S. HRG. 107–498

INDIAN TRIBAL DEVELOPMENT CONSOLIDATION FUNDING ACT

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

S. 343

TO ESTABLISH A DEMONSTRATION PROJECT TO AUTHORIZE THE INTEGRATION AND COORDINATION OF FEDERAL FUNDING DEDICATED TO COMMUNITY, BUSINESS, AND ECONOMIC DEVELOPMENT OF NATIVE AMERICAN COMMUNITIES

MAY 8, 2002
WASHINGTON, DC

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INDIAN TRIBAL DEVELOPMENT CONSOLIDATION FUNDING ACT

WEDNESDAY, MAY 8, 2002

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room 485, Senate Russell Building, Hon. Ben Nighthorse Campbell (acting chairman of the committee) presiding.

Present: Senator Campbell.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator CAMPBELL. Chairman Inouye is chairing another hearing this morning, so we'll proceed with this hearing. Welcome to the Senate Committee on Indian Affairs hearing on S. 343, the Indian Tribal Development Consolidated Funding Act of 2001, a bill that I introduced along with Chairman Inouye in February 2001.

By now we're all too familiar with the unfortunate economic conditions in Indian communities, a jobless rate of 45 percent, and 80 to 90 among some of the Plains economies. The poorest health in the United States, with tuberculosis, diabetes, cancer almost in epidemic proportions. Substandard and crowded housing and an education system that traps Indian youngsters in hopelessness.

Despite some of the recent successes with Indian gaming, natural resource development and other business opportunities, most tribes still remain mired in Third World poverty.

There is a core group of conditions that any developing economy needs, and these are what we have been focusing on at the Federal level. One is solid physical infrastructure, two, a healthy, educated work force, and three, financial capital. There is one ingredient we can't legislate and that's tribal leadership. And I don't just mean someone who gets elected, I mean someone who is willing to work and make his or her tribe attractive to both Indian entrepreneurs and outside investors, and someone who is willing to do unpopular but necessary things like reforming constitutions, insisting on independent judiciaries and making sure contracts and agreements are honored by tribes even with changes in tribal administration.

In December 2001, the GAO published a report showing that of the billions of dollars of Federal economic development assistance for Indian tribes and Indians, much of it goes unused. In the 1980's, Congress launched what became the highly successful In-

dian Tribal Self-Governance Act that grew out of intense Congressional dissatisfaction with the performance of the Indian agencies.

Congress decided that agency reforms were not going to take place and that the only answer was to circumvent the agencies and provide the funds directly to the tribes themselves. I think that it is working. Generally, it's working very well. I know we've heard from many tribes who do their own contracting. They all seem to think that's the direction we should have been going all along. I'm sure there's enough blame to go around, I guess that's why I introduced S. 343.

[Text of S. 343 follows:]

II

107TH CONGRESS
1ST SESSION

S. 343

To establish a demonstration project to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2001

Mr. CAMPBELL (for himself and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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A BILL

To establish a demonstration project to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

The Act may be cited as the ''Indian Tribal Development Consolidated Funding Act of 2001''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) A unique legal and political relationship exists between the United States and Indian tribes that is reflected in article I, section 8, clause 3 of the Constitution, various treaties, Federal statutes, Supreme Court decisions, executive agreements, and course of dealing.

(2) Despite the infusion of substantial Federal dollars into Native American communities over several decades, the majority of Native Americans remain mired in poverty, unemployment, and despair.

(3) The efforts of the United States to foster community, economic, and business development in Native American communities have been hampered by fragmentation of authority, responsibility, and performance, and by lack of timeliness and coordination in resources and decision-making.

(4) The effectiveness of Federal and tribal efforts to generate employment opportunities and bring value-added activities and economic growth to Native American communities depends on cooperative arrangements among the various Federal agencies and Indian tribes.

(b) PURPOSES.—The purpose of this Act are to—

(1) enable Indian tribes and tribal organizations to use available Federal assistance more effectively and efficiently;

(2) adapt and target such assistance more readily to particular needs through wider use of projects that are supported by more than 1 executive agency, assistance program, or appropriation of the Federal Government;

(3) encourage Federal-tribal arrangements under which Indian tribes and tribal organizations may more effectively and efficiently combine Federal and tribal resources to support economic development projects;

(4) promote the coordination of Native American economic programs to maximize the benefits of these programs to encourage a more consolidated, national policy for economic development; and

(5) establish a demonstration project to aid Indian tribes in obtaining Federal resources and in more efficiently administering those resources for the furtherance of tribal self-governance and self-determination.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPLICANT.—The term ''applicant'' means an Indian tribe or tribal organization, or a consortium of Indian tribes or tribal organizations, that submits an application under this Act for assistance for a community, economic, or business development project, including a project designed to improve the environment, housing facilities, community facilities, business or industrial facilities, or transportation, roads, or highways with respect to the Indian tribe, tribal organization, or consortium.

(2) ASSISTANCE.—The term ''assistance'' means the transfer of anything of value for a public purpose, support, or stimulation that is—

(A) authorized by a law of the United States;

(B) provided by the Federal Government through grant or contractual arrangements, including technical assistance programs providing assistance by loan, loan guarantee, or insurance; and

(C) authorized to include an Indian tribe or tribal organization, or a consortium of Indian tribes or tribal organizations, as eligible for receipt of funds under a statutory or admin-

istrative formula for the purposes of community, economic, or business development.

(3) ASSISTANCE PROGRAM.—The term ''assistance program'' means any program of the Federal Government that provides assistance for which Indian tribes or tribal organizations are eligible.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) PROJECT.—The term ''project'' means an undertaking that includes components that contribute materially to carrying out a purpose or closely-related purposes that are proposed or approved for assistance under more than 1 Federal Government program.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

SEC. 4. LEAD AGENCY.

The lead agency for purposes of carrying out this Act shall be the Department of the Interior.

SEC. 5. SELECTION OF PARTICIPATING TRIBES.

(a) PARTICIPANTS.—

(1) IN GENERAL.—The Secretary may select from the applicant pool described in subsection (b) Indian tribes or tribal organizations, not to exceed 24 in each fiscal year, to submit an application to carry out a project under this Act.

(2) CONSORTIA.—Two or more Indian tribes or tribal organizations that are otherwise eligible to participate in a program or activity to which this Act applies may form a consortium to participate as an applicant under paragraph (1).

(b) APPLICANT POOL.—The applicant pool described in this subsection shall consist of each Indian tribe or tribal organization that—

(1) successfully completes the planning phase described in subsection (c);

(2) has requested participation in a project under this Act through a resolution or other official action of the tribal governing body; and

(3) has demonstrated, for the 3 fiscal years immediately preceding the fiscal year for which the requested participation is being made, financial stability and financial management capability as demonstrated by the Indian tribe or tribal organization, or each member of a consortium of tribes or tribal

organizations, having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe or tribal organization.

(c) PLANNING PHASE.—Each applicant seeking to participate in a project under this Act shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organizational preparation. The applicant shall be eligible for a grant under this section to plan and negotiate participation in a project under this Act.

SEC. 6. APPLICATION REQUIREMENTS, REVIEW, AND APPROVAL.

(a) REQUIREMENTS.—Each applicant seeking to participate in a project under this Act shall submit an application to the head of the Federal executive agency responsible for administering the primary Federal program to be affected by the project that—

(1) identifies the programs to be integrated;

(2) is consistent with the purposes set forth in section 2(b);

(3) describes a comprehensive strategy that identifies the way in which Federal funds are to be integrated and delivered under the project and the results expected from the project;

(4) identifies the projected expenditures under the project in a single budget;

(5) identifies the agency or agencies of the tribal government that are to be involved in the implementation of the project;

(6) identifies any Federal statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement the project; and

(7) is approved by the governing body of the applicant, including in the case of an applicant that is a consortium or tribes or tribal organizations, the governing body of each affected member tribe or tribal organization.

(b) REVIEW.—Upon receipt of an application that meets the requirements of subsection (a), the head of the Federal executive agency receiving the application shall—

(1) consult with the head of each Federal executive agency that is proposed to provide funds to implement the project and with the applicant submitting the application; and

(2) consult and coordinate with the Department of the Interior as the lead agency under this Act for the purposes of processing the application.

(c) APPROVAL.—

(1) WAIVERS.—

(A) IN GENERAL.—With respect to any Federal statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement the project that are identified in the application in accordance with subsection (a)(6) or as a result of the consultation required under subsection (b), the head of the Federal executive agency responsible for administering such provision, regulation, policy, or procedure shall, subject to subparagraph (B), waive the requirement so identified, notwithstanding any other provision of law.

(B) LIMITATION.—A statutory provision, regulation, policy, or procedure identified for waiver under subparagraph (A) may not be waived by the head of the Federal executive agency responsible for administering the provision, regulation, policy, or procedure if such head determines that a waiver would be inconsistent with—

(i) the purposes set forth in section 2(b); or

(ii) the provisions of the statute from which the program involved derives its authority that are specifically applicable to Indian programs.

(2) PROJECT.—Not later than 90 days after the receipt of an application that meets the requirements of subsection (a), the head of the Federal executive agency receiving the application shall inform the applicant submitting the application, in writing, of the approval or disapproval of the application, including the approval or disapproval of a waiver sought in accordance with paragraph (1). If an application or a waiver is disapproved, the written notice shall identify the reasons for the disapproval and the applicant submitting the application shall be given an opportunity to amend the application or to petition the head of the Federal executive agency sending the notice to reconsider the disapproval of the application or the waiver.

SEC. 7. AUTHORITY OF HEADS OF FEDERAL EXECUTIVE AGENCIES.

(a) IN GENERAL.—The President, acting through the heads of the appropriate Federal executive agencies, shall promulgate regulations necessary to carry out this Act and

to ensure that this Act is applied and implemented by all Federal executive agencies.

(b) SCOPE OF COVERAGE.—The Federal executive agencies that are included within the scope of this Act shall include—

(1) the Department of Agriculture;

(2) the Department of Commerce;

(3) the Department of Defense;

(4) the Department of Education;

(5) the Department of Energy;

(6) the Department of Health and Human Services;

(7) the Department of Housing and Urban Development;

(8) the Department of the Interior;

(9) the Department of Justice;

(10) the Department of Labor;

(11) the Department of Transportation;

(12) the Department of the Treasury;

(13) the Department of Veterans Affairs;

(14) the Environmental Protection Agency; and

(15) the Small Business Administration.

