the program is to "stimulate and increase Indian entrepreneurship and employment through the establishment, acquisition or expansion of Indian-owned economic enterprises." The program guarantees loans up to $20 million dollars from the private sector to promote economic development of tribes, individual Indians and Alaska Natives. The guaranteed and insured loan portfolio currently totals $271 million. With enactment of the FY 2005 Budget Request, the program expects to leverage private sector financing of 65 new businesses and create 1,300 jobs on or near Indian reservations. The guaranteed and insured loan program has achieved a success rate of 93 percent in the number of businesses without default for all loans funded since fiscal year 1992. From 1992 to the present, 719 loans have been guaranteed, and of that total only 51 loans have defaulted.

While the BIA loan program is successful and takes steps toward addressing the need in Indian country, it does not fulfill every financing need. There is a gap between the small scale financing the BIA can provide and the funding required for other economic development projects.

We would welcome the opportunity to further discuss our program. Additionally, we are willing to participate in further discussions regarding innovative approaches to enhance economic development in Indian country. Thank you for the opportunity to participate in the discussion today. I would be happy to answer any questions you may have.

Testimony of
Chairman Mark F. Brown
Tribal Council
Mohegan Tribe of Connecticut
Legislative Hearing of the
Senate Committee on Indian Affairs
S. 519

July 21, 2004

Chairman Campbell, members of the Committee, it is an honor to be with you this morning. I am Mark F. Brown Chairman of the Mohegan Tribe of Indians of Connecticut. I am here to speak about the importance of self-determination and self-reliance in Indian Country.

We at Mohegan have learned first hand that true self-determination is very closely bound to tribal economic development. Economic development that would benefit greatly by the concepts introduced in bill S-519. The bill seeks the establishment of a single federally-supported organization to bring greater focus to bear on the twin tasks of (1) removing legal and practical obstacles to public and private investment in Indian Country and (2) identifying investment opportunities and matching available capital resources with need.

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Far too often the United States has tried to draft policy blueprints, which are intended to cover all of Indian Country. The programs created from these policies, although possibly well intended, were doomed from conception. Our tribal nations are far too diverse in their cultures and economies to allow a blanket approach to work. What may work in mineral poor but populous New England is doomed to failure in the surface coal mines of eastern Montana and vice-versa. The soundest theory is one founded on local self-determination through access to capital. True self determination must come from the inside out. The concepts developed within S-519 recognize that.

The Mohegan experience is an excellent example of a tribe who could have benefited from easy access to early capital. A little more than a decade ago, the United States government told us what we already knew, we were officially recognized as the Mohegan Tribe of Connecticut. Mine were and are a people determined to rebuild our nation, to never again let others take away our resources.

We found a business partner with a proven record of destination resort success and entered the field of gaming. Many of the capital investment institutions seemed to be profoundly reticent at the prospect of dealing with an Indian tribe like ours. We had to educate our prospective lenders on our reliable and predictable tribal laws and tribal government. We had to prove we were serious about regulation. We actually hired a former head of the DEA and Deputy Director of the FBI to be our first Tribal Gaming Commissioner. As a former police officer, I can attest to how serious we are about lawful integrity.

With all of these things in place, in 1995 the Mohegan Tribe was the first Native American community to go to Wall Street and access publicly traded bonds that previously were only available to our non-native neighbors. The result of that first offering was

approximately 300 million dollars at an effective rate of 18%. While not exactly cheap money, it allowed us to begin our business enterprise. Without a sizable development we would not have been competitive so close to the shadow of the world's largest casino resort.

After only a few years we decided that to be truly self- determined we needed to buy out our original partners and meet the demand we were feeling from the market through expansion. Thankfully, when we went back to the market the glass ceiling had been broken. We had a track record of success and the fear of sovereignty was declining. The result was a much more acceptable rate of 8.3%, and this time we did it alone. A more recent offering came in at 6 3/8 %, but we know that this is rarely the case in Indian Country.

Now that our expansion is fully operational and Mohegan Sun is where we believe it should be in the market, we are looking to bring the expertise we have gained to other areas and other Tribes. Through this effort we will diversify our assets while improving the lives of other First Americans.

Nearly two years ago, I had the opportunity to meet with a man my father, a career soldier, admired for many years. That man told me that he and others, in Washington, wanted to see if IGRA would lead Tribes to help one another. He actually said "Prove to me IGRA works; show me tribes sharing their success." That man was Senator John McCain and I took those remarks to heart. Although we all know the trust responsibility lies with the United States, with an understanding of the importance of culture and social services, who better to assist a Tribe in development than another Tribe?

We have found our first relationship with the Menominee Tribe of Wisconsin, a proud people who want only the best for their over

8,000 members. We now look for the same things that others looked for in us. We seek stable governments that wish to provide opportunities for the men and women of their tribe as well as the surrounding community. We look for strong regulatory bodies that will protect the integrity of not only a single tribe but also Indian gaming as a whole. Most importantly we look to see if the lifeblood of any business- capital- will be available. Legislation like S-519 will make it much easier for tribes to reach out to others because of the secondary loans, which would become available.

Like any other corporation we at Mohegan need to think about the bottom line, but unlike any corporation we are first and always a tribe. We at Mohegan have adopted a "Buy American" philosophy whenever possible -*that's "Native American."* We are encouraging any future partners to do the same. We buy our lobsters from Tribes in Maine, our buffalo from tribes in the mid-West, and our natural gas from tribes in the south-west. Although these tribes are not in gaming they are working to provide for their people through self-determined economic development, which again, would clearly benefit from legislation such as S-519.

S-519 is a sound bill. We pledge to work with you and your colleagues to support enactment of as much of it as can be accomplished. We believe the time is long over due for a concentrated, high priority federal effort to facilitate public-private partnerships that will bring capital and infrastructure to Indian Country in ways that create meaningful job opportunities and lasting rewards.

Thank you for your time. I look forward to any questions from the Committee.

Testimony of

Chester Carl,

Chairman

NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Before the

SENATE COMMITTEE ON INDIAN AFFAIRS

July 21, 2004

Chairman Campbell, Vice Chairman Inouye, and other distinguished members of the Committee, on behalf of the Members of the National American Indian Housing Council and its Board of Directors, thank you for this opportunity to address you today on S.519, the Native American Capital Formation and Economic Development Act of 2003. My name is Chester Carl, and in addition to being the Chairman of the National American Indian Housing Council, I am also the CEO of the Navajo Housing Authority. For my testimony today, I rely not only on my own experiences in tribal housing and in business, but on what I have learned from colleagues who have spent years working on tribal development issues.

Across this country, thousands of Native families are facing housing conditions similar to those in undeveloped countries. Compared to most American homes, many tribal homes lack proper sewage and water systems, adequate roads, telephone lines, indoor plumbing and electricity. The problem is exacerbated by the remote or rural locations of tribes, many of which have few, if any, economic opportunities. As the mainstream American economy progressed, development did not extend to Native communities, in part because of land jurisdiction, but for many other reasons as well, including federal policy. So we find ourselves in the situation we are in today – seeking ways to help tribes take advantage of the private market and develop their economies without relying solely on federal subsidy or gaming.

I understand that the Committee's purpose in this hearing is to evaluate the creation of a tribally-owned development corporation that could assist in developing tribal economies. I have learned through my work with the Navajo Nation and in my long career as a businessman that the key to economic success is to utilize the tools that are proven to work to build capital and take advantage of them in the ways that other successful businesses do. Although tribes are unique in their structure and culture, I believe a solution to

economic challenges will come only through sound investment and business practices that integrate tribal economies with the greater financial community. Capital growth through a development corporation has the potential to stimulate tribal economies in ways that could lead to less reliance on the federal government.

Some of this committee's staff accompanied NAIHC on an Indian housing tour to the Northwest in the spring of 2002. One of the tribes visited was the Hoh Tribe, which, with approximately 100 members and a 1 mile square reservation, receives about $150,000.00 in NAHASDA funds from HUD each year, administered through an umbrella TDHE (Tribally Designated Housing Entity). It became obvious to all on the tour that, unlike in most of America, investing housing funds in this community was not resulting in economic stimulus because of its 80% unemployment rate and isolation from any sort of business or economic structure. Housing dollars were going strictly into building desperately needed homes, but with so much unemployment and with everything so heavily subsidized, the tribe was making little progress in improving their economic situation. Despite the tribe's efforts, it was difficult to imagine a time when the Hoh Tribe would no longer need federal housing subsidy.

On the other hand, up the road with the Quinault Tribe, similar geographic isolation was being met with efforts to build the economy from within. In addition to a tribally-owned resort, a flourishing fisheries business was providing employment as well as outside income to the community. But of particular note, the housing authority saw an opportunity to keep tribal funds in the community by creating a roofing business to serve the housing authority and other private homeowners on the reservation. Rather than paying for someone to drive out from miles away to do the work, a job training program was set up so that Quinault gained a workforce of skilled roofers and were able to save money for the tribe. These are new and wonderful ideas that will help sustain this tribe in the future.

While some tribes have been tremendously successful in economic and community development, this resourcefulness is often lacking on many American Indian reservations. It seems that, over the course of hundreds of years of dealing with Indian tribes, the federal government has created an unnatural scarcity of resources -- of land, of food, of cash payments, of all the things that make an economy function -- and replaced functioning economies with a system of government subsidy.

Under this scenario of unnatural scarcity, the idea of economic gain of the individual benefiting the community simply does not work; your gain can only come at your neighbor's expense. Success is therefore met with suspicion or even hostility. The government established isolated communities in which economics is a zero sum game. Many people unfairly criticize tribes for not being more successful in a market-based system when the government has in effect isolated them from that very system. I believe, and it seems this Committee agrees, that for both economic and moral reasons we must work with tribes to create economic opportunities based on market principles that allow for the creation of wealth, rather than fostering a reliance on federal assistance.

The challenges facing tribes are not due simply to the system of reservations and this is not an argument for either assimilation or a return to the termination policies of the mid-twentieth century. We must look to self-determination and embrace a functioning free-market system as the long-term solution to the challenges of tribal economies, not more subsidies. I am also not advocating an abandonment of support. The federal government created this problem and the federal government must now work with tribes and private institutions to help solve it by creating and supporting institutions of true, long-term economic value. The federal government has a dual responsibility to its citizens: to assist persons in poverty and to ensure that they can escape that poverty.

Our first goal must be to discontinue the policies that hinder economic growth on the reservation and in other Indian communities. A good example of this concerns the use of leases on trust-held land. Prior to the passage of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), most individual tribal members could get a lease for land for only 25 years. Yet some policy makers

scratched their heads and wondered why tribal members weren't getting 30-year mortgages. It's simple: no banker in their right mind is going to lend you money for 30 years if you get the land for 25. That has nothing to do with race or reservation, it's just basic business practice. Another example is a tribal member going to a lender to get a mortgage loan is approved pending title clearance on the land. Had the loan been for a home on fee land, the tribal member could expect to receive a Title Status Report (TSR) in a matter of days. With trust or allotted land, it can take many months to many years to obtain a TSR. How many lenders do you know that will hold a loan approval for a matter of years?

Land title issues continue to be a major concern on reservations and are often an impediment to development. Nevertheless, I believe the issue is a solvable problem that is too often used as an excuse for not pursuing further investment. The mere presence of leases does not prevent economic activity. The failure is in the administration of the leases, a matter that is under the jurisdiction of the Bureau of Indian Affairs and the Department of Interior. We are told that efforts are underway at the BIA to address this situation, but the problem was not created overnight and it will not be solved overnight. The House Financial Services Committee, in response to frustrations voiced by tribes, is working with NAIHC to develop legislation that would reinforce and more clearly define the ability for tribes to choose to take title processing in-house. Navajo intends to set up its own title plant in the next couple years.

The inability to create an effective lease registration and tracking system, one that would allow tribal members across the country to engage in the kind of trade and mortgage borrowing that most of the rest of us take for granted, is an example of how an inadequate legal infrastructure hampers economic development in Indian Country.

This is somewhere capital is sorely needed. Tribes are no longer willing to wait the months and years it often takes for the BIA to issue a Title Status Report. They want to create their own title plants, but that costs money. Ideally, a tribe contracting with the BIA to provide these services would receive funding as well as the responsibility, but with federal funds for BIA lagging, tribes must look elsewhere. The Confederated Salish and Kootenai Tribes of Montana, a self-governance tribe, has compacted with the BIA for title processing work and has set up its own title plant. They were able to obtain all the records they needed from the BIA, but they also inherited all of the backlog. The tribe has had to supply much of the funding needed to set up the title plant and keep it functioning. A lot of tribes do not have the extra funding to do that. The benefit to Salish-Kootenai is that now they are able to participate actively in the private mortgage market because they no longer have to wait for the BIA to process titles.