(c) ACTIVITIES.—Notwithstanding any other provision of law, the head of each Federal executive agency,

acting alone or jointly through an agreement with another Federal executive agency, may—

(1) identify related Federal programs that are likely to be particularly suitable in providing for the joint financing of specific kinds of projects with respect to Indian tribes or tribal organizations;

(2) assist in planning and developing such projects to be financed through different Federal programs;

(3) with respect to Federal programs or projects that are identified or developed under paragraphs (1) or (2), develop and prescribe—

(A) guidelines;

(B) model or illustrative projects;

(C) joint or common application forms; and

(D) other materials or guidance;

(4) review administrative program requirements to identify those requirements that may impede the joint financing of such projects and modify such requirements when appropriate;

(5) establish common technical and administrative regulations for related Federal programs to assist in providing joint financing to support a specific project or class of projects; and

(6) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) an agency responsible for processing applications; and

(B) a managing agency responsible for project supervision.

(d) REQUIREMENTS.—In carrying out this Act, the head of each Federal executive agency shall—

(1) take all appropriate actions to carry out this Act when administering a Federal assistance program; and

(2) consult and cooperate with the heads of other Federal executive agencies to carry out this Act in assisting in the administration of Federal assistance programs of other Federal executive agencies that may be used to jointly finance projects undertaken by Indian tribes or tribal organizations.

SEC. 8. PROCEDURES FOR PROCESSING REQUESTS FOR JOINT FINANCING.

In processing an application or request for assistance for a project to be financed in accordance with this Act by at least 2 assistance programs, the head of a Federal executive agency shall take all appropriate actions to ensure that—

(1) required reviews and approvals are handled expeditiously;

(2) complete account is taken of special considerations of timing that are made known to the head of the Federal agency involved by the applicant that would affect the feasibility of a jointly financed project;

(3) an applicant is required to deal with a minimum number of representatives of the Federal Government;

(4) an applicant is promptly informed of a decision or special problem that could affect the feasibility of providing joint assistance under the application; and

(5) an applicant is not required to get information or assurances from 1 Federal executive agency for a requesting Federal executive agency when the requesting agency makes the information or assurances directly.

SEC. 9. UNIFORM ADMINISTRATIVE PROCEDURES.

(a) IN GENERAL.—To make participation in a project simpler than would otherwise be possible because of the application of varying or conflicting technical or administrative regulations or procedures that are not specifically required by the statute that authorizes the Federal pro-

gram under which such project is funded, the head of a Federal executive agency may promulgate uniform regulations concerning inconsistent or conflicting requirements with respect to—

(1) the financial administration of the project including with respect to accounting, reporting, and auditing, and maintaining a separate bank account, to the extent consistent with this Act;

(2) the timing of payments by the Federal Government for the project when 1 payment schedule or a combined payment schedule is to be established for the project;

(3) the provision of assistance by grant rather than procurement contract; and

(4) the accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Federal Government under the project.

(b) REVIEW.—In making the processing of applications for assistance under a project simpler under this Act, the head of a Federal executive agency may provide for review of proposals for a project by a single panel, board, or committee where reviews by separate panels, boards, or committees are not specifically required by the statute

that authorizes the Federal program under which the project is funded.

SEC. 10. DELEGATION OF SUPERVISION OF ASSISTANCE.

Pursuant to regulations established to implement this Act, the head of a Federal executive agency may delegate or otherwise enter into an arrangement to have another Federal executive agency carry out or supervise a project or class of projects jointly financed in accordance with this Act. Such a delegation—

(1) shall be made under conditions ensuring that the duties and powers delegated are exercised consistent with Federal law; and

(2) may not be made in a manner that relieves the head of a Federal executive agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

SEC. 11. JOINT ASSISTANCE FUNDS AND PROJECT FACILITATION.

(a) JOINT ASSISTANCE FUND.—In providing support for a project in accordance with this Act, the head of a Federal executive agency may provide for the establishment by the applicant of a joint assistance fund to ensure that amounts received from more than 1 Federal assistance program or appropriation are more effectively administered.

(b) AGREEMENT.—A joint assistance fund may only be established under subsection (a) in accordance with an agreement by the Federal executive agencies involved concerning the responsibilities of each such agency. Such an agreement shall—

(1) ensure the availability of necessary information to the executive agencies and Congress; and

(2) provide that the agency administering the fund is responsible and accountable by program and appropriation for the amounts provided for the purposes of each account in the fund.

(c) USE OF EXCESS FUNDS.—In any demonstration project conducted under this Act under which a joint assistance fund has been established under subsection (a) and the actual costs of the project are less than the estimated costs, use of the resulting excess funds shall be determined by the head of the Federal executive agency administering the joint assistance fund, after consultation with the applicant.

SEC. 12. FINANCIAL MANAGEMENT, ACCOUNTABILITY, AND AUDITS.

(a) SINGLE AUDIT ACT.—Recipients of funding provided in accordance with this Act shall be subject to the provisions of chapter 75 of title 31, United States Code.

(b) RECORDS.—With respect to each project financed through an account in a joint management fund established under section 11, the recipient of amounts from the fund shall maintain records as required by the head of the Federal executive agency responsible for administering the fund. Such records shall include—

(1) the amount and disposition by the recipient of assistance received under each Federal assistance program and appropriation;

(2) the total cost of the project for which such assistance was given or used;

(3) that part of the cost of the project provided from other sources; and

(4) other records that will make it easier to conduct an audit of the project.

(c) AVAILABILITY.—Records of a recipient related to an amount received from a joint management fund under this Act shall be made available to the head of the Federal executive agency responsible for administering the fund and the Comptroller General for inspection and audit.

SEC. 13. TECHNICAL ASSISTANCE AND PERSONNEL TRAINING.

Amounts available for technical assistance and personnel training under any Federal assistance program shall be available for technical assistance and training

under a project approved for joint financing under this Act where a portion of such financing involves such Federal assistance program and another assistance program.

SEC. 14. JOINT STATE FINANCING FOR FEDERAL-TRIBAL ASSISTED PROJECTS.

Under regulations promulgated under this Act, the head of a Federal executive agency may enter into an agreement with a State to extend the benefits of this Act to a project that involves assistance from at least 1 Federal executive agency, the State, and at least 1 tribal agency or instrumentality. The agreement may include arrangements to process requests or administer assistance on a joint basis.

SEC. 15. REPORT TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the President shall prepare and submit to Congress a report concerning the actions taken under this Act together with recommendations for the continuation of this Act or proposed amendments thereto. Such report shall include a detailed evaluation of the operation of this Act, including information on the benefits and costs of jointly financed projects that accrue to participating Indian tribes and tribal organizations.

○

Senator CAMPBELL. We're going to try with this bill to make some changes in the way the Federal economic development assistance to Indian tribes is handled. S. 343 is modeled after the Tribal Self-Governance Act and would provide economic development funds directly to the tribes. The Indian Tribal Development Consolidated Funding Act of 2002 authorizes a pilot program for up to 24 Indian tribes to participate in projects to foster community, economic and business development in their communities.

In addition to block granting economic development funds to tribes, this bill creates a clearinghouse of Federal Indian programs for information that will ensure that tribes take advantage of all Federal agency programs with little or no cost to the Government. My intention is to work with the Administration to produce an agreement on this bill or something that looks similar to it in this session of Congress, even though we don't have an awful lot of time. If we can't reach an agreement this session, then I will reintroduce this bill again next year.

With that, I would introduce into the record two articles, one from the Economist and a copy of the GAO report dealing with Indian affairs.

[Information appears in appendix.]

Senator CAMPBELL. With that, we'll start with Neal McCaleb. If you'd like to just come on up and sit down, Neal, and Aurene, if you have something to say with this too, please come up here and sit with him. Nice to have you here, Neal.

STATEMENT OF NEAL MCCALEB, ASSISTANT SECRETARY OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. MCCALEB. Thank you very much, Mr. Chairman. It's a pleasure to be here.

Senator CAMPBELL. All your written testimony will be included in the record.

Mr. MCCALEB. All right. I may just do that, rather than read it into the record.

First of all, I want to make it clear that we're absolutely in support of both the concept and the letter of the bill, because it, I think, builds on some things that we've already accomplished in this consolidation and integration of Federal programs, due to single agency oversight to deal with Indian interests. We've seen the success of the legislation, Public Law 102–477, which integrated the training programs and the education programs. That's been very successful, it's been very enthusiastically endorsed by the tribes and this is very similar.

We think there's a lot to be accomplished by the integration of these different programs. Right now we have these programs scattered across many different departments and agencies. The tribes have to make applications individually to these agencies. Then they have to have a report of financial accountability. This provides a streamlining so that they can make one application, and there's a bill that provides it through the Department of the Interior. It's coordinated for all different agencies. I think there's a lot of synergism and efficiency associated with the bill.

There are some tweaks, I think, that some different departments are giving some different information to us, the Administration,

they have some suggestions or tweaks to the bill. I'm sure that we'll visit with the committee about that at a later date. But the bill substantially is enthusiastically endorsed by the Administration. And I think with that, I'll just answer any questions.

[Prepared statement of Mr. McCaleb appears in appendix.]

Senator CAMPBELL. Well, thank you. I appreciate that. It's rare that we get a bill that's enthusiastically endorsed by anybody. It's kind of nice. And whatever those tweaks are, if you would have Aurene or somebody get together with the staff and Senator Inouye's staff, we'll try and——

Mr. MCCALEB. And it's mentioned in the formal testimony.

Senator CAMPBELL. I see. Good.

Conceptually, you think that it is time to extend self-governance to other areas like economic development, as this bill would do?

Mr. MCCALEB. Absolutely. As you indicated earlier, the self-governance legislation that was passed early in the last decade has been very successful, we may have 220 tribes that are contracting or compacting for their own self-governance, which amounts really to a block grant to tribes. That is a concept that's available in this bill and I think it will expand to other tribes under this bill. I think it will expand the concept of self-governance.

Senator CAMPBELL. In the past, whenever we have talked about self-governance, although I think the concept is becoming more acceptable now and a little easier to deal with with tribes, I can remember years ago when we would talk about it, there was always a worry that, is self-governance code for taking away the trust responsibility that we are obligated to provide and that tribes have a right to expect. But I don't seem to hear that quite as much now.

Maybe I would ask you, how do we encourage tribes to expand self-governance? One of the other things that we hear, Neal, as you know, is that new tribes come in after we've put something in place, and it may be in place for 1 year or more, and people come in all the time and say, we didn't know about it. So there seems to be a vehicle of disconnect somewhere, by the time we put something in place, that they know they actually have available to them.

Mr. MCCALEB. Well, I think in Indian country, there's a general awareness of the opportunity of self-governance. Many tribes choose to continue and not be self-governance, but contract under 638 for a variety of programs. And then some tribes prefer to be direct service tribes, where the BIA provides all these services. And part of self-governance is letting tribes make their own decisions. That's happening, and I think that's probably good.

I think there's a general awareness, you're right, though, that initially there was a lot of reserve about self-governance. I was privileged in 1983 to be a member of President Reagan's Commission on Indian Reservation Economies. One of the recommendations that we made is very similar to what we've done in self-governance, and that is to take the money that is ascribed to the tribes in a variety of programs and just divert it directly, or not divert it, but transmit it directly to the tribes in the form of a block grant. That's essentially what self-governance is. When we made that recommendation in that commission report, it was roundly repudiated in Indian country.

So there is a kind of an educational process, a learning curve, if you please. We had a surge in self-governance when it started about in the 1995, 1996 through 1998 era, when it picked up. It's finally leveled off, but we're continuing to add self-governance tribes each year.

Senator CAMPBELL. From the time you were on that commission and you had considerable experience in Oklahoma before you came to the Federal Government, and the time you've been in your present position, have you noticed any correlation between self-governance and the economic success of tribes that have participated in self-governance?

Mr. MCCALEB. Yes; I think so.

Senator CAMPBELL. Can you say that the ones who have used it more have raised their standard of living for their people?

Mr. MCCALEB. I think so. The Harvard Project people have made the point that one of the real seed beds of economic growth is a stable, functioning, true self-governing tribe that has a strong tribal government. This process of self-governance would simply strengthen those aspects, both from the legislative and the administrative standpoint within the tribe that is conducive to strengthening those institutions within the tribal government that provides stability and would provide a good environment or a good seed bed for economic growth and economic development.

Senator CAMPBELL. Thank you. In fact, someone from the Harvard Project is going to be testifying a little later. Maybe they can inform and enlighten us a little bit more about that.

Those are the only questions I have, Neal. Did Senator Inouye have anything he wanted me to ask?

There may be some written questions from other members of the Committee, but we'll be looking forward to working with you in the next few weeks, if you can, on this bill. Hopefully we'll be able to get the thing through this year, if it meets with the approval of the tribes.

Mr. MCCALEB. I'll look forward to it, sir. Thank you for the privilege of being here today.

Senator CAMPBELL. Thank you very much.

Our next witness panel is Tex Hall, president of the National Congress of American Indians; Ivan Makil, president of the Salt River Pima-Maricopa Indian Community Council; and James DeLaCruz, council member of the Quinault Indian Nation.

We might say before we take testimony, James, I knew your dad well, he was a wonderful friend and great Indian leader. Like many other people in America, we were just terribly distressed when he unfortunately passed away. I was in an airport at the time, and had just bumped into another friend, a mutual friend between your dad and me. He's the one that actually told me about it. I want you to know that our hearts really went out to your family.

Mr. DELACRUZ. I appreciate that.

Senator CAMPBELL. And Ivan, I'm sorry I didn't see you when you came in, or I would have come over and said hello. We've been friends for so long.

Tex, nice to have you here. We'll start with you. I might tell you that—did you see that thing on a web site where you and I supposedly had some huge disagreement on a Friday in a committee

hearing here which we have never had? We don't do committee hearings on Friday. It was not very complimentary about me or you. We're thinking about responding to that, it was so bad. It was fabricated.

Mr. HALL. No; I didn't bother to look at it, based on what some of the folks had told me, that it was negative and it was pitting us against each other, and a derogatory remark. That is completely a fabrication.

Senator CAMPBELL. Totally false. We've been friends ever since we've known each other. I didn't know about it either until I got a call from the president of the Northern Cheyenne, where I'm enrolled. They were very upset with it. They said, did you see this? I said no, and they said they thought they were going to respond to that, too, because it was so bad.

Mr. HALL. I got the same call from your tribe. I think it's important that we do. At least I will, Mr. Chairman.

Senator CAMPBELL. Thank you. Go ahead and proceed. And to all of you, your written testimony will be included in the record.

STATEMENT OF TEX HALL, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. HALL. Thank you, Mr. Chairman and members of the committee. I appreciate the opportunity to present on S. 343 today.

Just a little background, we at NCAI, National Congress of American Indians, are really supportive of the concept of this bill. We've been working with Neil McCaleb, the Assistant Secretary for Indian Affairs, working on an overall economic development focus. Matter of fact, NCAI is meeting in Bismarck on June 16–19 and the whole conference is focused on economic development. So this bill is a great start, we think, toward putting some of those tracks down.

Finally, we're looking toward even a White House initiative later on this fall. I think we even set the date, it's September 18 through 20. So obviously we want to work with the Committee as we move this forward. This bill is an example of the 477 program, which of course has been very successful in Indian country. It's like a one stop shop.

The bureaucracy, I think, in line with your comments earlier, Mr. Chairman, about why some tribes don't, I think the bureaucracy discourages many tribes from developing their applications. And the one stop shop, especially if we can add that onto the portion of the bill that talks about the waiver of the provisions, the only thing I see now is what happens if the Federal agency does not want to waive its provisions. We've seen that in the bureaucracy, and some agencies are very willing to look at waiving certain red tape and regulations and others are not. So I think we need to have some sort of strength in the bill that says what happens if an agency does not want to waive.

Those were just my general points. We have submitted our written testimony, Mr. Chairman, and just briefly in my verbal testimony, we definitely want to support this bill, again, not only for NCAI but for my tribe at the Fort Berthhold Reservation in North Dakota.

At the BIA, we have a subcommittee on economic development. This really lays the groundwork for one of our recommendations for consolidation of Federal agencies. So we're really in line with that.

I do have a concern on the number of applicants. The bill says 24, Mr. Chairman. I'm wondering if we couldn't increase that. Because one of our concepts as we're working for this national economic effort is that the World Bank, the World Bank has a goal in 15 years to reduce poverty by 50 percent. That's an aggressive goal, but I think it's a very worthwhile goal. I think it's something we should look at in Indian country and with the United States Congress, is a similar goal to reduce the 50 percent national unemployment in one-half by 15 years. That would reduce us down to 25 percent. But I think we need to even look at doubling the 24 tribes to 50.

The second point I want to raise is that the criteria for eligibility for the demonstration project, again, there's going to be tribes, as you mentioned, Mr. Chairman, in self-governance, that are very capable. And I think we somehow have to think of those tribes that are the have-nots, those tribes that need the technical assistance, that probably need the funds the most. Somehow we need to think of criteria that doesn't eliminate those tribes. So I would strongly advocate that we look at some language to help those tribes that don't, I mean, the criteria doesn't exclude them, maybe is a better way for me to put that.

Another point, a recommendation, Mr. Chairman, is that we believe that all Federal agencies should be required to create a catalog of programs for provisions. Right now the bill has language that says may, and we strongly support that provision of the bill, but I think it should require.

So that's just some technical stuff. I think again that that would really be beneficial, to mandate the Federal agencies to comply.

Also another recommendation is for legal reasons, if an agency does not want to comply, is there any oversight provision that could be provided here? Because I think it says after one year, the President shall do a report to Congress. That might be a little bit long. I'm just thinking of some sort of technical amendment that would require some sort of oversight. Again, some Federal agencies are very cooperative and very much want to do economic development. Others are not.

So if an agency does not, and they're saying, well, for these legal reasons, we don't want to waive any sort of regulation provisions or the criteria, or they're just not cooperating, I think there could be some sort of a technical amendment or some sort of oversight that could spur them on to comply with working with a tribe. Because as we know, in Indian country, Mr. Chairman, and you know yourself, that if we're working on a housing project or a lagoon project, we may have five Federal agencies working on that single lagoon project for housing development for a tribe, with five different bureaucracies and five different regulations and five different sets of funds.

Senator CAMPBELL. Who don't talk to each other much.

Mr. HALL. And we don't talk to each other very much. So again, the concept for this is a wonderful concept. We just think that's it's very important that we move forward on this.

Just in line with your point about why some tribes aren't either using self-governance or using the legislation that is passed by Congress, you know, that's a difficult—and I was listening to your question on it, that's a very valid question. I think the bureaucracy sometimes affects tribes from even wanting to apply, because they know they're going to jump through many hoops. We just gave the example of one project, a lagoon project, using five Federal agencies.

So I think if we can, once the bill hopefully passes and everything, with all the amendments from Indian country, and it goes forward, which I hope it does, we somehow, with NCAI and with the Department of Interior, we need to really market this. Because I think this is a wonderful opportunity. Obviously we will do that at the NCAI conference in June and we will do that at the summit later on in September. We will do our part to really market this bill, so that tribes are aware.

But again, the criteria might scare some tribes. We've really got to look at that criteria so it doesn't exclude those tribes that need it the most. So that really does it for the gist of our comments, Mr. Chairman. I'd be happy to answer any questions later on.

[Prepared statement of Mr. Hall appears in appendix.]

Senator CAMPBELL. I appreciate it. I might mention that I'm not wedded to the 24, by the way, we just picked 24 because it's 2 in each of the BIA areas. I thought that would make a nice, round number, but it certainly could be more. As you know, we do these things in two steps, the first one is a concept bill like this that sets up a demonstration project, and if we get some information back and it sounds good and if everybody's happy with it, then we move forward with the bill to expand it. That's probably the way this will be done, too, if the thing works out, why then we'll try to make it bigger. But the number 24 certainly can be changed if tribes think that it should be.

Why don't you go ahead, Ivan.

STATEMENT OF IVAN MAKIL, PRESIDENT, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY COUNCIL

Mr. MAKIL. Thank you, Senator Campbell, and other committee members. I really appreciate the time and especially the efforts in terms of this bill. It's really good to see, refreshing to see that we're finally beginning to see some creativity in how we draft legislation that benefits tribes.

This is really important, particular to us at Salt River. Part of what I'm going to share with you today is just some experiences that we've had at Salt River to sort of explain how I think this program can be beneficial to other tribes, and had this program been in place years ago for us, I think we would have been much further along, as I think it will benefit other tribes in the future.

Originally, Salt River was in an area where our ancestors made and developed an economy out of a river, Salt River, which the tribe was named after. But the Federal Government some time back dammed up that river and basically cut off the life blood of the community. We were primarily an agricultural tribe. So the agriculture pretty much went away without water.

So that forced us to look at what alternatives we might have. At that time, we were quite a ways out from the Phoenix metropolitan area. Fifty years later, all of a sudden, the metropolitan area has started growing up to our boundaries. And as it grew up to our boundaries, it forced us to start looking at how we start to adapt to this more contemporary society and ways of generating revenue so that we could take care of our people. Not only take care of our people, but provide the kinds of housing, health care, etc., that was necessary for all communities.

And I guess you'll see some of the slides that we have here that will show you and emphasize some of the things we're talking about. One of the things that we've been fortunate about is that we have realized that the decisions we make today are going to be really effective, affecting people in the next generation. They don't affect us directly today, but we know that what we do today is going to impact us. That concept of understanding how we create communities and make decisions for the next seven generations is really critical to all tribes. It puts us in a position so that we make better decisions.