Should a diagnostic study of a tribe, of the sort proposed in S.519, show that a major impediment to development of a mortgage market is the inability to borrow money because of land issues, the recommendation could be for the corporation to fund a title plant. With a housing market that, by providing timely legal documentation, can attract lenders, the investment in a title plant would pay for itself many times over. In addition, tribes could join together to create a larger title plant as a consortium, spreading the cost out among the members.

Lease recordation is only one of the challenges that tribes face. Many businesses that have considered operating on a reservation have not done so because of concerns with legal infrastructure. In some cases their concerns are valid, in others they are not. Regardless, any businessman needs to know that they can get recompense if there is a contract dispute. We would all like the private sector to be more active in tribal development. From the vantage point of NAIHC, many in the private sector are ready to step up and in fact are trying very hard to craft programs and products that fit with Indian country, but they keep running up against BIA title delays, inconsistent legal documentation, or a complete lack of tribal legal infrastructure. For example, many tribes have not developed their own Uniform Commercial Codes, which are vital for working with lenders.

One of the staff at Navajo Housing Authority, Raymond Concho, Jr., is the former director of the housing program for the Pueblo of Acoma in New Mexico. Acoma, like many reservations, has a shortage of housing. Just five years ago the Tribe's governor was commuting 40 miles from Albuquerque to perform his duties. There was no chance for a tribal member – even one who clearly had a good job – to purchase a home. The mechanism to do so, the tribal codes that would allow for mortgage lending, simply did not exist.

Raymond set out to create a viable mortgage lending program at his tribe. After much work with lawyers, HUD, Fannie Mae, PMI Mortgage Insurance and others, he presented a set of proposed legal documents to his tribal council for approval.

While the council supported his proposal, they told him that he needed to have it approved by the Casique, the traditional leaders of the tribe. For thousands of years, the Casique, or Antelope Clan, have governed the tribe and have given approval to families who wished to build a house or move from one to another. Raymond's ideas were a radical departure from centuries of tradition. For the first time, the proposed legal documents he presented them would take away their authority and put it in the hands of bankers and other institutions. The Casique might grant you a lease, but a banker might seek to have you kicked out for not paying your mortgage.

Nevertheless, the Casique approved of the plan. They recognized that in order to continue the economic development that has begun at the tribe and to give an opportunity for their members to build wealth and move away from dependence on federal programs and funding, they had to cede some power. This is not a sign of weakness, this is a sign of immeasurable strength and belief in their own people.

The example of Acoma Pueblo is important for several reasons. First, it shows how challenging it can be to create viable legal infrastructures, those necessary for business and investment. Second it shows that tribes, while challenged with the need to advance economically, can do so without losing their cultural identity. This is an area that the diagnostic tool in S.519 would be of great assistance.

Many of my colleagues working on behalf of Indian tribes, both as members of tribes and as advocates for them, have proposed the creation of any number of separate institutions for economic growth, including the capital formation corporation proposed by this committee. But there are some challenges inherent in such a move that must be considered.

It is in diversification that our economy thrives. I can understand the value of having an Indian-owned bank. It can create and maintain relationships in communities that can facilitate interaction between potential consumers and the institution itself. Likewise creating an Indian Government-Sponsored Enterprise within this corporation to purchase loans from such banks could help step up mortgage activity, but should not be to the exclusion of others. Institutions like Fannie Mae connect Wall Street with lenders and in doing so create a mechanism whereby investment capital actually make loans more plentiful and affordable. We should find more ways to connect the tremendous capital resources of this country and of the global economy with Indian Country, and be cautious of looking to create new institutions if they will merely serve to perpetuate the economic isolation of too many tribal communities.

There are many examples of how we can assist in the development of infrastructure and work with sovereign governments to improve their economies. Many people discuss third world countries and make comparisons to tribal economies, but I think comparisons to Eastern Europe are more appropriate. The countries of the former Soviet Bloc had strong, but distant central control. Yet through foreign investment, decentralization and the development of effective economic and legal infrastructure, many of these countries are thriving. For many tribes, the tribal government is the center of the universe – the biggest employer and the conduit of all federal assistance. However, examples of decentralization in Eastern Europe have shown that investment in business associations and business training associations outside the central government are crucial to building economies.

Programs with a singular purpose following a narrow policy could be seen as a contributing factor in the failure of many programs designed to assist tribes. Successful models, like Public Law 93-638, provide assistance, but allow flexibility in implementation. Neither the developing countries of Eastern Europe nor the vastly different tribes in the United States should be subjected to a one-size-fits-all prescription for development. A Native-owned corporation must be open to innovative ideas and be as flexible as possible.

So how does housing fit in? We see this as an opportunity. With the new amendment to NAHASDA passed in 2002 with the help of this Committee, tribes are able to use the Title VI loan guarantee program to fund housing related community development activities and, pending the outcome of the community development project that is currently being explored by HUD, may in the future be able to leverage their NAHASDA funds for community development that is not strictly sticks and bricks but rather activities to grow wealth in the community. Tribes are in a position to begin to disengage from a singular path, prescribed for all, and attend to the needs and opportunities of their own situation.

Community development through private investment is key. For certain, a Native-owned corporation would allow tribes to purchase assets or businesses to support housing. We know that housing alone is not enough, as evidenced by my example of the Hoh tribe earlier. Investment in housing is a tremendous stimulus for American communities, but only when the opportunities and legal infrastructure exist. Simple housing alone just provides a roof. Housing development with a manufactured housing plant, with a roofing business like at Quinault, with a title plant, with even businesses like hardware stores or building supply stores stimulate the local economy. Additionally, home equity is one of the greatest builders of personal wealth. We must move from subsidized housing to homeownership to allow tribal members to grow personal wealth. The corporation would allow tribes to take the next step.

We have a vision for Navajo in 10 years and in 100 years. Many tribally-owned businesses are already in place that are leading to a more vibrant economy on our reservation. For example, Navajo has developed a self-insurance program that currently has $13 million in reserve and the risk is only $200,000 a year. We also have a cabinet company that not only provides cabinets for new housing through the housing authority, but also provides income to the tribe from sales outside the reservation. Our Flexcrete plant, which manufactures innovative building materials that will cut down on the cost of building and heating homes, is expected to generate $28 million in 8 years. We are also looking into creating a mortgage company with a program that would provide 100% guarantee for home loans for families who are not otherwise eligible for financing and who must fulfill the homebuyer counseling requirement. Fannie Mae is supporting us in this effort. Additionally, we have a modular construction plant that utilizes volunteer labor to manufacture homes at reduced cost. These are all ventures that have required capital from the tribe and now are not only alleviating some of the severe need for housing on the reservation, but are also generating income and creating jobs. This corporation could allow other tribes the opportunity to set up similar businesses that support housing.

The Committee has asked for a discussion of systemic barriers to tribal development and places the corporation would be helpful. I will close today with a discussion of a few that add to those already mentioned.

While there are numerous national initiatives and programs already in place, tribal communities still have a need for lenders and other financial institutions to step up their mortgage loan activity. One way to attract lenders is to make financial services more readily available. How can a mortgage market or business market prosper when there is one bank branch in an area of several hundred square miles? Some tribal areas do not have any banking services whatsoever. Navajo currently has one bank branch and four ATM machines to service more than 180,000 tribal members. Additionally, much of the Native community is in need of homebuyer training, financial literacy skills or credit counseling. Without this training, some Native

homebuyers are left with little choice than to accept loans with high interest rates, excessive fees, and discriminatory or unscrupulous practices.

NAIHC also encourages the expansion of the use of Individual Development Accounts (IDA), for putting tribal members on the road to homeownership. Some Federal Home Loan Banks have set up IDAs where deposits from the family are matched by the bank in anticipation of a down-payment on a future mortgage. The matching funds create an incentive to save and give the family a stake in their own future. The corporation could offer this kind of service. IDAs are still a form of subsidy, but without it most will not take the risk and would rather continue to rely on tribal housing departments. IDAs make it easier to get into a home, but at the same time, not too easy. Tribes have the challenge of seeing so many families they want to put into a new home, but know they are not ready to be homeowners. IDAs can begin to bridge that gap.

In most cases Native families are either first generation mortgage loan recipients or first-time mortgage loan recipients. Tribal families often seek assistance to learn about homeownership, its benefits, and requirements because it is unfamiliar territory. In some instances, they may have less than good credit or no credit history at all, or they may not be familiar with the mortgage lending process and required home maintenance activities. Education and counseling is imperative in helping a Native American individual or family become a successful homeowner. The more sophisticated and knowledgeable our people get in the area of housing finance the more likely they are to be successful.

Large scale infrastructure is also an area desperately needing investment. For most Americans, the cost of basic infrastructure—like water, sewer and roads, is an expense shared by a local community, or paid for by county and state taxes. As you know, in Indian Country things are slightly different. Although tribes receive federal money for housing through the form of Native American Housing Block Grant funds and other programs, tribes are not able to build a home without putting infrastructure in place first. For most public housing programs, it is taken for granted that a water and sewer system already exists for the house to be hooked up to. For much of tribal development, that system must be built, and that is not cheap. Water treatment plants, sanitation facilities, roads, hospitals, fire departments – all of these are so easily taken for granted, but in Indian country are usually absent.

NAIHC issued a report on infrastructure in Indian Country in 2003. NAIHC's report revealed that a small percentage of tribal communities have no infrastructure in place, while in other areas, roads were described as "poor to fair" and sewer systems/facilities were described as "generally poor," negatively affecting not only housing, but also much-needed business development as well. With a large percent of the Native population in need of basic infrastructure, particularly as compared to businesses and schools in most of the United States, Native entrepreneurs are at a distinct disadvantage when it comes to successfully building or establishing a business.

One possible new initiative would be to create an incentive for tribes to cultivate private investment. Right now, most incentives are for the lender in the forms of guarantees or the ability to meet Community Reinvestment Act (CRA) requirements. Other than the desire to put their members in homes, there is no real incentive for tribes to do private lending. Perhaps there could be some monetary incentive to reward leveraging. For example, if a tribe combines its own funds with corporation funds, at some point they could get some of it back. The opposite currently exists for NAHASDA at HUD – you get more money because you have fewer resources. You are rewarded for having a depressed economy. There is not a solid incentive to improve that economy.

Many in this room may not immediately agree with this opinion, but I personally believe that, for business purposes, taking land out of trust and making it fee land will help tribes, not hurt them. For our Flexcrete plant, which manufactures building materials to be used both on and off the reservation, we could

have located on Navajo land, but what would happen if the business went under? Instead we bought 10 acres of fee land for the plant that can be sold if the business fails. This way we have our interests protected.

I believe that the number one challenge to economic progress for tribes is a lack of resources – not only monetary resources, but human resources. There is a severe shortage of people in Indian country who have business sense. Through no fault of their own, most of our people have what some call a "welfare mentality," often perpetuated by federal policies. If the federal government provided more tools and education, taking the focus off subsidy, I believe you would see more economic growth in tribal communities. I therefore urge this Committee to maintain technical assistance and business training as a critical component for this legislation. In particular, I would like to see an internship program with the corporation to teach young Native Americans about business. I would also like to see a mentoring program set up for tribes to learn from private corporations.

Leveraging made possible under NAHASDA is a great opportunity that many tribes are taking advantage of, but it is still developing in Indian Country. Those who are positioned well to be successful are successful. But those with poor economies, a lack of jobs, or a poor location are not well positioned and will continue to struggle until their situation improves. A source of additional capital would give many tribes the boost they need.

Indian country stands out in its extreme level of need and warrants the investment of resources that can fund a more aggressive and comprehensive approach to solving its problems. With the federal government's main Indian housing program, the Native American Housing Block Grant, only able to produce about 5,000 new units per year nationally, looking to new paradigms is the only way we as a people can hope to make progress.

CONCLUSION:

In closing, each individual tribe must decide for itself how to preserve its culture and strike a balance, as the Pueblo of Acoma has done, that allows development and economic integration, but maintains the tribe's unique identity.

If we do not work with the tribes to provide opportunity, the drain of resources away from Indian communities will continue. I am not referring to an economic drain, but an intellectual one. Young people need opportunity. If they do not have economic opportunity in Indian Country, more of them will continue to leave and seek their fortunes elsewhere. This is a danger to cultural identity as great as any other. It is, however, one that we in this room and throughout government and the private sector can work to help tribes overcome.

I would again like to thank all the members of this subcommittee, in particular Chairman Campbell and Vice Chairman Inouye, for their continuing support for the Tribes and for Indian housing programs. NAIHC looks forward to working with each of you in the rest of this session of Congress and I am happy to answer any questions you may have.

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ie National American Indian Housing Council is a 501(c)(3) organization representing tribes and tribal housing organizations ıtionwide. It operates a national technical assistance and training program as well as the Native American Housing Resource ·nter in Washington, DC through an appropriation from the Congress administered by HUD. NAIHC's offices are at 900 Second ·reet, NE, Suite 305, Washington, DC 20002; phone: (202) 789-1754, fax: (202) 789-1758; http://www.naihc.net.

Testimony of Chairperson Haunani Apoliona
Office of Hawaiian Affairs
Senate Committee on Indian Affairs
Regarding S. 519
July 21, 2004

Mr. Chairman and Members of the Committee, my name is Haunani Apoliona and I am the Chairperson of the elected Board of Trustees of the Office of Hawaiian Affairs (OHA).

OHA was created in 1978 by the State Constitutional Convention, and in 1979, ratified by the entire statewide electorate. Chapter 10 of the Hawaii Revised Statutes mandates OHA to "address the needs of the aboriginal class of people of Hawaii" Over more than two decades of operation, the social, political, cultural and economic fabric of Hawaii has changed profoundly.

In 2002, after several years of community meetings and culmination of a strategic planning process, the Board of Trustees approved the OHA 2002-2007 Strategic Plan. The mission statement is "to Malama (protect) Hawaii's people and environmental resources, and OHA's assets, toward ensuring the perpetuation of the culture, the enhancement of life style and the protection of entitlements of Native Hawaiians, while enabling the building of a strong and healthy Hawaiian people and nation, recognized nationally and internationally." The Strategic Plan identifies ten goals and provides strategies to reach those goals. The goal areas are: Advocacy-Native Rights, Culture, Economic Development, Education, Environment-Natural resources, Nationhood, Policy, Social Services, Land and Housing and Health. OHA's Economic Development goal, by 2007 OHA's investment in the creation and retention of wealth for Native Hawaiians shall have: 1) impacted at least 7 percent of the total statewide Native Hawaiian population by improving economic solvency and 2) accounted for a return on investment to OHA "equal or greater than the cost of capitol used to fund the activity and/or OHA's current rate of return (total fund) from the Native Hawaiian Trust Fund." Achieving this goal and future economic development goals of the Native Hawaiian Governing entity require access to and adequate funding for diagnostic assessment to identify and remove obstacles to goal achievement and technical assistance.

In the findings of S. 519, the Congress defines "Native American" as either a member of an Indian tribe or a Native Hawaiian. In the findings, it is noted Native Americans suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills to a greater degree than any other group in the United States. Congress further finds that the goal of economic self-sufficiency and political self-determination for Native Americans can best be achieved by making available the resources and discipline of the private market, adequate capital, and technical expertise.

As noted in S. 344, despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a distinct native

community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency. Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency – through the provision of governmental services to Native Hawaiians, including the provision of – health care services; educational programs, employment and training programs; economic development assistance programs; children's services; conservation programs; fish and wildlife protection; agricultural programs; native language immersion programs from kindergarten through high school; college and master's degree programs in native language immersion instruction; traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control. Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs and food sources.

We note that the Department of Hawaiian Home Lands (DHHL) is identified in the Section 4 under Definitions. Housing is a major problem of all Hawaiians. The Hawaii State Constitution mandates the Office of Hawaiian Affairs to better conditions of all Native Hawaiians. Therefore it is requested that the Office of Hawaiian Affairs additionally be considered for inclusion in S. 519 in the appropriate sections. Historically low interest rates have made high-end Hawaiian homes more "affordable" and fueled an infusion of off-shore dollars by non-residents seeking "reasonably priced" retirement homes in Paradise. As those dollars have continued to flow into the Islands, the median cost of a single-family home on Oahu rose from $335,000 in March 2003 to $481,000 in early July 2004.

That phenomenal 30% growth on Oahu—the highest in the nation—was even greater on the neighbor islands, where the median price of a single-family home now ranges from $500,000 to $600,000. The condo and town home markets have both had comparable growth.

As the median price of single family homes has undergone this phenomenal growth, more and more Native Hawaiians have been priced out of the conventional housing market.

Therefore one of the purposes of S. 519 – "To establish the Native American Economies Diagnostic Studies Fund and the Native American Incubation Center to provide Native Americans with access to financial capital, to provide technical assistance and to encourage entrepreneurial activities among Native Americans could greatly assist our Native Hawaiian communities in their efforts to achieve the homeownership goals and economic well-being.

With initial oversight proposed to be provided by the Federal Department of Housing and Urban Development, housing clearly will be a priority, but other opportunities cannot be overlooked. We feel that S. 519 would also provide the opportunity for a productive economic development policy and analysis that would result in improving the material standard of living of Native Hawaiians. Development of unique programs, bringing the resources from the Federal,

State and private sector together to create new or expand existing industries, business and economic development opportunities, the establishment of localized incubator and entrepreneurial training programs and to provide policies and institutional support to assure economic solvency for all Native Americans should be major goals of this program.

With regards to possible amendments, we respectfully request that you amend Sec. 4 Definitions (15) to reflect the definition of Native Hawaiian as defined in S. 344 –

> *7) NATIVE HAWAIIAN- For the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the term "Native Hawaiian" means --*
>
> > *(A) an individual who is one of the indigenous, native people of Hawaii who is a direct lineal descendent of the aboriginal, indigenous, native people who--*
> >
> > > *(i) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and*
> > >
> > > *(ii) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or*
> >
> > *(B) an individual who is one of the indigenous, native people of Hawaii and who was in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendent of that individual.*

and Sec. 201 and other appropriate sections to allow the Office of Hawaiian Affairs (OHA) to participate in the economic opportunities provided by this bill so that all Native Hawaiians could participate.

The inclusion of the Office of Hawaiian Affairs would assure that all the benefits of this legislation to apply to all Native Hawaiians. Further, this legislation would enhance our responsibilities to our Native Hawaiian beneficiaries in fulfilling the goals and objectives of the OHA 2002 – 2007 Strategic Plan, especially in the areas of economic development, education, land and housing and health.

Once again, we commend you for developing such important legislation as well as your continued support of S. 344 – the Native Hawaiian Government Reorganization Act of 2004. The proposals in S. 519 would complement the economic opportunities offered by this legislation. We stand ready to work with you and your staff on the bill.

Statement of Katherine A. Spilde, Ph.D.
Research Fellow
Harvard Project on American Indian Economic Development
Kennedy School of Government
Harvard University

Testimony
Before the Select Committee on Indian Affairs
United States Senate

Hearing on S. 519
The Native American Capital Formation and Economic Development Act of 2003
July 21, 2004

Mr. Chairman and distinguished members of the Committee, good morning. My name is Katherine Spilde and I am a Research Fellow with the Kennedy School of Government, Harvard University. Prior to my appointment at Harvard, I served in a number of research and policy positions here in Washington, D.C., including work with the Congress' National Gambling Impact Study Commission (NGISC) and the National Indian Gaming Association (NIGA). My background includes a Ph.D. in cultural anthropology, which frames my research on Indian policy and economic development. I am honored to be here today to participate in this discussion of the opportunities that could potneitally be realized through the creation of a tribally-owned development corporation.

I commend you for undertaking the what I consider to be a complicated two-fold task: first, identifying obstacles to economic development in Indian Country, including systemic issues, with an eye toward addressing or eliminating them; and second, identifying existing opportunities that can be maximized and exploited for the benefit of Native people. After assessing both obstacles and opportunities, I believe it will be clear that the creation of a tribally-owned development corporation, as envisioned in S. 519, could be an effective effort in addressing the on-going challenge of supporting sustainable economic development in Indian Country.

I am here today to comment generally on the need for a more cogent federal economic development model rather than to respond directly to points in S. 519. I am honored to be here today to offer some insights from my research on Indian policy in general and Indian gaming in particular. I have had the privilege of doing research on Indian gaming for over ten years. My research has taken me to over 125 Indian reservations and I have met with countless tribal leaders and developers about investment of gaming revenues and broader questions of economic development. Because much of my research was policy-oriented, my broader agenda was aimed at addressing the bigger questions, "Is Indian gaming working?" and "How can tribal governments maximize their gaming successes and diversify their economies?"

In sum, my research strongly argues that Indian gaming *is* working and its success is built upon four key features: 1) Tribal governments initiate Indian gaming rather than

having it imposed upon them; 2) Indian gaming recognizes tribal sovereignty and encourages tribes to exercise their sovereignty as a development resource; 3) Indian gaming creates a tribal tax base, allowing tribal governments to fund their social programs; 4) Indian gaming supports "nation building" activities, encouraging the creation of strong institutions of self-governance and partnership building for diversification.

Indian gaming works because it recognizes that creating an economy and building a nation are mutually reinforcing activities. Harvard research finds that when tribes make their own decisions about what approaches to take and what resources to develop, they consistently out-perform non-tribal decision makers. Tribal governmental gaming has created a historical moment where tribal decision-makers are playing a more prominent role in Indian country than ever before, making Indian gaming the most successful nation- and economy-building strategy in American history. For that reason, I think it is important to extract lessons from Indian gaming that could facilitate the creation of a successful tribally-owned development corporation.

I am optimistic that the creation of a tribally-owned development corporation could mirror the successes that we have already seen at the tribal level. A tribally-owned development corporation similar to that described in S. 519 could potentially represent the extension of gaming's benefits to more tribes in the United States, allowing gaming to act more as a federal program in spite of its 'opt-in' features. However, in order to be successful, any federal initiative would more likely succeed if it mirrored Indian gaming policy in at least one critical way: first, it should be initiated and considered on a case-by-case basis at the tribal level rather than be imposed.

Why Indian Gaming Works

American Indians, both on and off reservations, have seen enormous improvements in their economic circumstances over the past two decades. Much of this improvement is attributable to Indian gaming. Just last week, the National Indian Gaming Commission (NIGC) revealed that national 2003 gross gaming revenues for Indian gaming facilities topped $16.7 billion, an increase of $2 billion or 13.7 percent over 2002 gross gaming revenues. Indian gaming has created a significant ripple effect through Indian Country by generating jobs, stimulating tribal institution-building, and facilitating diversification projects.

Not surprisingly, the gains from Indian gaming are not being realized on an equal basis across Indian Country. Approximately two-thirds of all tribal governments are not involved in gaming at all, and many tribes that do offer gaming have small facilities or are limited by the permitted scope of gaming in the state.

The fact that Indian gaming revenues are not evenly distributed across the tribes is often raised as evidence that Indian gaming is not "working." Of course, the 1988 Indian Gaming Regulatory Act (IGRA) was not intended to act as a federal program, such as Indian programs funded by tax dollars, and IGRA's framers clearly noted that, "not all tribes can engage in profitable gaming operations." Rather, IGRA provides a framework for regulating gaming on Indian lands for those tribes that have meaningful markets and chose to pursue gaming. This feature—tribal initiative for opting in or out of gaming---makes Indian gaming an *option* for tribal governments, but one they must fully fund and develop, assuming all costs and risks themselves.

While it is clear that Indian gaming works for many tribes, there are also many obstacles to obtaining financing. We are all familiar with the fantastic success of handful of tribes with access to substantial gaming markets. These tribes have had very little trouble gaining access to capital once Indian gaming's legal and regulatory issues are clarified. However, these large operations are unusual and represent about 10% of all tribes in the United States. Rather, the majority of the smaller and mid-size projects are difficult to finance and could benefit from access to capital and expertise. Even when these projects do get financed, tribal governments are not always in a position to command terms that they may find desirable. There is certainly a need for additional vehicles for tribal financing, for gaming and otherwise, and I find the Committee's efforts on this issue to be laudable.

A Tribal Initiative Not a Federal Program

In its 1999 Final Report to Congress and the President, the National Gambling Impact Study Commission (NGISC) stated, "There was no evidence...suggesting any viable approach to economic development across the broad spectrum of Indian country, in the absence of gambling." While the NGISC did not address the complex reasons why Indian gaming is the only approach to work, it seems clear that one of the characteristics most responsible for Indian gaming's viability is the fact that it a tribally-driven initiative and not a federal program. Until recently, economic development in Indian Country was largely dictated by federal funding initiatives which were often splintered, uncoordinated and ineffective. When tribal governments began exercising their jurisdiction over gaming activities and developing the suitable governmental institutions to do so, Indian gaming quickly became an economic development engine. According to sociologist Stephen Cornell, the fact that Indian gaming was tribally-driven may be the primary reason for its success; he writes, "As long as the Bureau of Indian Affairs or some other outside organization carries primary responsibility for economic conditions on Indian reservations, development decisions will tend to reflect outsiders' agendas. Transferring control over decisions to tribes does not guarantee success, but it tightens the link between decision making and its consequences."