We're one of the, as Mr. McCaleb had mentioned, we're one of the 220 tribes that are a self-governance tribe. But we started in self-governance actually before self-governance became popular. Back in the Nixon era, when President Nixon first launched the self-determination efforts in 1970, Salt River contracted for its first program, before Public Law 93–638 was in effect. In 1970, we contacted for a police department.

What that started allowing us to do was to start utilizing the revenue and understanding how, by supplementing it with our own resources, managing it ourselves, that we could create a better department. Today, that experience brought us down the road to where we contract for almost all the services. So when we made the conversion to self-governance, it was a real simple process.

But I guess that experience and one of those main principles that are contained in your bill, S. 343, that authorizes that kind of expansion of this program, really is, I guess, sort of the next step for all tribes, especially for those that have never had the opportunity to do self-governance.

But it's important that the funding to the community, the businesses and economic development is highlighted. Because it continues to be the foundation of what we consider both a systematic and a holistic approach. This systematic and holistic approach is really critical, because the systematic approach deals with functionality and efficiency. The holistic side of this effort really is consistent with how tribes do things anyway, how tribes think. So it gets to the cultural base of tribes.

And it's important, as we move along and as tribes are growing, that we continue to bring these two portions together. Because without that, as was mentioned earlier, you have one agency doing one thing, trying to deal with something in health care or housing, and you have another that may be dealing with economic development. But for instance, infrastructure, whether it's through housing or some sort of economic development project, ought to be coordinated. The best people to do that are the tribes themselves.

In the 1980's, Salt River first developed a shopping center. We were one of the first tribes to ever develop a shopping center of our size. And part of what that did was, we were able to do that because we had contracted for some of the services, particularly realty. What that did was it put us in control of that process. Public Law 93–638 gave us a process that allowed us to change and to manage more realistically the development process that was important.

That development process was a very cumbersome process. We learned a lot of things over time. On the screen what you see is an example of our lease process. The yellow is the highlighted area of our process. I know it's difficult to see. But it talks about all of the various due diligence, the requirements of land issues, especially when you deal with a lot of land issues, that we had to develop over time. This is the process that we use today.

So you see the involvement of the BIA, which is very minimal, those are where the trust responsibilities of the Bureau are still maintained.

Senator CAMPBELL. The green?

Mr. MAKIL. It's the green. The BIA is in the green.

On the next slide, if you compare this process, most tribes deal with this process or a similar process, where they have to get approval from the Bureau. You see all of the green here, versus the decisions that they really are in a position to make in the yellow. That is so important, and that process is so important to creating a foundation for revenue, so important for making decisions about what tribes can live with in terms of growth and development. Because if we can't control growth and development and how we grow, from health care to housing to economic development to infrastructure, then we will never meet the needs of our community.

Because we have taken control of those resources and been able to establish this process, one of the things we've also been able to do in this process is create a data base of our land records. This sort of ties into the overall issues of how you manage trust lands and trust funds. Because part of what we've done in this process is because we had to have a system that helped us to understand ownership of those lands.

This is a map of our community. With our system that we've developed, because we had to develop it for development purposes, we can go in and a landowner can come in and say, I have my allotment, here's my allotment, and we can break it down to each section. Then we can break it down even further, so that any landowner that walks in our realty office can walk out with a description of their land, the amount of interest they own in their land, no mater how severely fractionated, and we can even show them exactly where their land is on a map.

Now, we've been able to do this because we've been able to manage these resources in a self-governance type of way. That's something that I think you won't find hardly anywhere in the country.

Ten years ago, the community developed what we call a vision statement that would guide our community. What was important in that process is that it wasn't a process of individuals or of consultants or of even the council. It was a product of the whole community. The idea came from the administration and the council.

But we had a series of public hearings where we brought in tribal members and we talked about housing, we talked about health care, we talked about development and the future growth of our community, what did we want to see our community look like.

Through this public hearing process, it brought in and created ownership in this vision of our future, by the individual members. So that it wasn't an issue of tribal lands versus allotted lands, it was an issue where we were able to bring all of the parties together and have some agreement in general. Obviously, not everybody agrees. But in general, there was a significant amount of agreement and support in this way.

This is where, by having control of those various services and being able to manage them internally, that although there's always a concern by the Bureau that there's a trust responsibility and that trust responsibility goes to individual allottees, that we've been able, because it's been important to bring this cohesiveness of community together, that the tribal members participate in this process.

So when we talk about, and I think Tex brought up a really good point, we have concerns about it, too, in terms of waiving certain regulations. Too often, tribal governments are looked at as, well, we don't look out for the interest of the allottees. But the allottees are our constituents. Things only work if the allottees support what we're trying to do in terms of tribal government.

So as long as we bring them into this process and we make them a part of the process, and they are a part of this process, then they have ownership in the vision of the future. That ownership in the vision of the future is what can come about when you can wrap your arms around all of these resources that are available to you. All of these Federal agencies have resources that tribes need.

From our experience, I have no doubt that the creation of this bill was an extremely great idea. You sort of liken it to a fund where you can leverage other opportunities and you don't waste dollars. You get the biggest bang for your buck, so to speak, because you don't have duplication and you can avoid that kind of duplication.

In this process, we were fortunate because we were forced to develop the kind of expertise internally. Our experience, and I personally have talked to a lot of tribes around the country about development and some of the things that we've been doing, we've been invited several times to share not only the things we've done in economic development but also the things we've done with, as you saw earlier, the management process of realty. We've been asked to share that program with other tribes.

That was an evolutionary process. It didn't happen overnight. It happened starting in 1970 when we contracted for the first program. With the principles that are laid out in S. 343, what you're doing is you're giving tribes the opportunity to start to develop that expertise. Because when they have the opportunity to start managing those resources, they also have to start developing the expertise. Or one of the things that we think that maybe should be considered in this demonstration project is, if the tribes do not have expertise, is making sure that within the bill there's the oppor-

tunity to gain that expertise or hire that expertise. That's really critical.

Because one of the things that we've found as we've created enterprises, we now own and operate nine different enterprises, everything from a sand and gravel operation to a golf course that's one of the top 100 in the country, we own a cement plant in northern Arizona that's not even on our land, on tribal land, it's on land that we purchased. But all of these opportunities came about because we hired the expertise and we learned from that expertise.

I realize that time is running short and I'm getting a little long here. But I guess what I mainly wanted to do is get across the point that what we see is a great opportunity that tribes really have never had before. Self-governance was the first effort. Expanding it, and you know, self-governance was really confined to whatever we had in the Bureau. It had a lot of limitations. When you expand it, you really give the opportunity for tribes to become self-reliant and self-sufficient.

That's how tribes begin to re-instill and get back the dignity that we've always had. We've always had economies before the Federal Government was here. We still make decisions that we think about for the future.

I thank you for the opportunity to be here to share some of these thoughts with you today. Obviously this is a project that I feel I have a lot of passion for, because we've seen how it works and I can show you the experiences that we've had and the growth that we've had and the opportunity that has been created for us. I see this as a huge opportunity for other tribes.

If there's anything that we can do in terms of our experience to lend to this effort, I'm perfectly comfortable in committing myself as well as my staff to any efforts, and the experience that we have. Thank you.

[Prepared statement of Mr. Makil appears in appendix.]

Senator CAMPBELL. Thank you. That was a very fine testimony. Between you and Tex, you make me feel good about this bill so far. [Laughter.]

I wish I could take all the credit for writing it, but as you know, staff does an awful lot, and have put an awful lot of work and thought into this bill.

I'll ask you questions in a few minutes, but I want to tell you, I think you're absolutely right when you talk about, if I can paraphrase it, there's more than one kind of growth when you have the growth of economic development, because you have the growth of people's ability to control their own future. We sometimes hear, well, you know, we can't very well set up that program, because we don't have the expertise to run it. But it seems to me they can go hand in hand. People grow at the same rate, maybe, or sometimes even faster than the business grows. If they're ever going to learn how to do it, then there's got to be some interconnection between the growth of the business and the growth of the skills to run it, too.

You have certainly got over one hurdle. I was reminiscing, when you told me about the terrific inclusion you have in your tribe when you make decisions, I had a frustrated person one time, I was visiting a tribe and a fellow came out of a tribal council meeting,

he was growling around and I asked him what was wrong, and he said, my gosh, you get two Indians in this tribe together, you can have three fights. [Laughter.]

You've gotten over that hurdle pretty well with your tribe, I think, Ivan. It sounds like you have a model that tribes could use.

James, if you'd like to proceed, please.

STATEMENT OF JAMES DELACRUZ, COUNCIL MEMBER, QUINAULT INDIAN NATION

Mr. DELACRUZ. Good morning, distinguished members of this committee and Mr. Chairman.

If I could just add a personal note, thank you for your comments. Joe was my older brother, and we lost him on his way to a self-governance conference. I often wonder how he would look upon things today as they are. Maybe we can hear him rumbling in the background from time to time and think about what his positions would be in self-governance. I'll carry your message to our family and to the Quinault Indian Nation, and we appreciate that. Thank you.

My name is James DeLaCruz. I'm a councilman with the Quinault Indian Nation. I'm honored to provide testimony on S. 343, the Indian Tribal Development Consolidated Funding Act of 2001. I am here today representing the six tribe self-governance consortium which administers the self-governance communication and education project. The members of this consortium include six of the original 10 tribes that participated in the self-governance demonstration project in 1989, the Mille Lacs Band of Ojibwe Indians, the Jamestown S'Klallam Tribe, the Lummi Indian Nation, the Hoopa Valley Tribe, the Sac and Fox Nation, and the Quinault Indian Nation.

Prior to self-governance, we as tribes could not easily function as the primary service provider on our reservation. That function had been assumed by Federal bureaucracies. The simple concept that sovereign tribal control at local level works better than Federal control hundreds and thousands of miles away is a hallmark of self-governance. In 1975, Nixon reformed policy of tribal self-determination allowed tribes to contract and reform Federal services. This was quickly limited with oppressive regulations and Federal contract oversight.

Self-governance brought about many changes: Contract reform, the elimination of excessive regulations, the consolidation of funding and programs, the elimination of unnecessary supervision and the adherence to government-to-government relations. Consistent with the tribally driven self-governance initiative, tribes must take the leadership in structuring how the Federal Government carries out its trust responsibilities to Indian tribes. Economic self-sufficiency remains an unattained goal for most tribes.

S. 343 focuses on one of the aspects of our problems in this arena, which is how to navigate through the available Federal resources and then to determine how to best utilize these resources. S. 343 uses the demonstration model of self-governance. S. 343 recognizes and builds on the premise that we are sovereign governing nations.