There are a host of reasons why it is critical for tribal governments to make their own development decisions, including the decision of whether (and *how*) to pursue gaming as an economic development strategy. The choice to pursue gaming rests upon a number of community-based considerations, ranging from cultural beliefs to market limitations. For a few tribes, Indian gaming represents the diversification of an existing economy that previously relied upon natural resource extraction or tourism; for others, gaming's high profit margins created their first opportunity to attract developers willing to invest on-reservation and bankroll the infrastructure necessary to support large-scale development; for still others, Indian gaming is a strategy for job creation rather than solely an avenue to generate a revenue stream for tribal programs. Or course, the bulk of the 561 federally-recognized tribes in the United States do not engage in gaming at all. What seems clear is that those tribes that pursue gaming are in a position to create both an economic enterprise and governmental structure that is appropriate and functional for their particular tribal community. This feature---control over whether and how to develop appropriately---sets Indian gaming apart from any other economic development strategy to date. Indian gaming is a development tool available to tribal governments but not

imposed upon them, transferring the development decision to the tribal governments and citizens who are the closest to the impacts of that decision and therefore more likely to make the right choice for themselves.

Indian Gaming Recognizes Tribal Sovereignty

When Congress passed the Indian Gaming Regulatory Act (IGRA), tribal governments had already initiated gaming on Indian lands as a way to generate much-needed governmental revenue. IGRA was intended to balance the interests of the various governments (tribal, local, state and federal) while also acknowledging that, in the words of Senator Inouye (D-HI), "Indian tribes are quite capable of managing their own affairs." IGRA created a new federal agency, the National Indian Gaming Commission (NIGC), to oversee tribal regulation of gaming and assist in certain aspects of casino operations, including management agreements and licensing. IGRA also granted new rights to state governments by developing a tribal-state compacting requirement for class III gaming and allowing state officials to play a role in approving off-reservation land acquisitions. (IGRA included provisions for local governments to consult on land acquisitions as well.) Tribes were openly opposed to these provisions in IGRA and two tribes filed suit claiming that these new intrusions into tribal affairs were unconstitutional.

In spite of the creation of new roles for other governments with an interest in Indian gaming, IGRA's framers were clear in their recognition of fundamental aspects of tribal sovereignty. Indeed, IGRA reiterates that states cannot expect to directly benefit from Indian gaming through assessing a tax or fee on any Indian tribe as a condition of negotiating a tribal-state compact (or for any other reason.) In the Senate Committee Report generated for IGRA, Sen. John McCain (R-AZ) underscores the point that, "Tribes have been and will continue to be permanent governmental bodies exercising (those) basic powers of government...to fulfill the needs of their members. Under our constitutional system of government, the rights of Tribes to be self-governing and to share in our federal system must not be diminished." McCain's reminder reflects the point memorialized in IGRA's findings: "a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government."

Indian gaming rights are a clear expression of retained jurisdiction and tribal sovereignty. While some gaming opponents portray Indian gaming rights as a "loophole," this portrayal overlooks the clear confirmation of tribal regulatory authority in a succession of Indian gaming court decisions, culminating in the Supreme Court's 1987 ruling in *Cabazon*. The fact is that states' jurisdiction over Indian nations is limited to what has been expressly delegated to them by Congress. Meanwhile, tribal sovereignty is inherent, meaning that tribal governments are assumed to retain jurisdiction unless expressly limited by Congress. These differing sources of power are significant and clearly upheld in IGRA and other federal laws affecting tribal governments.

Indian Gaming Creates a Tax Base

Economists agree that one of the fundamental reasons for the success of Indian gaming is that it allows tribal governments to break free of federal planning models to create an export-based economy (attracting people to Indian lands to gamble constitutes

"exporting" gambling.) It can be argued that the primary economic development component of Indian gaming is its ability to generate a reliable tribal tax base for tribal governments, often for the first time. The NGISC reported its findings on this feature of Indian gaming as follows: "As was IGRA's intention, gambling revenues have proven to be a very important source of funding for many tribal governments, providing much-needed improvements in the health, education, and welfare of Native Americans on reservations across the United States."

When IGRA was being debated in Congress, over 100 bingo games had already been started on Indian lands, generating $100 million annually. The fact that this revenue was already having a positive impact on tribal governments is clear in IGRA's legislative history, which notes that, "Bingo revenues have enabled tribes, like lotteries and other games have done for State and local governments, to provide a fuller range of government services to their members than would otherwise have been possible...the income often means the difference between an adequate governmental program and a bare bones program which is totally dependent on Federal dollars."

Tribal governments have historically faced crushing budget deficits. Indian gaming revenues allow many Indian nations to create and maintain basic tribal services ranging from law enforcement and health care to education and housing. With regard to social programs, the NGISC found that, "all these programs have historically suffered from significant neglect and under-funding by the federal government. Although the problems these programs are aimed at reducing continue to plague Indian communities at significant levels, gambling has provided many tribes with the means to begin addressing them."

The available evidence on social conditions in Indian country provides a long list of alarming comparisons between tribal social conditions and U.S. national averages. Since the passage of IGRA in 1988, tribal governments are obligated by federal law to invest gaming revenues in ways that improve tribal welfare. Section 11 of IGRA requires that net revenues from "any tribal gaming" be used for 5 primary purposes (See figure 2). Generally speaking, all revenues are earmarked for governmental activities or public investment. Tribal governments make a host of investments in their own—and surrounding---communities. As one tribal leader remarked, "sovereignty ain't cheap."

Indian Gaming Triggers 'Nation Building' Activity

In keeping with the federal goal of tribal self-determination, tribal governments invest heavily in community-based projects and balance the need for a revenue stream to support the tribal budget with the goal of reforming institutions inherited from centuries of federal government intrusion. In addition to funding essential tribal social programs, tribal governments are investing in what are often called "nation building" projects, ranging from governmental institution building to cultural revitalization. IGRA reflects the related strategies of strengthening both tribal economies and tribal nations in its two relevant, primary stated goals: to promote economic development for Indian nations and to strengthen tribal governments. Most analysis of tribal governmental gaming focuses on the economics of Indian gaming, claiming that Indian gaming is only "working" when tribes generate significant revenue streams. However, considering Indian gaming as solely an economic activity overlooks the second, perhaps even more critical, goal of IGRA: that of strengthening tribal governments through nation building.

In virtually all tribal governments, the provisions of IGRA itself have triggered nation-building activity. For example, IGRA requires that tribal governments create a gaming commission before they open a gaming facility. Because tribal governments differ widely in form and tradition, IGRA does not require that tribes adopt any particular structure for their commissions, although NIGC bulletins suggest that tribal gaming commissions be formed as independent bodies. Therefore tribes have had to determine for themselves how to create a gaming commission that simultaneously "matches" their cultural prerogatives and current governmental structure while it also fulfills its prescribed functions of regulatory oversight and compliance. For some tribes, this process of institution-building triggers a full-scale assessment of the cultural underpinnings of the tribal government structure and prompts further discussion of how to balance the tribe's growing business needs with the need to effectively govern and fund existing and anticipated tribal social programs.

What has emerged in this "creative moment" sparked by Indian gaming is a range of innovative institutions self-governance unrelated to IGRA. For example, many tribes have chosen to separate their business and governmental functions through the creation of separate business boards. These boards take many forms and have many names (e.g. development corporations, corporate commissions or business authorities) but they seem to share some common goals: to facilitate relationship-building with investors and developers, to streamline business transactions, to provide a degree of insulation between tribal businesses and tribal politics, to develop institutional memory, to provide a clear tribal voice when addressing issues related to consultants or other contractors and to create a stable environment in which investors feel secure.

Harvard research on economic development has observed that the separation of business and government functions facilitates economic development in non-gaming contexts. Tribal governments are demonstrating just how successful that process can be in a gaming environment as well. One key indicator of successful nation building activity is the growing trend of economic diversification across Indian country. Because economic diversification often relies upon the creation of new tribal governmental institutions to facilitate partnership building with outsider investors or managers, examining the scope of diversification provides a unique framework for evaluating the ways that IGRA's twin goals are being realized in many parts of the United States.

Indian Gaming Facilitates Economic Diversification and Partnerships

Economic diversification takes many forms, but there is a general pattern of diversification that can be observed across Indian country. Most post-gaming diversification in Indian Country provides direct support for the core business, the Indian gaming facility. In keeping with common business strategy, tribal governments create businesses that enhance their main economic engine by building ancillary hotels, restaurants, gift shops and other amenities that add value to the business in at least two ways: by generating additional revenues through the amenities themselves and by increasing gaming revenues by making the gaming environment more attractive and convenient for players.

After enhancing the gaming environment, some tribes extend beyond gaming into other tourist-related areas in order to take advantage of visitors to the reservation, whether they intend to gamble or not. Developing other tourist-related activities on the

reservation allows tribes to capitalize on their hospitality expertise while also appealing to a wider customer base. For example, while many families may not visit an Indian gaming facility, there is a strong demand for water parks, golf courses, museums, outlet malls, and other activities that may appeal to the gambler's family or the non-gambler. Tourism development based on a variety of different resources also has the potential to support the core business by simply bringing people to the reservation in the first place.

Another phase of diversification departs from gaming and tourist development but nonetheless relies upon tribal capital and natural resources which, prior to gaming and nation building, were absent or under-developed. For example, some tribes now have the capital to invest in water bottling plants, fruit companies or ranches that allow them to export their products to off-reservation markets. Additionally, some tribal governments are investing capital in off-reservation ventures such as urban hotels and restaurants, which allow them to cross-market their on-reservation facilities and expand their tribal resumes.

For some tribes, Indian gaming has generated sufficient capital for economic diversification. For others, Indian gaming has provided valuable experience in hospitality and tourism that can be translated into future business ventures, even while current revenues are not sufficient for substantial diversification efforts. What nearly all tribes have in common is that success in Indian gaming—both economic and governmental success—has given tribes an established track record in business and management that makes them more attractive to outside investors. Just as a number of tribes initially created partnerships or hired consultants to learn the gaming business, some tribal governments engaged in diversification are building relationships with outside experts or investors in other industries, resulting in additional non-gaming jobs while also allowing tribes to assert their sovereignty and create a larger pool of political supporters.

It is for these reasons that a tribally-owned development corporation could contribute to and facilitate the extension of Indian gaming's benefits to Indian Country. Regardless of which form the entity takes, I support the Committee in its goals of creating a unified economic development model that incorporates research, best practices and measurable outcomes among its key features. Additionally, my research confirms that encouraging tribal participation on a case-by-case basis would greatly improve this entity's chances of success.

Thank you for the opportunity to present my ideas with you today.

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

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Campbell: Economic development in Indian country, the long view

Posted: February 20, 2004 - 12:58pm EST
by: Senator Ben Nighthorse Campbell / Senior U.S. Senator for Colorado and Northern Cheyenne Chief / U.S. Senate / Northern Cheyenne / United States Government / Northern Cheyenne Tribe

Federal Indian law and policy has changed gears so many times Indian people have "policy whiplash." It has been 33 years since President Richard Nixon issued his "Special Message to Congress on Indian Affairs" proposing what was then considered a revolutionary federal Indian policy based on the core principles of economic self-sufficiency and local decision-making.

The policy - Indian self-determination - is now accepted by most policymakers in Washington and around the nation because it has begun to reinvigorate tribal governments and lift the standard of living of Indian people nationwide.

Nixon's policy shift ultimately led to Congressional action and the passage of the Menominee Restoration Act, the return of the sacred Blue Lake lands to the Taos Pueblo, the Indian Self-Determination and Education Assistance Act, the Indian Financing Act, the Tribal Self-Governance Act, and other initiatives that continue to assist tribes in their drive to achieve greater autonomy.

The new policy resulted in the federal government redirecting funding and program responsibility directly to the tribes so they could reassume control over their own lives.

In the process of implementing their contracts and compacts with the federal government, the tribes have improved service delivery to their members and honed their skills that can be used in other areas, like business development.

As we look to the future, we should encourage other tribes to emulate those successful contracting tribes through proper incentives - like full funding for contract support costs - and to expand tribal contracting into other areas such as managing federal lands containing sacred places, and federal programs like Head Start and others.

As successful as contracting and compacting is, we need to recognize it for what it is - an interim phase in which tribes manage federal programs and federal funding. In the long run, federal policy ought to focus on encouraging tribes to expand their economies and generate and manage tribal revenues.

If you believe as I do that this is the primary challenge facing tribal governments, the question we need to address is how can Indian self-determination be taken to the next stage?

I think we should look first at the scope of the problem. Current statistics suggest that the jobless rate in Native communities is somewhere between 45 percent and 80 percent - an unacceptably high level of unemployment and especially so when compared to the U.S. national rate of 5.6 percent. The earning capacity of Native people also lags behind that of other Americans. For every $100 earned by the average non-Indian family, an Indian family earns $62. The average annual per capita income for Indians is $8,284, far less than $14,420 for Americans as a whole.

Anyone who has lived or visited an Indian reservation has seen the effect of these numbers on the faces of Indian children.

Indian communities were not always so poor and the Indian tradition did not always have multi-generational poverty and dependence on government assistance. How did this happen?

The cultivated dependence of the past 200 years has stymied Indian economies and crushed the Indian spirit. To break this cycle, I believe that Indian America cannot and should not depend on the kindness of Congressional appropriators or federal officials.

I do not believe that the "federal option" of relying solely on federally-funded programs will ever be the answer to the economic problems facing Native people and here's why.

It is the private sector - not the government - that creates jobs, produces wealth and investment, and it is the private sector that we see alive and well today on a handful of Indian reservations in the form of successful gaming operations, telecommunication projects, energy ventures, tourism and hospitality efforts, and manufacturing activities.

As we look ahead, we should realize that we are not starting with a blank slate here: we have an idea of what works and what does not when it comes to economic development.

The experience of the tribes over the last three decades provides insight into what a successful policy looks like. I believe a more rational and productive development policy rests on expanding the ideas of the Nixon policy and making the tribes the central decision-makers in the economic realm.

In order to give an idea of such a policy, I offer five pillars of a new Indian economic strategy.

Five pillars

1. Discipline the beast. Every year billions of federal dollars are appropriated to address aspects of Indian development including job training, physical infrastructure, feasibility studies, project finance, and many others.

With many tens of billions appropriated in just the last ten years, and given the economic situation in Indian communities, can anyone seriously argue that these dollars are having their desired impact? Can anyone really maintain that what passes as "Indian development policy" is nothing more than an uncoordinated, undisciplined and, ultimately, ineffective, sham?

The answer to me is plainly in the negative.

Federal funds would be more disciplined, better managed, and would have greater impact if the tribes - not the federal agencies - had authority to tailor the programs to their needs as they do in self-determination contracting and self-governance compacting.

When contracting and compacting were first proposed, the agencies were hardcore opponents of those programs and they will undoubtedly oppose any effort to give the tribes expanded authority over federal economic development resources and decisions.

But agency objections cannot change the unalterable fact that contracting and compacting are universally successful. We should take the principles that underlie these models and apply them to the many economic and business development programs offered by the federal government to benefit Indian communities.

One way to do this is to pass the "Indian Tribal Development Consolidated Funding Act of 2003" (S.1528), a bill that I introduced to encourage the integration and consolidation of existing programs and services aimed at Indian communities.

2. Free tribes to raise money in the private markets. Indian communities are in need of capital for physical infrastructure as well as development projects and for those who fear these needs will cost more than the federal budget can bear I have two words: tribal bonding.

Last year I introduced the "Tribal Government Tax Exempt Bond Fairness Act of 2003" (S.1526) to help Indian tribes raise capital in the private markets for purposes of job creation and economic development.

By making modest adjustments in current law, S.1526 will have far-reaching and positive effects for tribal governments and their members across the country and will achieve these goals without having to dip into the federal treasury.

The fact is that tribes, like state governments, are responsible for a host of services not only to their members but to non-members who live on or near their lands. These services include fire, police and

ambulance service, road and bridge maintenance, and a host of others.

Unlike the states, however, tribal governments face severe restrictions in their ability to finance development by issuing debt: the law forbids tribes from issuing tax-exempt bonds for any project unless it can meet the so-called "essential government function" test.

So for the holder of a tribal bond to receive income from that bond exempt from federal tax, it must be issued for activities that are "governmental" in nature. Examples of the kinds of projects that have been ruled by the Internal Revenue Service as falling outside this test are tribal convention centers, hotels, and golf courses.

State governments are not limited by the "essential government function" test when they issue tax-exempt debt and S. 1526 will not only eliminate the disparate treatment to which tribes are now subject.

Armed with this bonding authority, tribes will strengthen their economies, provide for their members and others, and lessen their reliance on federal programs and services.

3. Pooling capital makes sense. Discipline in how federal funding is spent can also be encouraged if the tribes were to create, fund, and operate a tribal development corporation that would use a blend of federal and tribal resources and expertise for economic development purposes.

Such a development corporation would increase access to capital investment and greater coordination among and between the tribes and the federal government when it comes to project lending in Native communities.

Last year I introduced legislation - "The Native American Capital Formation and Economic Development Act of 2003" (S.519) - to provide a means for all the tribes to coordinate and pool resources to help the needier tribes with capital and to provide access to technical resources and analyses of the structural problems in Indian economies.

The concept of S.519 is similar to that of the World Bank and other development banks such as the Inter-American Development Bank, the Asian Development Bank and the East European Development bank. The core idea is that the shareholders of the banks are the countries themselves and the pooled capital resources are directed to those member countries which have a need for development assistance.

These development banks are regional or global in scope and have helped their member nations rebuild after war or other debilitating events and strengthen their struggling economies.

The reality is that the problems faced by most developing countries - lack of infrastructure, capital flight, and political risk - are often the same ones facing Indian tribes here in America.

I believe there is much to be learned from the international development models and the lessons of the last 60 years and apply that knowledge to the tribes in their own effort to strengthen their economies.

I recognize that some gaming tribes are undertaking the kind of activities called for by S.519 and are lending millions of dollars to other not-so-fortunate tribes to meet their needs.

I also believe that a more formal network of tribal efforts is warranted for a number of reasons. A collective effort by tribes - in the form of a tribal development corporation - can offer many different kinds of assistance and loans to struggling tribes, identify business opportunities in Indian country, bring "simultaneity" to economic efforts, and in the process make the corporation a profitable, long-term proposition.

4. Building business-friendly environments. For any economy to experience sustained growth over time, it must be aided by the kind of economic environment that is friendly to risk-taking, entrepreneurship, and the private-sector. Creating such an environment involves many efforts such as commercial codes and land use ordinances, transparent judicial systems, a healthy and educated workforce, and a physical infrastructure to sustain long-term economic growth.

One way to analyze inhibitors to investment and growth in Indian economies has already been enacted into

law. In 2000, I authored legislation that was signed into law to create the "Regulatory Reform and Business Development on Indian Lands Authority" to identify anachronistic and uneconomic regulations, laws, and policies and make recommendations to Congress on how those regulations, laws and policies ought to be changed.

The Authority would be made up of tribal leaders, federal officials, and members of the business sector. If our own U.S. Commerce Department would see fit to fund and breathe life into the Authority, it could provide a valuable service to all tribes interested in economic reforms and growth.

5. Putting Indian tribes in the driver's seat. As the work of Dr. Joe Kalt and the Harvard Project on Indian Economic Development has shown, the hallmark of successful development strategy is tribal decision-making - rather than federal decision-making - when it comes to economic activities.

Kalt has demonstrated that it is tribal decision-making - which he calls "de facto sovereignty" - that strengthens tribal governing capacity and leads to better resource allocations and economic decisions.

Future Indian economic policy ought to be guided in part by increasing tribal authority and control over tribal resources and decisions that are properly their decisions and not the decisions of faceless, unaccountable bureaucrats in Washington.

For instance, one of the provisions in the Native American Energy Development and Self-Determination Act of 2003 would unshackle Indian leasing decisions from the time-consuming and paternalistic requirements where the Secretary of the Interior reviews and approves every single lease of Indian land for energy purposes.

Incredible as it sounds in this era of self-determination, this is what the law now requires.

The Indian energy bill, included as Title V in the comprehensive energy legislation (H.R.6) pending before the Senate, would provide authority to willing tribes to assume greater control and responsibility over energy leasing decisions and their own resources. This type of authority will ultimately encourage tribes to develop such resources more effectively and efficiently, and in turn result in greater levels of employment and income to tribal members.

At the start of this new millennium, we have a great opportunity to increase tribal control, reduce bureaucracy, and come together in a collective effort to decrease our dependence on federal funding, reinvigorate Indian economies, and create more opportunities for Indian people.

If we seek a policy built on the status quo, then there is no need to do anything differently. But who, in Indian country or in the halls of Congress, can say that the status quo is working and that it is acceptable? I can't.

Colorado's senior U.S. Senator Ben Nighthorse Campbell was the first American Indian to chair the Indian Affairs Committee. Sen. Campbell, a Republican, is a member of three other key Senate committees: Appropriations Committee; Energy and Natural Resources Committee; and Veterans' Affairs Committee. In addition Senator Campbell chairs the prestigious Helsinki Commission.

This article can be found at http://www.indiancountry.com/?1077300034

Economics focus Roots of development

What matters most for development—geography, institutions or policy?

ECONOMIC growth in poor countries, it seems reasonable to suppose, depends on getting lots of different things right, and probably on a generous measure of good luck as well. Is it possible to say which factor or factors matter most?

For many years economists emphasised the importance of good economic policy (though often disagreeing about which policies were good and which not so good). Lately, it has become orthodox to stress the importance of long-lived "institutions" that are conducive to growth: political stability, property rights, legal systems, patterns of land tenure, and so on. Other economists instead put great weight on geography, especially climate (which affects the incidence of disease, the applicability of some technologies, agricultural opportunities, and more) and access to the sea (which affects the scope for international integration).

Such explanatory factors need not be mutually exclusive. Successful development could depend on all of the above. Rich economies usually combine competent policy (on the whole), sound and stable institutions and favourable geography. Many of the world's poorest countries score badly on all three counts. Still, it would be interesting to discover that policies, say, matter much more than geography—and it would be encouraging too, because policies are easier to change than whether a country is in the tropics or has access to the sea. A new paper* by William Easterly of the Centre for Global Development and Ross Levine of the University of Minnesota tests the importance of these three sets of factors, looking at a sample of 72 rich and poor countries.

The results are intriguing. Institutions turn out to matter most—but that is putting it mildly. Geography and policy, as influences in their own right, turn out to matter not merely less than institutions but, roughly speaking, not at all.

Take policy first. In this study the quality of policy is measured by inflation, openness to trade, exchange rates and so forth. The finding that policy in these areas does not drive development seems surprising, and at odds with a lot of other work, as the authors acknowledge.

One explanation may be that other studies relate good policies to growth rates; whereas Mr Easterly and Mr Levine relate it to the level of income. Why would that matter? Possibly, bad policies curb growth rates for a spell, but not enough to have a significant effect on incomes in the long term. Or the reason could be that some other studies fail to include institutions alongside policies as a possible explanation for development. If low-income countries with bad policies also have bad institutions, and institutions are not included in the analysis, then bad policies may act as a proxy for bad institutions, and appear to be the true underlying influence.

At any rate, the study finds that countries with good institutions tend to do all right with good or bad policies. In the same way, countries with bad institutions tend to do badly regardless.

Germ of an idea

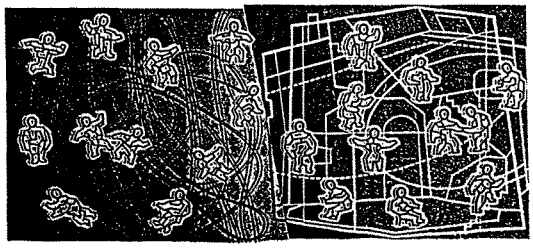
Other studies say that geography matters a lot. In this case, Mr Easterly and Mr Levine agree, sort of, because they find that geography affects institutions. Favourable geography, they find, promotes good institutions; good institutions then promote development. When the study looks at the economic influence of geography in its own right—that is, does geography affect income independently of promoting good institutions?—they find no clear connection.

In itself, in other words, good geography does not seem to count. A country with bad geography and good institutions will do fine. A country with good geography and bad institutions will not. It is only in so far as good geography breeds good institutions that good geography promotes development.

But hang on. Why on earth should good geography favour good institutions? The authors explain that this odd-seeming finding is consistent with a plausible theory set out and defended empirically elsewhere†. The 72 countries in the sample are all former colonies. Europeans followed a variety of colonial strategies. In North America, Australia and New Zealand, Europeans settled in large numbers and created institutions to protect private property and curb the power of the state. In most of Africa and Latin America, Europeans never wished to settle and instead concentrated, to varying degrees, on extracting metals, cash crops and other resources: less democracy, less regard for property rights.

Why did Europeans settle in North America and not in Africa? Because of geography—that is, because of germs. Where settler mortality was low, because geography and climate were conducive to good health, Europeans moved in and planted good institutions. Where settler mortality was high, because of bad geography, they stayed away and planted bad institutions. These institutions, good and bad, put down roots—and the result, broadly speaking, is the pattern of income you see today around the world.