This legislation allows tribes the opportunity to engage in a demonstration project and negotiate with Federal agencies to determine how best to make Federal programs a successful effort toward achieving economic self-sufficiency. This allows for a controlled experiment of inter-departmental cooperation and program consolidation without trying to set all the elements in advance. It allows tribes and the departments to negotiate. It allows tribes knowledgeable of the needs and resources that it has, to design an Indian program for economic development, it allows tribes to search among the menu of the various Federal programs as well as State programs where the State agrees to cooperate, to put together program elements and funds to support the programs designed by that tribe.

In addition, it seeks to provide mechanisms of inter-agency administration, regulation, consolidation and one-stop shopping. S. 343 will serve to streamline economic development funds that tribes can access whether an individual tribe or a consortium. We recommend that tribes who seek to participate in this demonstration project develop tribal business codes. All too often, tribes enter into negotiations to allow outside vendors to bring their businesses to reservations, yet they are unaware of the need to have a tool in place such as the tribal business code to educate the outside parties about the Indian culture. All economies that we bring to our land must reflect our traditions and customs, which are the very nucleus of our existence.

Just as the reemergence of tribal goverments again operating our own programs and administering services to our own people has occurred, we can break the cycle of institutional dependency and begin to seek ways to develop sustainable reservation economies for our people. To authorize 24 tribes to enter into a demonstration project, to access economic development funds from all Federal departments is a very positive step and we applaud your efforts.

Legislation such as the Indian Tribal Development Consolidation Funding Act of 2001 is a very good step. Thank you.

[Prepared statement of Mr. DeLaCruz appears in appendix.]

Senator CAMPBELL. Thank you. I appreciate the testimony of all three of you. All three of you are well-known tribal leaders in your own area. And I was reflecting on your testimony, James, in particular. We find ourselves, I guess, in Indian country now at kind of a cross-roads that some people are having a little problem dealing with. Because traditional Indian people are not materialistic. That's what the potlatch and the giveaways are all about, to show disdain for materialism, to show that they're not tied to earthly goods, that they have a higher calling. Yet at the same time, everybody knows you've got to have some material things if you're going to have better schools for your youngsters or hospitals for your people or nutrition for people that need it. You've got to have that.

But it's been my experience, at least with the vast majority of tribes that I've visited with and know, that the tribal leaders have found a way to balance one with the other. In fact, I don't know very many tribes that would elect somebody to tribal leadership that has just forgotten the old traditional ways in lieu of just making more money or building more buildings or something of that nature. Even the big casino tribes, they've tried to keep, in my

view, have tried to keep a really close interaction between tribal beliefs and the ability to move ahead in the 21st century in terms of marketing.

You also reminded me that many times in the past, the Indian thought at least in some areas was the way we create economic development is that we get a Federal grant, and with that Federal grant we provide jobs for our people. Somehow that's called "economic development."

You know as well as I do, coming from very modern dynamic tribes, that's not the way it works on the outside. The way it works is you create a product or you create a service and you market that, and the profits from that then expand the job base. I think Indian tribes are really learning that there's a big difference between just creating jobs from a Federal grant which has to be renewed every couple of years or your economy falls apart, and doing something where you have created a service or a product.

But I know all three of your tribes have done very well. But also I know in the process it's been kind of a step by step thing, you know, little by little.

Let me ask you first, James, the time when you began, you mentioned something about tribal business plans, tribal business codes, I guess you called it. Who wrote that for you? Did you use somebody else's model for that, or did you just try to figure it out yourself, what is the best thing to have in a business code?

Mr. DELACRUZ. The Quinault Tribe does have business codes and practices.

Senator CAMPBELL. Where did those originate? Did you just do them yourself or was there a model somewhere that you used from other tribes, or did the Bureau or somebody else at Federal agencies help you with it?

Mr. DELACRUZ. I don't really have an answer to that. I know that we rely on our staff and we go through a committee process, develop them with a public hearing process.

Senator CAMPBELL. Maybe I could ask all three of you. There have been obstacles over a period of time, as this growth has gone and tribes are recognizing more and more that they can expand self-governance. Maybe you can answer this, Tex. What were the biggest obstacles you faced when you first started talking about expanding self-governance programs? Did you get those from the Federal Government? Was that where the biggest obstacles were, what they call "white-tape" sometimes? [Laughter.]

Mr. HALL. So noted. I think your point is right on. I think it is the bureaucracy that hinders the development. In some instances, there's no regulations of time lines. It can take so long to get a business lease done. And we don't have the staffing or perhaps the expertise in some areas of leasing, for example. And there's no real time line that's business friendly.

Obviously we can't sit for 1 year or 2 years or 3 years or 4 years waiting for approval of a business lease. Economic development is just not going to happen.

But in response to your point, Senator Campbell, I think we should look at a recommendation for a provision to, as President Makil and Mr. DeLaCruz were talking about their tribes, some sort of a tribal peer learning process. This is a demonstration project.

And after 1 year or 2 years, there will be hopefully some successful tribes. There should be a provision that they have to help, maybe not have to, but they should be strongly encouraged to assist other tribes. Because really, tribes that need it most are really going to benefit from this.

But I'm just really cautious and concerned that sometimes those tribes that are successful are the ones that will be there. And those tribes that need it the most maybe are not going to qualify. And maybe after the demonstration project, those tribes that President Makil just showed a big slide on, on the development and leasing and how he streamlined his process, if he was able to assist other tribes that are waiting to become a demonstration project tribe, I think that provision in here would really add to the legislation. I think it's really important.

Senator CAMPBELL. If tribes themselves don't, I wonder if we couldn't do that at the Federal level, take things that have made them successful and put something in place where we have a mentoring process, through legislation or through the agencies, where they can provide a road map of what was successful, what's needed to become a successful tribe. I know they're not all different, and I was thinking, Ivan's tribe is near a very large, metropolitan area, yours is much farther out, a little difficult to get to, the work force, transportation of goods, all that kind of thing is a little more difficult. I don't think we should transfer any wealth yet from Ivan's tribe. [Laughter.]

But I know that there are different circumstances. But there's got to be some kind of a vehicle where some can learn from the experiences of others.

Mr. HALL. I think it will be a cost savings, Mr. Chairman. Because we know there's certain instances where a tribe that maybe doesn't have the administrative capability will not be successful if that technical assistance or the tribal peer learning process is not provided. This would save money in the long run, I think, if we could add some provision of this type.

Senator CAMPBELL. No question about it.

Ivan, does your tribe get water from the Central Arizona project which was completed a few years ago?

Mr. MAKIL. Yes, it does.

Senator CAMPBELL. Is that factored into your economic development at Salt River?

Mr. MAKIL. It sure is, and I'm glad you mentioned that. Because sort of relating to all this is, tribes naturally, because culturally that's how we think, look at the scope of things as the total picture. And water is just as critical as being able to get a loan to build a building or to do business. That's where Federal agencies, Federal agencies don't have the scope of vision that tribes do. Federal agencies have a tendency to deal with their issue. So they have blinders on because they're so focused on their issue.

The blinders focus only on that one issue. Well, what the tribes have to do is we have to look at all of these different agencies and see what we can get the best and get the help. And it's difficult if you have duplication with agencies because they aren't talking to each other. What's really important and what has been helpful to our success is that when you start to get these Federal agencies,

or when we can manage these things ourselves, and give ourselves the flexibility and enough time, and that's what this project needs to be able to do, it needs to have flexibility.

You also need to be able to give time to have successes. You also can't do it without—I think what you need to have is almost a multi-year kind of thing. Because you're not going to do it in 1 year, in one project. You need to be able to show results.

And I think you also need to have some sort of priority funding. That priority funding.

Senator CAMPBELL. This bill is a 3-year demonstration project. Do you think that ought to be lengthened, or does three give us enough time?

Mr. MAKIL. I think it gives you a good start. It's going to depend on where a tribe is in terms of—see, the tribes look at how they create a program for the entire community. One of the things we've been able to do, and I think that a lot of tribes are doing now, there's an understanding that whatever development they do, whether it's in New Town, ND or in Salt River, is that there's—we look at it this way. When we do a development, whether it's for business purposes or it's for agricultural purposes or it's for residential purposes, we know that there's a physical impact in the community.

Usually the reason that we're changing something is because of an economic impact. So we have a physical impact, we have an economic impact. With that economic impact comes a social impact. Because now, socially what you have is, you have more jobs, you have revenue, you're starting to create that economy. So there's a social impact. So now you have a physical, you have an economic and you have a social impact.

What Federal agencies don't understand, but what tribes do understand very well, is that there's a fourth component. That's a spiritual impact. We have to be able to live with whatever we create, whether it's business development or residential development. Or it's the use of water. We need to make sure that how we use water for the next at least seven generations is figured into this equation. So tribes think of things in that way.

When you get all of these agencies together and you create the opportunity for tribes to actually create a plan for the growth and the development and the future of that community, dealing with the physical impacts, the economic impacts, the social impacts and the spiritual impacts, you obviously want all those impacts to be positive impacts, not negative impacts. The way you do that is when you have control of those resources and you can manage them to meet your specific situation.

Senator CAMPBELL. Thank you. Maybe one last question, Ivan. You mentioned your tribe just developed a shopping center, did I hear that in your testimony? Was the financing done through private banks?

Mr. MAKIL. Yes.

Senator CAMPBELL. Did you have any problem getting the capital you needed to develop that?

Mr. MAKIL. Yes. [Laughter.]

Senator CAMPBELL. What were the main roadblocks to getting the money?

Mr. MAKIL. Well, roadblocks were many. Obviously it's the perception that——

Senator CAMPBELL. Worried about unstable government and all that we've heard over and over?

Mr. MAKIL. Exactly, stability in government.

Senator CAMPBELL. How long did it take you to finally get through the process and get the money?

Mr. MAKIL. I think the process was at least 6 years in the making. We opened that shopping center in 1988. But that process was started like in the early 1980's.

Senator CAMPBELL. And it has been successful, with the growth of that town, Scottsdale, growing all around you. Have you found at all that the success you had with that shopping center has made it easier for you when you want to borrow money for other things, other developments?

Mr. MAKIL. Yes; it has established a track record, and the one thing that we also did was, we had Federal legislation that dealt with arbitration issues. Those kinds of things were really important to bankers, so there was an assurance they could collect their money if there was a default. Those kinds of things that tribes have to get through.

We have established a track record. We just did a renovation of our cement plant that was about a $118-million renovation. General Electric Credit Corporation was the company that funded that loan. When we talked with General Electric Credit Corporation, what we found was that this was the first loan they had ever made to an Indian tribe on an Indian reservation. Now that they found out it could be done, there was an interest in seeing what other projects they could begin to do.

But it takes that kind of experience in Indian country with businesses, with finance companies, before we have any credibility with them.

Senator CAMPBELL. Well, this bill is the demonstration project bill, and as I mentioned a little while ago, it's in two parts. We're going to try to get this thing through and if it works good, we'll try to expand it and make it permanent. We've had some experience in the past where we tried to help tribes with demonstration projects that did work good, but we couldn't get an extended bill through, or we haven't yet.

I'm thinking in terms of the bill we passed a few years ago that allowed tribes to self-insure, so that if there was some kind of a default, you mentioned that, Ivan, if there was a default, the investors wouldn't lose their money. I thought it worked great, and all we heard was that it was working good for the tribes that were in that demonstration project. But we haven't been able to get a permanent bill through yet to expand that. So hopefully we will.

Well, thank you very much for your testimony. Any additional comments, please send them in or call them in.

We will now hear from Katherine Spilde, Senior Research Associate with the Harvard Project on American Indian Economic Development at Cambridge, MA. Katherine, please proceed. Your complete written testimony will be included in the record.

STATEMENT OF KATHERINE A. SPILDE, SENIOR RESEARCH ASSOCIATE, HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT, KENNEDY SCHOOL OF GOVERNMENT

Ms. SPILDE. Thank you. Good morning. Thank you for the opportunity to appear here today. I'm Katherine Spilde, and I'm a Senior Research Associate at the Harvard Project for American Indian Economic Development, which is housed in the Kennedy School of Government at Harvard.

The primary research objective of the Harvard Project is to understand the conditions under which sustained and self-determined social and economic development is achieved among American Indian nations. I'm here today to speak in support of the Indian Tribal Development Consolidated Funding Act of 2001. Basically I'm going to be testifying from my position as a researcher for the Harvard Project, which has produced numerous research studies regarding institutional and economic development in Indian country.

My testimony today relies upon the research we have done at the Harvard Project, specifically applied here to analyze and recommend ways to facilitate the successful implementation of the goals and purposes of this important legislation. Just by way of background, I know that other folks from the Harvard Project have testified before the committee before, but to reiterate, the research evidence is clear on the overall direction of productive Federal-tribal relations. That is that self-determination is the only Federal policy in a century that has created conditions where American Indian tribal governments have been able to begin to reverse the legacy of poverty and economic suppression to which they have historically been subjected.

For many Indian nations, and of course not all, economic development activities are now flourishing, often for the first time in a century. Most importantly, improvement in economic conditions in Indian country has been accompanied by improved social conditions. So consistent, then, with self-determination policies and the government-to-government relationship between Federal agencies and tribal governments, this legislation appropriately encourages and promotes coordination between Federal agencies and American Indian communities. S. 343 builds upon the principles of the Indian Employment Training and Related Services Act, also known as the 477 Program, which of course is considered one of the most successful economic development programs administered by the Bureau of Indian Affairs.

As with the 477 program, S. 343 encourages the integration of funding across the Federal agencies for the benefit of tribal governments. The research at the Harvard Project supports the partnering of Federal agencies and tribal government with the purpose of a coordinated tribal economic development strategy. It would allow tribal governments to determine what their economic development priorities are and then how best to meet those needs.

Again, this is consistent with the findings at the Harvard Project, and also with the success of tribal self-governance, which illustrates that when tribes themselves have the opportunity for self-rule, there are much better chances for economic stability and then the accompanying social health.

Successful implementation of S. 343 has great potential. However, as the GAO report recently noted, tribes do face certain practical hurdles with regard to access to the benefits of some Federal funding programs. For example, the GAO report and some of the Harvard Project's own research found that many tribes often do not have the human capital needed to handle the administrative and paperwork requirements of Federal economic development programs. Consequently, they may either avoid using the program where the requirements seem onerous, or they may spend a large amount of the Federal funds that they do have fulfilling those requirement and leaving less for the actual implementation of the program.

So I have listed a few things to consider in terms of the successful implementation of S. 343, both reflecting on Harvard research and on the GAO report. A couple of these have already been mentioned, both by the Assistant Secretary and some of the tribal leaders. But I am basically interested in looking at the structure for Federal agencies having incentives and clear mandates with regard to implementing this legislation.

Also looking at the selection criteria in terms of having tribes demonstrate fiscal responsibility, which we would argue at least from the perspective of Harvard research, overlooks the research evidence about institutional capacity of tribes as a primary indicator of long term economic development stability.

So in conclusion, successful implementation of S. 343 has great potential to strengthen tribal self-determination and reintroduce viable and sustainable economies in certain tribal communities. S. 343 would maximize tribal participation in Federal programs to foster community economic and business development for Indian communities.

Certainly I think Harvard Project research strongly supports the concepts contained in S. 343, so thank you, Mr. Chairman, for the opportunity to provide testimony. Certainly I summarized my remarks, and if you have questions, I will be happy to answer them.

[Prepared statement of Ms. Spilde appears in appendix.]

Senator CAMPBELL. Thank you.

Well, I haven't read that GAO report, frankly. Paul has, I haven't. But I think in some cases it sells the tribes short a little bit, because it's based on documentation that's kind of clinical and found here in Washington. I don't know if they really took into consideration the huge success stories we've had in some places where the training went along with the development.

I'm thinking in terms of a lot of casinos who did not have any management experience in managing a casino. But they got an investor and when they signed the agreements, many of the tribes, what they did, they also signed an agreement for training their own people. The first people that came in to manage the casinos were not Indian. They were from Reno or Las Vegas or wherever the money came from. They hired expertise.

But written into the agreement was that within 3 years or 4 years or so on, a certain number of the management people would be tribal members. So it's a bootstrap thing and a step by step thing. Many of those casinos now are totally managed by tribal members, as you probably know. So I'm still skeptical sometimes

when anyone says "Indians don't have the skills to be able to do this." Because you've got to start somewhere, holy smoke.

I guess certainly there have been some mistakes made in the past, and I've seen some of the derelict buildings out on Indian reservations that were built by outside investors and it didn't work out and they lost a building. But those war stories or horror stories, I guess I should use a better word, are a lot fewer, in my way of thinking, than the success stories.

Let me ask a couple of things. In all the experience you've had with the Harvard group, have you found that there is a correlation between commitments to government sovereignty, transparency, individual rights, strong tribal leadership and so on, and the economic development that benefits all the tribal members?

Ms. SPILDE. Absolutely.

Senator CAMPBELL. That sounds like a loaded question, because I would assume there ought to be. But you firmly believe that?

Ms. SPILDE. I know that the two founders and directors of the Harvard Project, Joe Kalt and Steve Cornell, have been doing research on that particular question, the relationship between governmental institutions and economic development. They've been investigating that for about 15 years. Their research consistently finds that there is a direct relationship between such attributes as separation of powers, checks and balances, the independence of dispute resolution mechanisms, and other capable self-governance institutions with economic development. There is a clear and direct relationship.

Senator CAMPBELL. Do you have any research that would show the difference between how we have done it in the past with 12 individual agencies spending money independent of each other and somewhat disjointed and not much communication between them and any research that says if we do have something in place like S. 343, that there is a better use of money or a more efficient use of it, or better opportunities for the tribes and a less disjointed approach?

Ms. SPILDE. I think the general findings of the Harvard project indicate that coordinated efforts, and streamlined funding services produce less of a burden on tribes, both fiscally and administratively. Certainly the research would support that.

I don't know of any specific research that has asked that particular question, but I can definitely look into it. I haven't personally conducted any.

Senator CAMPBELL. I would appreciate it if you would, to notify the committee. It hasn't been done very long, so I guess there's not very much information available.

Also, do you know, in your own mind, about any particular incentives that we can offer Federal agencies to work with the tribal governments to implement this particular demonstration project? How do you suggest that we put this in place? If we put this in place in the law, how should the Federal agencies proceed to bridge that communication gap and that distrust gap and all the other things we've had in the past, the fear of decreased trust responsibility and so on?

Ms. SPILDE. I know the Assistant Secretary spoke to this issue as well, in terms of a memorandum of agreement, where the De-

partment of the Interior would take the lead. I certainly would support that. I know in terms of, from a research perspective, there's a saying, measure it and you'll get it. In other words, having Federal agencies be accountable or report back in terms of what their efforts have been rather than—simply having a program which often isn't enough.

Agencies would have to report back on how they are promoting, cooperating, educating tribes. As NCIA president, Tex Hall pointed out, cataloging and making available to tribes the available programs. As I said, measure it and you'll get it. If you have some sort of reporting mechanisms for the agencies, that might also be an incentive.

Senator CAMPBELL. Thank you. The last isn't a question, but a request. If you would help work with our staff on any recommendations in the weeks ahead as we try to refine this bill a little bit, if you could help us with that. Frankly, I guess I've sat through 20 committee hearings or more that the Harvard Group has been involved in, the Harvard Project. I've frankly never heard any testimony yet that I really disagreed with or didn't find very enlightening or educational or supportive. So if you could help us with this, I'd certainly appreciate it.

Ms. SPILDE. I'd be happy to. Thank you.

Senator CAMPBELL. And with that, we'll keep the record open for 2 weeks for any additional comments. And thank all the witnesses for being here today. This committee is adjourned.

[Whereupon, at 11:15 a.m, the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

I would like to thank the Chairman and Vice Chairman for their tireless effort to promote the general welfare of this country's indigenous people. I look forward to reviewing the testimony from this hearing, and I want to thank them for participating today.

As each of us here knows, we need to find ways that we can cut Government red-tape, improve coordination and eliminate wasteful duplication of the many programs that are designed to help Indians and Alaska Natives. We have a duty to serve our native people, but we also have a duty to protect the interests of all taxpayers. Wasted money serves no one.

Many Alaska Native entities are so small they simply lack the administrative personnel needed to complete and manage all of the complex regulations, the web of paperwork and other requirements in order to participate in many Federal programs. Even those native organizations that do have the administrative capacity needed to participate shouldn't have to waste valuable time and resources on needless bureaucracy.

It seems to me that a proposal such as. this could actually save money by allowing agencies to delegate management authority to other agencies better equipped to manage certain programs. I hope this is the case. I welcome further consideration of the bill, and I remain committed to making government more responsible and efficient.

Again, I would like to commend Chairman Inouye and Vice Chairman Campbell for your leadership and attention to these important issues. I certainly hope the intent of this legislation can be realized, and that we can streamline and simplify the process of assisting Alaska Natives and American Indians.

PREPARED STATEMENT OF NEAL A. MCCALEB ASSISTANT SECRETARY—INDIAN AFFAIRS DEPARTMENT OF THE INTERIOR

Good Morning, Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today to present the views of the Department regarding S. 343, a bill to establish a demonstration project to authorize the integration and coordination of Federal funding dedicated to community, business and economic development of Native American communities.

The Administration supports the goals of S. 343 to integrate and coordinate Federal funding dedicated to promoting economic development for Indian communities. The Administration, however, is still reviewing the legislation and has already identified a number of significant concerns with the bill, which we look forward to working with the committee to address.