Institutions are more difficult to change than policies, of course. If that were not so, the European colonial legacy emphasised in this account of development would not have been so enduring. But institutions are presumably not as resistant to reform as geography. Spelling out more precisely—or with any precision at all—how to get from bad to good institutions is, on this view, the real challenge for development economics. ■



* "Tropics, Germs and Crops: How endowments influence economic development", NBER Working Paper 9106.
† "The Colonial Origins of Comparative Development: An empirical investigation", by D. Acemoglu, S. Johnson and J. Robinson. American Economic Review 91, December 2001.

Aid policy

Short change

JOHANNESBURG

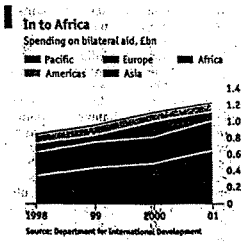
Britain hopes good governments will help rebuild African states. Dream on

NEVER mind the projects, look at the governments. That, roughly, is Britain's evolving aid policy for Africa. First set out in a white paper on aid two years ago, the Department for International Development (DFID) is now applying its plan to cut poverty and boost feeble public administration. Britain is giving more money directly to African treasuries, but only in favoured (often Anglophone) countries where Ms Short is friendly with the president. In turn, the chosen few promise to stop wars, cut corruption and spend more on the poor. A few weeks ago, Ms Short was schmoozing in London with two of her closest chums, Rwanda's Paul Kagame and Uganda's Yoweri Museveni.

Most donors have been getting meaner recently. Total aid from the 22 richest countries fell from $56 billion in 1999 to $53 billion in 2000, says Action Aid, a charity. But Britain is gradually spending more. When Labour took office in 1997, aid was just 0.26% of national income. By 2005-06 it is supposed to be 0.4%, or £4.6 billion ($7.1 billion). Africa will gain especially. Tony Blair promised this year that annual aid to Africa would top £1 billion; sub-Saharan Africa already gets 43% of non-humanitarian bilateral aid, and three of the top five recipient countries of British aid are African former colonies (Uganda, Tanzania and Ghana). Even more British help goes to Africa through multilateral efforts.

It is not just new cash, but cash spent in new ways. In the past, Britain's aid policy stressed projects, such as schools and hospitals, and used non-governmental organisations (NGOs) as partners. Ms Short dislikes many NGOs as unelected and economically illiterate whingers. There are practical problems too. Finding enough good projects to absorb the growing budget is impossible. In 1996-97, £4.5m of DFID's Africa budget was unallocated. In 2000-01, that rose to £18m.

Worse, simply paying for projects may do more harm than good. Like foreign-funded NGOs, projects often pay better wages than African civil services, and so suck the best qualified people out of state service. Donors pay for buildings (schools, say) but forget the costs of keeping them going (such as teachers' salaries). The projects may be ill-chosen, or overlapping. By one recent estimate there were 140 different donor-funded agricultural schemes in Kenya; in Tanzania there have been hundreds of schooling projects with no common curriculum or goals.



So Ms Short wants a new kind of aid: not charity, but "part of the process of building modern, effective states." Official funds will bypass NGOs except for short-term emergency projects such as coping with southern Africa's current food shortage. Instead, more aid will go into government budgets.

In Maputo, DFID has opened shiny new offices overlooking the Indian Ocean. Though there are desks for 25 people, much of the rapidly expanding budget of £35m is supposed to go straight to government coffers. A quarter of the government's budget now comes from donors; in Uganda it is nearer half. In September Ms Short said there would be similar long-term deals with Tanzania (£135m budget support over the next three years), Rwanda, Ghana, Sierra Leone and Uganda. Such help coincides with debt relief and countries' own poverty-reduction programmes that are financed (and, in fact, mostly written) by the International Monetary Fund and World Bank. Other European donors are following suit.

The dangers are obvious. "A very high proportion of aid budgets is now going to an instrument that is not yet proven," says one DFID worker in Africa. "You're putting your money into a very leaky bucket," warns another. Developing trust and partnership with kleptocrats is hard. In Mozambique the state recently refinanced various banks that had been looted, probably by cronies of the ruling party. Other governments hanker after grand projects that do nothing to help the poor. Tanzania plans to buy an unnecessary £28m military air-traffic-control system, and in July Ms Short defended its president, Benjamin Mkapa, for spending £15m on a presidential jet.

Other recipients are too keen to fight wars. Uganda appears to be slashing ministries' budgets to release more cash to fight rebels on the border with Sudan. Until this month, Rwanda's army was one of the main protagonists in Congo's war.

Britain does try to monitor how its cash is spent: for example, the two dozen DFID workers in Maputo will assess how much money in Mozambique goes on health, education and anti-poverty work. But foreign cash for health may release other resources for the army. And too much foreign monitoring easily sparks local complaints of "neo-colonialist" donors. Ms Short is right that African states desperately need better government, but British taxpayers also deserve to know exactly where their money ends up. ■

Sustaining the poor's development

The biggest environmental gathering in a decade could do some good—but only if it does not overreach

JUST what is the UN's "World Summit on Sustainable Development" for? This giant jamboree, which opened in Johannesburg this week and will culminate on September 4th with a meeting of over 100 heads of government, risks being about everything and therefore, in the end, about nothing. No one in their right mind is against "sustainable development". Everyone thinks it would be terrific if there were less poverty, less pollution, less disease, less war, less corruption. Not quite everyone, alas, favours more democracy, especially in the poorer parts of the world; in the richer world, too, not quite everyone, alas, favours more economic growth. But the world did not need tens of thousands of people to travel to South Africa in order to learn all of that.

Such a gathering is bound to do some good, simply through the contacts made and ideas exchanged, in myriad small but useful ways. But there are also big dangers in summits such as these. Grand meetings, like the "Earth Summit" in Rio de Janeiro in 1992 to which this was originally meant to be a follow-up, can breed confusion and cynicism. Confusion, because of the cacophony of different voices and objectives, to which this broader summit looks especially prone. Cynicism, because the bold promises made are so rarely met. How many countries have actually hit (or are really on their way to hitting) the targets set at Rio, or in Kyoto in 1998, for cutting greenhouse-gas emissions? Precious few.

Keep the real agenda simple

George Bush has responded to these dangers by staying away, sending his secretary of state, Colin Powell, instead. That was a mistake, offering *carte blanche* for criticism of America for almost any environmental or economic ill, some justified, most not. That is a pity, for America has actually played a more constructive role at the summit than most think (see pages 59-63). Other rich-country leaders can, however, learn from that public-relations blunder. But only if they focus on what really matters, and on what can really be achieved.

The first thing they should do is to tell the truth about poverty, growth and the environment. Thabo Mbeki, South Africa's president, delighted the anti-growth lobby with his opening speech, but did a huge disservice to the facts. "Sadly", he said, "we have not made much progress in realising the grand vision...the tragic result of this is the avoidable increase in human misery and ecological degradation, including the growing gap between North and South. It is as though we are determined to regress to the most primitive condition of existence in the animal world, of the survival of the fittest."

In contrast, what responsible heads of government should say is that the ten years since the Rio summit (home of that "grand vision") have seen lots of progress in enhancing human welfare, especially in the most populous countries of the world, China and India, thanks to those countries' decisions to liberalise their economies and to open their borders to more trade and investment. Such globalisation has already narrowed the overall gap between North and South. But some countries, notably in Africa and the Middle East, have chosen not to take part in that process, and misery there has increased. Others, particularly in southern Africa, have been so beset by disease that they have been unable to take part. Much more can, and should, be done to help them do so. And measures can and should be taken to ensure that the future economic growth of the poor world, if that happy outcome occurs, does not unduly exacerbate the problem of global warming.

The second thing that western leaders can do is to state clearly what they can, and cannot, do for their poorer counterparts. They cannot "share assets more equitably", as some claim; making the rich poorer will not make the poor richer. Virtually everything needed to help countries grow and reduce poverty depends chiefly on domestic policies—ask South Korea, China and even India. Western leaders can still, however, be helpful, in two powerful ways. They can open their country's markets to the goods that many poor countries are best suited to produce, namely food and textiles. And they can focus their overseas aid on the issue that is most difficult for poor countries to deal with themselves: disease.

There are signs that the summit could achieve something on both fronts. Farm subsidies are properly the domain of the new round of world trade talks launched in Doha last November, but are also a source of much hypocrisy. It is outrageous that rich countries preach free trade to the poor while lavishing over $300 billion a year on their own farmers. Despite its recent increase in production subsidies (to levels still below Europe's), the United States recently put forward a welcome long-term proposal for reducing subsidies for agriculture, much pooh-poohed in Europe. The Johannesburg summit offers a fresh opportunity to embarrass the Europeans into taking the proposal seriously, and to get all sides committed to a broader dismantling of subsidies in the Doha round.

On disease, too, progress could be made. The scourge of AIDS is debilitating African economies, as are other diseases such as malaria and tuberculosis. More broadly, dirty water and air, and poor sanitation, are the biggest preventable causes of death. Faster economic growth would help poor countries solve those problems. But disease itself thwarts that growth. There has been much useful talk at the summit of agreements between businesses, aid organisations and governments to try to fight against disease, in ways both big and small. The anti-business lobbyists may not like it, but the UN has been right to encourage such agreements, and rich-country leaders should welcome them too. Better still, they should make further increases in their official aid budgets to take on these diseases, both bilaterally and through global funds.

But what of the environment? Isn't that what this summit was supposed to be about? Yes, but enabling poor countries to grow and be healthier will go a long way towards protecting it. If they want to make one big green gesture, though, leaders could most usefully agree to phase out the subsidies they pay for the dirtiest fuels, particularly coal. That way, both rich and poor can work together to avoid global warming. ■

The Economist February 22nd 2003

Afghanistan

Learning to love the market

Goodbye to state-owned companies

AFSOTER'S days of glory are long past. During the Soviet occupation of Afghanistan, the state-owned company ran a fleet of some 2,000 lorries, handling all the transport needs of the tentacular public sector. Today, there are a lot more Afsoter lorries circulating on the black market—priced at $10,000-$15,000—than on the company's parking lot in Kabul. The company still has an office and staff, but does no work to speak of.

There are an estimated 150 state-owned companies in Afghanistan, a legacy of the country's centrally-planned past. Some of them, such as Ariana, the national airline, are still in business. But with over 1,500 employees on the payroll and only half-a-dozen aircraft, the company is hardly efficient. Hamid Karzai's interim government is banking on an economic future driven by the private sector. The new investment law is designed to be business friendly. Red tape has been cut to a minimum, say officials. Some 2,300 investment projects have been approved over the past nine months, more than over the past 45 years, the minister of commerce proudly claims. Travelling exhibitions promote Afghanistan abroad as a good place to do business.

Mr Karzai has set up a commission to look into the scope for privatisation of state companies. But at present it is unclear which state companies are still active, and what assets they have. The government has no money to spend on them with a view to making them more attractive to possible buyers. Many are likely to be liquidated, but a few may interest buyers. ▸▸

The Economist February 22nd 2003

▸ The country's six state-owned banks have not granted loans or taken deposits for a long time but, according to Torek Faradi, a senior adviser to the Central Bank governor, their names and office buildings have value. Property in Kabul is in demand. A building in central Kabul, or even a building site, could be attractive to foreign agencies or businesses at present facing rents of $5,000 a month, when they can find premises at all.

The positive signs for business in Afghanistan are the government's plans for reconstruction, the flow of aid money to pay for them, and cheap labour. Siemens has just reopened an office in Kabul, after a 20-year absence. Standard Chartered Bank may follow. The bank is used to difficult environments—it kept operating in Sierra Leone during the worst of the civil war—but is concerned about security in Afghanistan. Poor roads and an unreliable power supply add to the security problems that deter potential investors. Lack of government expertise in supporting an embryonic private sector and the remnants of Soviet-era mentality are other deterrents.

So most of those investing in the country have so far been Afghans living abroad, such as Ehsan Bayat, the founder of Telephone Systems International, based in America. The company has invested over $60m—the largest private investment in the country's history—to establish Afghanistan's first mobile-phone network. It started building the network after the Taliban were ousted, at a time when few foreign companies were tempted to move in. The network hoped for 5,000 subscribers. It now has more than 25,000. This sort of start-from-scratch project looks a better prospect for investors than crumbling state companies. ■

Sand Diego Union Tribune
July 15, 2004

The Santa Ysabel band of Diegueño Indians secured funding from an Arizona tribe to build a $30 million, 70,000-square-foot casino on its reservation in the Volcan Mountains.

Yavapai-Apache Gaming, a finance and management company of the Yavapai-Apache Nation, agreed to provide a short-term loan to pay for the immediate costs of building the casino, in addition to co-signing on a larger bank loan. Santa Ysabel's tribal members voted this week Sunday to accept the initial loan. Majestic Gaming, an Arizona firm, is in charge of casino management. Rodney Kephart, Santa Ysabel tribal councilman, said the North County tribe selected Yavapai-Apache among other potential lenders because they were more "down to earth." "In today's society, it's all about business," Kephart said. "These people were more than that; they opened up to us."

The Yavapai-Apache Nation, with nearly 1,900 tribal members, is gaining a prominent presence in the growing market of casino financing. The tribe opened Cliff Castle Casino, about 50 miles south of Flagstaff, Ariz., in 1995. It includes an 82-room lodge, a bowling alley and four restaurants. After financial success, Yavapai-Apache began to help other tribes to develop similar projects. In San Diego County, Yavapai-Apache is set to finance casinos for Santa Ysabel and the La Posta band of Kumeyaay Indians. Fred Sanchez, president of Yavapai-Apache Gaming and vice chairman of the tribe's council, said he predicts a trend of more tribe-to-tribe business activity, instead of tribes seeking funding from large corporations. "We like to do business Indian-to-Indian," Sanchez said. "We are re-establishing the old trade routes we used to have." Yavapai-Apache helped the Tuolumne band of Me-Wuk Indians to open Black Oak Casino, which is east of Sonora in Northern California, in 2001. The Tuolumne tribe is now in the process of expanding the casino from 30,000 square feet to to about 160,000 square feet. Yavapai-Apache also co-signed a loan to finance the construction of the Three Rivers Casino, which the Confederated Tribes of Coos, Lower Umpqua and Siuslaw recently opened about 60 miles from Eugene on the Oregon coast.

Like La Posta and Santa Ysabel, the Confederated Tribes were among the tail end of their state's tribes to build casinos. "(Yavapai-Apache) were there when we needed them," said Tim Rose, chief operating officer of Three Rivers Casino. Rose said the casino's profits have been "meaningfully more" than expected, and "nothing is off the table" as far as future developments.
Despite Yavapai-Apache's many financial endeavors, Sanchez said, the tribe is not stretched thin because none of its contracts include management agreements. John O'Neill, general manager of Cliff Castle Casino, said Santa Ysabel's casino looked like a good investment, in part because of its location near established tourist destinations such as Julian and Lake Henshaw.

The Santa Ysabel tribe released an environmental report on the planned casino, near the intersection of state Routes 76 and 79. The report is available for viewing at either the tribal council's office on the Santa Ysabel reservation, (760) 765-0845, or the Julian and Ramona branches of the San Diego County Library. Comments regarding the planned casino should be addressed by Aug. 4 to Tribal Chairman Johnny Hernandez, P.O. Box 130, Santa Ysabel, CA 92070, or by July 30 to Chantel Saipe, county tribal liaison, 1600 Pacific Highway, Room 212, San Diego, CA 92101.

Washington Business Journal - March 10, 2003
http://washington.bizjournals.com/washington/stories/2003/03/10/newscolumn8.html

WASHINGTON BUSINESS JOURNAL

INDUSTRY WRAPUPS

From the March 7 2003 print edition

Tourism & Hospitality

Hotel moves ahead near American Indian museum

Christine Cubé

Hoteliers and District officials just broke ground for a $43 million hotel near the Smithsonian National Museum of the American Indian opening next year.

The 233-suite Residence Inn Capitol at 333 E St. NW is the city's first hotel development constructed in partnership between D.C., local developers and Native American tribes.

Officials at the March 6 groundbreaking included The Donohoe Cos., Four Fires and Bethesda-based hotel management company Hospitality Partners.

The hotel will be majority-owned by Four Fires, an investment partnership of the Forest County Potawatomi Community, Oneida Nation of Wisconsin, San Manuel Band of Mission Indians and Viejas Band of Kumeyaay Indians.

The 13-story Residence Inn by Marriott will open in 18 months. It will include underground parking, meeting space, a fitness center and indoor pool.

It is being developed by Donohoe Development Co. The project architect is Brennan Beer Gorman Monk and the property will be managed by Hospitality Partners, one of the largest independent hotel management companies in D.C., managing 14 hotels.

The Residence Inn will be three blocks from the $220 million National Museum of the American Indian (http://www.nmai.si.edu).

The 260,000-square-foot museum opens in the fall of 2004. It will be dedicated to the life, languages, literature, history and arts of the native people of the Western Hemisphere.

- More than 300 aircraft and spacecraft are getting ready for a move to the new Air and Space Museum (http://www.nasm.si.edu) at Dulles International Airport.

Starting this month and through April, museum officials plan to take the first 70 aircraft from a preservation and storage facility in Suitland to the new museum, the Steven F. Udvar-Hazy Center.

By year's end, about 70 aircraft and 65 spacecraft, rockets and missiles will have been moved.

The $309 million museum opens in December. It began construction in June 2001.

The opening of the center will coincide with the 100th anniversary of the Wright brothers' first powered flight. When complete, visitors will get a chance to see the 80 percent of the air and space collection not displayed at the museum on the National Mall.

The 760,000-plus-square-foot building will sit on 176 acres. It will include exhibit hangars, an observation tower for visitors to watch air traffic at Dulles Airport, collections storage, classrooms, archives, a large-format theater, restaurants and gift shops.

The National Air and Space Museum on the Mall is the most visited museum in the world, hosting about 9 million visitors each year. The Udvar-Hazy Center is expected to draw 3 million to 4 million visitors annually.

• Lanham-based Hargrove is in charge of decorating four venues when D.C. hosts the World Figure Skating Championships March 23 to 30. Hargrove also will install a trade show for skating equipment suppliers at the MCI Center during the competition.

For the broadcast competition at MCI Center, Hargrove will provide a backdrop of Washington, complete with some of the city's familiar monuments and famous cherry blossoms, where the skaters will wait for their marks following their performances.

Hargrove is a special events, trade show and custom exhibit company.

• The Alliance Service Network has a new member. Mark Sonder Productions has joined a network of 21 companies.

MSP is a national entertainment agency and provides headline entertainment and production services for large venues, corporations and associations.

The company has profiles on more than 30,000 headline entertainment acts and the ability to reach them immediately for clients.

The Alliance Service Network, based in North Potomac, is a national sales and marketing organization that provides meeting professionals with meeting management and marketing service.

The group (http://www.allianceservicenetwork.com) now represents 21 companies involved in a wide range of meeting services such as housing, registration, transportation, trade show decorating, catering, audio-visual services and event management.

• Two D.C. hotel general managers were recognized during the annual conference of managers for Marriott International.

Ed Rudzinski, general manager of the Marriott Wardman Park Hotel, was named GM of the Year.

George Cook, general manager of the Renaissance Mayflower Hotel, was acknowledged as a winner of the "Great Workforce, Great Workplace and Operational Excellence" award, which celebrates the Mayflower's attention to service excellence. Cook is retiring from Marriott in August after more than 35 years with the company.

• Ventura Commercial Mortgage recently completed the permanent mortgage financing for the 87-room Hampton Inn in Woodbridge.

James Ventura, president of Lanham-based Ventura Commercial Mortgage, acted as the exclusive financing representative on the permanent financing.

The hotel opened March 2000 and now averages more than 72 percent occupancy.

The 10-year, fixed-rate mortgage, provided by an institutional lender, illustrates the owner's long-term commitment to the hotel. The property is located just north of Potomac Mills on Interstate 95.

• Hotel brokerage company Molinaro Koger recently announced a former exec from FelCor Lodging Trust has joined the company.

William Stadler, senior vice president and director of corporate acquisitions for FelCor Lodging Trust, joined the firm as managing director and plans to head Molinaro Koger's new Dallas office, which is the company's fifth office.

Fairfax-based Molinaro Koger (http://www.molinarokoger.com) now employs 16 hotel brokers in the United States and United Kingdom.

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Mohegan Tribe looks to capitalize on success

By The Associated Press

UNCASVILLE — The Mohegan Tribe is looking to capitalize on the success of its Mohegan Sun casino by taking its gambling business nationwide.

The tribe is looking to play a major role in developing and managing an Indian casino near Chicago, and is working with other tribes to open casinos in California and Washington.

"What is our core competency? It is gaming," said Peter Schultz, vice chairman of the Mohegan Tribal Council. He said the Mohegans' "pragmatic sense" could be a valuable asset to tribes just entering the gambling business.

Native Americans have been largely dependent on outside financing from non-Indians to finance and build casinos and resorts. But the 1,600-member Mohegan Tribe has $1.3 billion in annual revenue from the Mohegan Sun, giving it the ability to finance outside projects.

"The tribe right now is being diligent in looking at a large number of opportunities that are out there," Mohegan Chairman Mark Brown.

The Mohegans loaned the 8,000-member Menominee Tribe $3.1 million toward a planned $700 million casino development in Kenosha, Wis., about an hour north of Chicago.

The Mohegans also are considering deals with the Cowlitz Tribe for a casino 25 miles north of Portland, Ore., and with the Torres Martinez Band of Cahuilla Indians from Palm Springs, Calif.

"We don't have a whole lot of money. We couldn't risk our own capital. It was like, who can help us?" Menominee Tribe

Chairwoman Joan R. Delabreau said. "You look around and the most favorable thing is another Indian tribe."

Most tribes use casino revenue to pay for housing, education and other reservation services. But a handful of tribes are beginning to use huge gambling profit for new investments.

A partnership of four tribes from California and Wisconsin are opening a 233-room hotel in Washington. Others, including the Mashantucket Pequots in Connecticut, have invested in real estate and redevelopment projects.

"It's a natural thing that is happening — tribes helping tribes," said Ernie Stevens, chairman of the National Indian Gaming Association. "It's economic development in Indian Country."

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Portland

Tribes bet on Portlanders

Cowlitz deal with a Connecticut gambling giant raises stakes in metro-area casino race

By BEN JACKLET Issue date: Tue, Aug 17, 2004
The Tribune

The wheel is spinning, and Portland's gambling market is the jackpot.

The Cowlitz Tribe already had prime casino property — 30 minutes north of downtown Portland, just off Interstate 5. Now they've got money, too. They're partnering with the Mohegan Tribe of Connecticut, a gambling giant that has raked in more than a billion dollars in gambling-related revenue during the past nine months.

Meanwhile, 45 minutes east of downtown, the Confederated Tribes of Warm Springs eagerly await groundbreaking of a 500,000-square-foot casino resort that would lure an estimated 3 million visitors per year.

All of which is making the Confederated Tribes of the Grand Ronde — sitting on the biggest tourist gold mine in Oregon, but more than an hour southwest of the city center — increasingly nervous. Grand Ronde leaders have failed twice in the past year to gain approval for a tribal casino in downtown Portland. Now they are left watching two potentially formidable competitors place their bets.

The lucrative world of tribal gaming, worth $16.7 billion last year nationally, is inching closer and closer to Portland. And the stakes are high.

On the one hand, the proposed casinos could improve the lives of thousands of impoverished tribal members and boost the regional economy. On the other hand, tribal casinos are not required to pay taxes or obey local land-use laws, giving them an enormous advantage over taxpaying businesses as well as the state's gambling operations, which provide much-needed public revenue.

Of course, the tribes coveting Portland's gambling market will have to win quite a few hands before they

cash in.

The long-dispossessed Cowlitz, who were only officially recognized as a tribe in January 2002, must overcome opposition from residents and business owners in La Center, Wash., where the tribe hopes to build. The Cowlitz would also have to negotiate a gaming compact with Washington state and gain approval from the U.S. Bureau of Indian Affairs to turn their land into a reservation with a casino.

The Warm Springs tribes must win over Columbia River Gorge preservationists, cut a deal with Gov. Ted Kulongoski and convince the federal government that industrial property in the Port of Cascade Locks should be converted into an off-reservation casino.

As for the Grand Ronde, owners of Spirit Mountain Casino east of Lincoln City, they remain a long shot in Portland — so long as Oregon keeps its mandate of one tribe, one casino.

All three entities are investing heavily in lawyers, economists, architects and public relations.

An innovative partnership

The Cowlitz Indians have existed for centuries in the vicinity of the Cowlitz River, which runs from Mount Rainier southwest to Longview, Wash. But because their leaders refused to sign a treaty in 1855, it took them years of lobbying to win tribal rights.

They announced their partnership with the Mohegan Tribe on July 28.

The Mohegan Sun Casino in Uncasville, Conn., has 6,300 slot machines, 30 shops, 29 restaurants, a 34-story hotel and a million-dollar glass piece by artist Dale Chihuly. Fiscal documents estimate the tribe's gross revenues for the nine months ended June 30 at $1 billion.