The Bureau of Indian Affairs is working with the Bureau of Indian Affairs' Tribal Budget Advisory Committee's Subcommittee on Economic Development to develop strategies to improve reservation economies. These strategies include actions the

BIA and Federal agencies can take to be more effective in encouraging economic development for American Indian tribes. Integrating Federal economic development programs is one the Tribal Advisory Committee's priorities.

S. 343 is intended to encourage more efficient use of Federal funds in the area of economic development. Once a tribe submits a plan which is approved by the Department, it is able to pool Federal funds they receive for economic and community development. These funds are disbursed to the tribe from one office and they submit one annual audit and report to the same office regarding its expenditures. This allows the tribe to be more flexible in its use of the funds, and more efficient because it reduces the amount paperwork, without reducing accountability.

S. 343 is based on an existing program authorized under Public Law 102–477, and which has enjoyed tremendous success. Public Law 102–477 allows tribes to consolidate and integrate employment education and training programs. The program indicates that 89 percent of Indian participants in the program have reached their education and employment goals.

Based on our experiences with Public Law 102–477, the integration of Federal programs initiative, we offer the following comments regarding S. 343:

No. 1. Part of the success of our current program hinges on our ability to act as the lead agency. The administrative burden, and costs, are increased if tribes must go to every Federal agency independently. The process should be streamlined, allowing all tribal grant applications to be funneled through one agency. However, the bill must be revised to ensure that individual programs will be included in demonstrations only with the concurrence of the head of the Federal agency responsible for administration of those programs. The bill should be structured so as to allow the Secretary to enter into a memorandum of agreement with any other agency that provides assistance to tribes, as defined by the bill, as to which programs will be included in the demonstration project. Both the Secretary and the involved agencies should be required to consult with tribes prior to finalizing any MOA. Tribes would then come to Interior and request inclusion of any of those programs in their overall consolidated grant. This would lead to more effective coordination and would reduce burdens on and confusion for tribes. Section 4 of the bill should clarify that tribes seek approval/disapproval, and implementation and related tasks, through the Department, rather than requiring tribes to work with each agency separately.

No. 2. We recommend that any project evaluations be coordinated rather than each Federal agency conducting separate reviews. Tribes are often overwhelmed by numerous duplicative review and analysis of project operations. One coordinated consolidated review will reduce burdens on the tribes.

No. 3. We recommend that competitive economic development grant programs be implemented similar to formula funded grants for this project once an award has been made under this grant.

No. 4. It has been our experience that consultation by an agency before implementation of the Public Law 102–477 program has minimized problems in implementation of the program. Accordingly, we believe it is important that all agencies conduct consultation prior to taking final agency action in regard to the provisions of this act.

No. 5. The Administration is also concerned that the scope of the waiver provisions in section 6(c) of the bill is overly broad, and could have adverse consequences on the environment, civil rights, and other areas of important Federal policy. The provision provides for the waiver of any Federal statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement the project. A number of Departments and agencies within the Administration have raised serious concerns with the breadth of this section and its mandatory requirements.

The Administration looks forward to working with the Committee on this important legislation. We also note that other Departments and agencies are still reviewing this legislation and may submit views to the Committee. For example, the Department of Justice has raised a constitutional concern with section 15 of the bill; the Department of Treasury would like section 11(a) to make clear that funds remain in the General Treasury until they are disbursed to Tribal Organizations; and the Office of Management and Budget is concerned section 6 may conflict with Public Law 106–107, the Federal Financial Assistance Management Improvement Act of 1999.

This concludes my prepared testimony. I would be happy to answer any questions the committee may have.

PREPARED STATEMENT OF TEX G. HALL, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Chairman Inouye, Vice Chairman Campbell, and other members of the committee, I would like to thank you for inviting me here to testify on this important and significant piece of legislation, the Indian Tribal Development Consolidated Funding Act. As you know, the National Congress of American Indians—the oldest, largest, and most representative Native American group in the Nation—is focused on economic development and helping tribes get the tools necessary to exercise their sovereignty. We believe that this bill is a step in the right direction to help tribes along the way to building successful economies and healthy communities.

The aim of this bill is to give the tribes the ability to coalesce the programs from the various agencies they use to pursue development. In doing this, tribes increase the value of the assistance they receive because they are able to pool together resources that would otherwise make a smaller contribution to the tribes' initiatives. For instance, if a tribe were trying to put together a housing project, it would often apply for many different grants and technical assistance programs to help further the project. However, each grant and Government program used has its own set of application, implementation,and reporting requirements. These requirements, even though they all go to the same project, must be fulfilled separately. This often creates an undue hardship on those project managers who would be able to use the time they take to fulfill Government requirements more effectively in implementing the goals of the project. The Indian Tribal Development Consolidated Funding Act would assist tribes in cutting administrative tasks and costs, putting them more directly about the job of building sustainable tribal economies.

This bill also focuses on one of the problems that tribes find when they attempt to move forward with their programs: The lack of cooperation between Federal agencies. Earlier this week there was a man in our offices meeting with some agency folks about wind energy. He said that coming to Washington was the hardest part of his job. When I asked him why, he replied that he has to make the 3,000-mile trip twice a year to, "introduce people who work across the street from each other." Unfortunately, this is too often the case, even out in Indian country. When tribes try to move forward with a project that will help their people, we waste a lot of time with duplicative Federal requirements, and the agencies are often unwilling to cooperate with each other because they need all their regulations fulfilled, independent of the other agencies and independent of the best interests of the tribes. There are so many hoops to jump through in Indian country; we're running out of hoop dancers to hire for our project managers.

This bill aims to remedy some of these problems. According to the legislation, instead of reporting to each agency separately, the tribe would be able to identify the programs and assistance that they planned to use, propose waivers of regulations and other requirement so that a unified application and report would fulfill the agencies I needs,and single out one agency to administer the tribe-specific program. This not only alleviates the reporting requirements on the tribe, but streamlines the process for the Federal representatives as well.

In addition to lessening the burden on the agencies and the tribes, this legislation should increase the use of Federal programs that go largely unused. According the GAO report on Indian Economic Development programs, only about one-half of the survey participants used any of the 100 assistance programs. Some of the reasons that these programs lay fallow are because of the administrative costs to the tribe associated with the preparation and execution of the project and its application and low levels of funding. This bill will mitigate some of those circumstances by allowing the tribes to merge efforts to comply with multiple programs. Moreover—and this is an important incentive for our brothers and sisters in the government—this bill presents the agencies with an opportunity to comply with standing executive orders and agency plans that call for interagency cooperation with regard to Indian Economic Development. This bill is truly an example that this program will make the whole of the Federal assistance tribes receive greater than the sum of its parts.

We are happy to see this bill, as it is a familiar concept to many of us in Indian country. This bill looks like an expansion of a consolidated funding program that came from this committee in the 102d Congress and that is very popular in Indian country: The 477 process. Though the 477 process is limited to four Federal agencies and programs related to employment and training, it has proven to be a good way for tribes to streamline the application and reporting processes involved in Federal programs. The basic premise and process of S. 343 is working currently, and we hope that this process can expand efficiently and easily into the rest of the Government agencies.

However, this is a hope tinged with some caution. We feel that this committee, in this legislation must make it very clear that the agencies are to be willing to waive certain provisions when those are in the best interests of the tribe and covered elsewhere in the program functions. We know that it is not the intent of this committee to subject the tribes to interagency bickering or territorialism, which we fear may happen. As I said earlier, there is not a lot of cooperation between the agencies. Though provisions in subsection (c)(6) lay out the process in general, we don't want to see projects stalled when agencies refuse to waive provisions or requirements. Agencies function according to their interpretation of Congressional intent, and we urge you to make your intent clear that agencies are to waive provisions that tribes identify through the application or consultation process, excepting the limitations you have described. We think that this clarification and emphasis will make the process easier as applications move forward.

We understand that this bill creates a demonstration project, and thus is not designed for a large-scale implementation. We think that the bill is good, and will be significantly useful to the tribes who already have some manner of expertise in government program administration and have the adequate infrastructure and resources to perform the accounting, audit, and application processes. However, many tribes do not yet have these resources. As the program moves forward, NCAI would like to see provisions that would provide some assistance for those tribes, especially in the form of peer learning processes. Our experience shows us that tribes learn best from other tribes who have already gone through the processes. When we are able to visit other tribes, who were often facing the same situations we are, and see what and how they have accomplished specific tasks, it helps us put a perspective on how our tribes should move forward. We think that after the first year or two of the project, those tribes who have participated will have the expertise to assist other tribes in the program. This peer-learning process requires nominal funding, and the outcomes of empowering tribes as examples, as well as the monies saved by this program in administration and related costs will be more than enough to offset the costs.

In addition to adding a peer-learning provision, we ask that this committee also consider adding the following language as an additional section in the bill that would preserve funding levels: "In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this act." Such a provision would ensure that the various program funds are not lowered any further.

We would like to single out section 14 for praise, as we feel that this provision-if implemented with the enthusiasm of the Federal agencies, states, and tribes-will bring this cooperative model out of its current disuse and install it as a keystone of new success. We have been working with the National Governors Association on building state-tribal relations for the past several years, and we believe that this will allow the states to invest in the wellness of tribal economies, which will in turn strengthen state economies, and will build state-tribal relationships.

Overall, we support the passage of the bill, and we are available to work with the committee to insert and implement these suggestions and the legislation in whole. We commend the committee for its commitment to Indian country, and appreciate its focus of helpful legislation that, coupled with the exercise of our sovereign rights, will allow our tribes to best serve their people for generations to come. Thank you for your invitation to testify, and I welcome any questions you may have.

PREPARED STATEMENT OF IVAN MAKIL, PRESIDENT, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Chairman Inouye, Vice Chairman Campbell, members of the committee, fellow tribal leaders, and distinguished guests, I am Ivan Makil, president of the Salt River Pima-Maricopa Indian Community near Phoenix, AZ. Our community of some 7,800 members, predates Arizona as a State. Yet, in the last 50 years, urban growth has come to us.

Today, we are surrounded by metropolitan Phoenix and border Tempe, Scottsdale, Mesa, and Fountain hills. A contemporary but still traditional Indian community, the Salt River Pima-Maricopa Indian Community is concerned about our physical, social, economic, and spiritual development. Like other tribal communities in this country, we are very aware that future generations of our people will live with the results of the decisions we make today. It is critical, therefore, that we make the very best decisions that we can.

We are fortunate, because, as we plan for the world that the next Seven Generations will inherit, our community enjoys an important advantage. That advantage

enables us to make better decisions. We are one of 260 tribes in this country that has self-governance.