David Barnett, a former Cowlitz tribal council member and son of longtime tribal chairman John Barnett, put together the deal with the Mohegan.

"I had done an extensive search and interview process both with large Nevada gaming companies and other gaming businesses," David Barnett said. "When I went back to Connecticut to meet the Mohegan tribal members, I was sold on their business sense, their success, and their honesty and integrity."

The initial Mohegan investment of about $6.5 million is small by tribal gaming standards, as is the 41,000-square-foot, 425-slot-machine casino first outlined in Cowlitz documents. But experts note that such projects have a tendency to expand dramatically, once approval is won and markets are tapped.

Before they can tap the Portland market, however, the Cowlitz must win approval from the Bureau of

Indian Affairs over organized opposition in La Center. Opponents argue that a casino would reduce local tax revenues, degrade the environment, and potentially invite corruption.

Susan Arland, spokeswoman for the Washington State Gambling Commission, said the state will investigate anyone financing the project.

Cascade Locks entices

The Cowlitz are the first Northwest tribe to obtain casino funding from a different tribe. Portland political consultant Len Bergstein said he hopes they won't be the last.

"We love the idea of one tribe reaching out to help another tribe in need," Bergstein said. "We hope it's infectious."

Bergstein represents the Warm Springs tribes in their efforts to build a large casino on non-tribal land in Cascade Locks, 40 miles east of Portland. The tribes are negotiating with a state delegation and looking for backers to invest in a facility that would rival Spirit Mountain.

Unlike the Cowlitz, the Warm Springs tribes have been recognized from the beginning. But tribal members have struggled with poverty and an unemployment rate of over 50 percent. They hope to replace their marginally profitable Kah-Nee-Ta High Desert Resort, on remote tribal property north of Madras, with a multimillion-dollar facility a short drive from Portland.

"Just like with real estate, it's all about location, location, location," said Jeff Ford, Kah-Nee-Ta manager, a leader in the effort to build in Cascade Locks. "This site will be easier to get to, and it will be closer to the primary market in Oregon, which is Portland."

Ford emphasized that the Warm Springs tribes have worked to win support from local officials and neighbors in Cascade Locks. "It's going to be a large facility, but it will be nice," he said.

Numerous tribes have attempted to build off-reservation casinos around the country. Only a handful have succeeded.

Warms Springs lawyers argue that the tribal ancestors had a long history of living along the Columbia. While the tribes do not have reservation land in Cascade Locks, they do own trust land east of Hood River. Rather than build a casino there over opposition, the tribes would prefer to build in Cascade Locks, where there is local support.

Two deals that failed

The Grand Ronde tribes earned $77 million in profit last year from Spirit Mountain.

Casino income has helped house and educate people and provide free health care.

But tribal members know that their numbers could fall if major casinos are built closer to Portland. That's why they tried twice last year to win support for a tribal casino in Portland.

The first deal was part of a package where the tribes would have helped finance a new major league baseball stadium in Portland; the second involved a new hotel at the convention center.

Both deals fell through. But the smart money says the Grand Ronde are unlikely to sit quietly while competitors divvy up the Portland gambling market.

Grand Ronde tribal member Justin Martin told the Tribune in May: "We have a responsibility to our tribal membership to look at the best possible opportunities within our aboriginal territory — which includes Portland ... If the rules of Indian gaming are going to change, we owe it to our membership to look at the new playing field."

Amanda Pennelly contributed to this report.

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SOUTHERN UTE INDIAN TRIBAL COUNCIL,
Ignacio, CO, September 30, 2004.

Re S. 519.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Committee on Indian Affairs,
Washington, DC.

DEAR CHAIRMAN CAMPBELL: I am writing in response to your request of September 9, 2004, to answer questions regarding S. 519. Before outlining my thoughts on the issues raised in your letter, I would like to thank you for giving the Southern Ute Indian Tribe an opportunity to provide input on this legislation.

The Southern Ute Indian Tribe (Tribe) is a recognized leader of economic development in Indian Country as a result of sound planning and implementation of its financial plans. As such, the Tribe has faced and dealt with many of the problems described in S. 519's proposed findings. The Tribe agrees that cooperative efforts, calling upon, the strengths of the federal, local and tribal governments, as well as the financial backing of the private sector, are needed to help Indian Country achieve sustainable progress and success in economic development.

The Tribe is not currently involved in any cooperative agreements for economic development with other Indian tribes. A tribal development corporation, as contemplated by S. 519, could provide the opportunity to develop such partnership, fostering cooperation that could help tribes share successful economic development strategies and ideas. A tribal development corporation could serve as an extension of the national Indian community and provide a forum for Indian leaders to access their counterparts, with the goal of creating the associations necessary to spur economic development throughout Indian country.

A tribal development corporation could also help the Tribe's economic development plans in the same fashion. Despite the ongoing success of this Tribe, many tribal members, like all other Indian people, still face unemployment, poor health, substandard housing and the social ills associated with these problems. Regardless of this Tribe's economic success, a tribal development corporation would assist the Tribe in addressing the types of economic development that can, over the long term, sustain the growth that the Tribe has already enjoyed. The Tribe's economic development and diversification plans would be buoyed by the potential for help from a broad range of sources, all centered within the auspices of the development corporation created by S. 519.

A large part of the Southern Ute Indian Tribe's success story has been the insistence, by tribal leaders and tribal members, that each tribal venture is thoroughly investigated, planned and executed. Such diligent preparation and planning requires that the Tribe gather the best and most accurate data available. For example, when the Tribe considered the prospect of opening a gaming facility on the Reservation, a wide-ranging study regarding the potential impacts of such an operation was performed. The Tribe moved forward with its plans only after the study showed that a casino would have overwhelmingly positive impacts on the Reservation economy and tribal employment. The Tribe would therefore look

forward to accessing detailed information regarding both economic development opportunities and the forecasted results of any such development that would be available through the tribal economic development corporation proposed by S. 519.

Another factor that continues to contribute to the economic progress of the Tribe is the predictability afforded to outside investors by the Tribe's legal codes and Tribal Court. The Enforcement of Secured Transactions Code, for example, was initially adopted by the Tribe in 1980 and has since been revised twice to provide for more effective implementation and application of the Code. Many other titles of the Southern Ute Indian Tribal Code address business issues within the Reservation, such as the Employment Rights Code (Title 17), the Severance Tax Code (Title 21), the Excavation Code (Title 22), the Sales Tax Ordinance and Ordinance No. 86–01 for the Regulation of Oil and Gas Development Activities. With tribal business codes like these, and the assurance of a well-established, stable and competent Tribal Court, outside investors and businesses are encouraged to participate in the Tribe's economic growth and development. While S. 519 will play a significant role in assisting other tribes in their development of similar codes, it is important to remember that the most effective tribal codes are those that are organic to the tribal community that they protect. Thus, while technical expertise and business acumen will become available to tribes through S. 519, each tribe would still need to independently draft and implement effective business and financial codes tailored to their particular tribal environment.

As for the concepts contained in Title VI of S. 519, Indian Country has seen what may prove to be a catastrophic decline in federal appropriations for the Indian Health Service and other programs aimed at the well being of Native America. The Tribe hopes that the appropriations called for in Title VI of S. 519 will actually meet the needs of Native American financial institutions, but, in the current national economic and political climate, this hope may not be entirely realistic. Nonetheless, the spirit of Title VI is positive and Section 601 of S. 519 emphasizes the importance of financial assistance to Native American financial institutions. The Tribe would like to see the spirit of Title VI translate into concrete federal financial assistance for Indian economic development.

In closing, let me again emphasize the Southern Ute Indian Tribe's view that this legislation will provide important economic development opportunities for all tribes. These opportunities will become increasingly critical to the continued successful, self sustained development of Indian Country, especially in light of the current state of diminished federal funding. If properly implemented, the provisions of S. 519 will fulfill another aspect of the federal government's ongoing trust responsibility and provide a much-needed jump-start for economic development in Indian Country, and we appreciate the opportunity to provide our comments.

Sincerely,

HOWARD D. RICHARDS, Sr.,
Chairman, Southern Ute Indian Tribe.

FORT BELKNAP INDIAN COMMUNITY,
Harlem, MT, April 29, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR NIGHTHORSE CAMPBELL: The Fort Belknap Indian Community Council supports your efforts to include Tribal Business Information Centers in the amendments of S. 519, The Native American Capital Formation and Economic Development Act of 2003.

Since Fort Belknap TBIC's inception in 1995, twenty-four (24) new small businesses have started. These new businesses have created 29 full-time jobs and 3 part-time jobs. This is a monumental endeavor on our reservation, where the unemployment rate has averaged from 65% to 71% over the past twenty years.

The Fort Belknap TBIC encourages and assists community members in developing their entrepreneurship skills that lead to individual independence and promotes community economic development. From fall 1999 to fall 2002, the center has offered 63 classes/workshops, with 434 participants taking advantage of the specialized entrepreneurial training.

Major accomplishments of Fort Belknap Tribal Business Information Center are:

- Produced award winning business plans (1999 & 2000);
- Received the "Best Practices Award" from H.U.D. for its business incubator (May 2001);
- Developed a Uniform Commercial Code (2001);
- Formed a Financial Institution Planning Committee to establish a Credit Union Branch on Fort Belknap (2001–2002);
- Established a partnership with Rural Development and Finance Initiative to establish a micro loan fund;
- Completed a reservation-wide Educational Needs Assessment (2001–2002);
- Planned and implemented an Arts & Crafts Fair and Cultural Food Demonstration (July 2001 and 2002); and
- Assisted two communities on the Fort Belknap Indian Reservation on the process of how to form their own Community Development Corporations. IRS 501 © (3) applications have been filed (2002).

There are nearly 20 TBICs operating in the nation and we are independently seeking funding on a continual basis to underwrite administrative and operating expenses, special projects and technical assistance for low-income American Indian entrepreneurs. Financial resources in both the public and private sectors are decreasing for communities that suffer chronic poverty conditions. The downturn in the stock market has dramatically changed the amount of charitable contributions available from foundations and the federal government budget cuts in rural economic development have been reduced as well.

On behalf of Fort Belknap College-TBIC and Fort Belknap Indian Community, we appreciate and support your efforts in obtaining an appropriation that would guarantee a line item funding for Tribal Business Information Centers. The TBICs play a major role in the revitalization of our economies on the isolated Indian reservations.

If there are any questions, please do not hesitate to call me at (406) 353–8303.

Sincerely,

BEN SPEAKTHUNDER,
President, Fort Belknap Indian Community Council.

FORT BELKNAP COLLEGE,
Harlem, MT, April 29, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR NIGHTHORSE CAMPBELL: The Fort Belknap Tribal Business Information Center supports your efforts to include Tribal Business Information Centers in the amendments of S. 519, The Native American Capital Formation and Economic Development Act of 2003.

Tribal Business Information Centers were created to address the unique conditions encountered by reservation-based American Indian businesses and to serve tribal communities in their efforts to create, develop and expand small businesses. TBICs provide culturally tailored business development assistance to potential and current small business owners.

Since Fort Belknap TBIC's inception in 1995, twenty-four (24) new small businesses have started. These new businesses have created 29 full-time jobs and 3 part-time jobs. This is a monumental endeavor on our reservation, where the unemployment rate has averaged from 65% to 71% over the past twenty years.

The Fort Belknap TBIC encourages and assists community members in developing their entrepreneurship skills that lead to individual independence and promotes community economic development. From fall 1999 to fall 2002, the center has offered 63 classes/workshops, with 434 participants taking advantage of the specialized entrepreneurial training.

Major accomplishments of Fort Belknap Tribal Business Information Center are:

- Produced award winning business plans (1999 & 2000);
- Received the "Best Practices Award" from H.U.D. for its business incubator (May 2001);
- Developed a Uniform Commercial Code (2001);
- Formed a Financial Institution Planning Committee to establish a Credit Union Branch on Fort Belknap (2001–2002);
- Established a partnership with Rural Development and Finance Initiative to establish a micro loan fund;
- Completed a reservation-wide Educational Needs Assessment (2001–2002);
- Planned and implemented an Arts & Crafts Fair and Cultural Food Demonstration (July 2001 and 2002); and
- Assisted two communities on the Fort Belknap Indian Reservation on the process of how to form their own Community Development Corporations. IRS 501 © (3) applications have been filed (2002).

On behalf of Fort Belknap Tribal Business Information Center, we support your efforts in obtaining an appropriation that would guarantee a line item funding for Tribal Business Information Cen-

ters. The TBICs play a major role in the revitalization of our economies on the isolated Indian reservations.

If there are any questions, please do not hesitate to call me at (406) 353–4672.

Sincerely,

MILDRED KINSEY,

Director, Fort Belknap Tribal Business Information Center.

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