Our road to self-governance began at the same time that President Richard Nixon launched self-determination in 1970. That action, as you know, led to the Indian Self Determination & Education Act of 1975. We entered our first contract in 1970 for our Police Department. This act set us on track for self-determination and self-governance. Since that initial contract, we have grown to be an active self-governing tribe.

Today, we have more than three decades experience with this system. I would like to take a few moments to talk to you about our experience and why we believe that the principles contained in S. 343, which authorizes a demonstration project for expanded self-governance, is such a necessary and positive step for tribes. As introduced by Senator Campbell, it establishes a demonstration project that authorizes the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities.

It is significant that this approach is both systematic and holistic. Systematic is critical for functionality and efficiency. Holistic, however, is equally important, as our culture teaches us to view the world as an integrated place. This bill is systematic as it will create a block grant fund from revenues available in 15 different Federal agencies, agencies that do not have as their normal priority dealing with Native American tribes. It is holistic in that by combining diverse Federal agency dollars, it encourages tribes to take the wider, rather than narrow, view.

Realistically, it would allow tribes to pool available Federal funds to meet the needs of their people in more effective ways. It would also put new resources into the hands of tribal leaders who can pool these dollars and use them more effectively to create opportunities and solve problems for their people.

Over the past 30 years, the Salt River Pima-Maricopa Indian has done just that.

In the 1980's, we were the first tribe to develop a major shopping center on our land in Arizona. To accomplish this, we put together more than 300 different landowners with a developer and created the Pavilions Shopping Center. We could not have done this without the opportunities available under the Indian Self-Determination and Educational Assistance Act. Wherever we have had an ability to integrate the process, we have done so and improved the process. Integration has enabled us to create more positive results.

For example, the image you see compares our unique lease process to full-service tribes. The yellow highlighted areas show the steps that Salt River takes when securing leases such as for the Pavilions.

Compare this process to the steps, marked in green that a non-self-governance tribe must go through. Even a quick glance shows that Salt River has taken over the functions in land development process previously handled by the Bureau of Indian Affairs. Moreover, we do this process more efficiently and effectively and in economic development, time is money.

As we have taken over management of our own resources, we established a realty data base and a compatible geographic information system. As a result, we can track ownership for every fractionated piece of land owned by heirs.

We can also show them exactly where their land is. And most importantly, we can—and do—issue lease payment checks to our members.

Now, more than a decade after developing the Pavilions Shopping Center, the community council has embarked upon a sophisticated strategic planning process to help us determine our future. As part of this lengthy process, we are gathering information that is enabling us to identify our critical areas of interest. As the decisionmakers and managers for our community, our commitment to strategic planning is helping us design our future.

To make sure that this future is healthy—physically, socially, economically and spiritually—we are setting priorities today that will guide our tomorrow. Because these priorities are consistent with our overall goal, we can be assured that everyone—the community as a whole and each individual member—will be best-served.

From our experience, I have no doubt that each Federal program was an excellent idea when it was created. Problems began as each developed with its own set of blinders. Because each program grew as its own entity—without any way to leverage other like-minded programs or even an acknowledgment of duplication—Federal programs designed to help Indian people have often created new problems for us.

The Salt River Pima-Maricopa Indian Community has created its own destiny. We saw opportunities and made things happen for ourselves. Over the years, our community has developed sophisticated expertise. But, not all tribes have this kind of knowledge close at hand.

I urge you, as you design this demonstration program, to incorporate flexibility and time enough so this project can prove itself. Recognize that because not all

tribes have local expertise, some will need to look outside their own membership for technical support and staffing. Given enough time and an assurance of flexibility, our tribes can grow their own economies and nurture the kinds of expertise they need to succeed.

I urge you to fully support S. 343, which requires 15 Federal agencies to take an historic step to work together with tribes that wish to be part of this demonstration project. It is critical, however, that any tribe that joins this project be required to demonstrate how they are planning to use these revenues. Tribes must create a plan that serves their entire community.

I know this bill may need to be amended to address certain concerns as it goes through the process. My staff stands ready to assist the Committee in making this the best possible legislation for Indian country.

The Federal Government needs the ability to have a systemic and holistic approach to deal with tribes. Tribes need you as a partner. If you are going to take on this effort, I urge you to do it right. Make the demonstration real and make it multi-year so all of us have time enough to achieve results. I also urge you to established priority funding for this effort so that it has every chance for success.

Both the integration of the 15 agencies and the holistic planning exercise are essential; the process cannot work unless both are in place. By supporting this systematic and holistic approach to planning and funding, S. 343 can become a valuable tool to help tribes design and develop their own destiny. I urge you to commit to this thoughtful and far-reaching bill.

Mr. Chairman, thanks again for the opportunity to testify in support of S. 343. I would be happy to remain here to answer any questions you or the committee members may have.

PREPARED STATEMENT OF KATHERINE A. SPILDE, PH.D., SENIOR RESEARCH ASSOCIATE, HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT, KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY

Good morning, Mr. Chairman, Mr. Vice Chairman and members of the committee. Thank you for the opportunity to appear here today. My name is Katherine Spilde. I am a Senior Research Associate at the Harvard Project on American Indian Economic Development, in the Kennedy School of Government, Harvard University. The primary research objective of the Harvard Project is to understand the conditions under which sustained, self-determined social and economic development is achieved among American Indian nations.

I am here today to speak in support of the Indian Tribal Development Consolidated Funding Act of 2001 (S. 343), introduced by Senator Campbell and cosponsored by Senators Inouye and Johnson. The purpose of S. 343 is to establish a demonstration project that would authorize the integration and coordination of Federal funding dedicated to the community, business and economic development of American Indian communities. I will be testifying, from my position as a researcher for the Harvard Project, which has produced numerous research studies regarding institutional and economic development in Indian country. My testimony today relies upon the work we have done at the Harvard Project, applied here to analyze and recommend ways to facilitate successful implementation of the goals and purposes of this legislation.

By way of background, the research evidence is clear on the overall direction of productive Federal-tribal relations: Self-determination is the only Federal policy in a century that has created conditions wherein American Indian tribal governments have been able to begin to reverse the legacy of poverty and economic suppression to which they have historically been subjected. For many Indian nations, but not all, economic development activities are flourishing, often for the first time in a century. Most importantly, improvement in economic conditions in Indian country has been accompanied by improved social conditions. Where we see this progress, it is invariably the case that tribes are building their own capacities to govern, manage, and implement economic development strategies that fit their ends and values.

Consistent with self-determination policies and a government-to-government relationship between Federal agencies and tribal governments, this legislation appropriately encourages and promotes coordination between Federal agencies and American Indian communities. S. 343 builds upon the principles of the Indian Employment, Training and Related Services Act, also known as the "477 program." As you know, the 477 program is considered one of the most successful economic development programs administered by the Bureau of Indian Affairs, as it authorizes tribal governments to consolidate job training funding from different agencies into one efficient program that meets the specific needs of the community. As with the 477 pro-

gram, S. 343 encourages the integration of funding across the Federal agencies for the benefit of tribal governments and their programs.

The research of the Harvard Project supports the partnering between Federal agencies and tribal government with the purpose of a coordinated tribal economic development strategy. Consistent with the self-determination policy, S. 343 would allow tribal governments to determine what their economic development priorities were and how best to meet these needs. S. 343 is consistent with the findings of the research undertaken by the Harvard Project, and the successes of tribal self-governance illustrates that when tribes themselves have the opportunity for self-rule there are much better chances for economic stability and social health.

Successful implementation of S. 343 has great potential; however tribes face certain practical hurdles that may limit effectiveness of this legislation. Recently, a GAO report[1] was published in December 2001 and it echoed what the Harvard Project's research has found with regard to the challenges that face tribes in securing financing, especially from Federal funding sources. The GAO report found that many tribes do not have the human capital or the expertise needed to handle the administrative and paperwork requirements of Federal economic development programs. Consequently, tribes may avoid using a program where the program's requirements seem onerous, or tribes may spend a large amount of the Federal funds they have on those requirements, leaving less for the actual implementation of the program.[2] In addition to onerous requirements, the GAO reported that many tribes are discouraged from seeking funds from particular (unnamed) Federal agencies because they have never been successful in the past.[3] It is important that tribes are not set up to fail under S. 343. Tribal capacity to administer a comprehensive economic development strategy as authorized by S. 343 must be present in order for a tribe to successfully carry out S. 343.

Other recommendations necessary for successful implementation of S. 343 are as follows:

- Federal agencies need incentives to work with tribal governments.
- Federal agencies need clear mandates with regard to implementing this legislation, as most agencies lack the expertise necessary to work with tribes on interagency projects.
- The legislation should balance devolution of Federal responsibility with a continued commitment to the Federal trust responsibility.
- Currently, the only selection criteria required is demonstration of fiscal responsibility, which overlooks research on capable institutions as a primary indicator of long term economic development stability.

In conclusion, successful implementation of S. 343 has great potential to strengthen tribal self-determination and re-introduce viable and sustain economies in certain tribal communities. S. 343 would maximize tribal participation in Federal programs to foster community, economic and business development for disadvantaged Indian communities. Our research supports the concepts contained in S. 343, although certain suggestions outlined in my testimony are meant to ensure successful implementation of S. 343. The very purpose of this legislation-to facilitate and maximize tribes' access to Federal funding for economic and community development—is integral to the economic viability of disadvantaged Indian communities.

Thank you, Mr. Chairman for the opportunity to provide testimony before the Committee today. If there are any questions, I will be happy to answer them.

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[1] "Economic Development: Federal Assistance Programs for American Indians and Alaska Natives." General Accounting Office. December, 2001.

[2] Ibid. 13.

[3] Ibid. 14.

Self-Governance Communication & Education

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TESTIMONY PRESENTED BY THE
QUINAULT INDIAN NATION
ON BEHALF OF THE SELF-GOVERNANCE SIX-TRIBE CONSORTIUM
TO THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON S. 343
INDIAN TRIBAL DEVELOPMENT CONSOLIDATED FUNDING ACT OF 2001
MAY 8, 2002

> *"No right is more sacred to a nation, to a people, than the right to freely determine it's social, economic, political and cultural future without external interference. The fullest expression of this right occurs when a nation freely governs itself."*
> Ioseph Burton DeLaCruz, President
> Quinault Indian Nation
> July 16, 1937 - April 16, 2000

Good morning to the distinguished members of this Committee. My name is James DeLaCruz, Councilman for the Quinault Indian Nation. On behalf of the Self-Governance Six-Tribe Consortium, I would like to provide testimony in support of *S. 343, Indian Tribal Development Consolidate Funding Act of 2001.* This legislation appears to have its foundation on the various amendments to the Indian Self-Determination and Education Assistance Act (ISDEAA) which over the past decade and a half established Tribal Self-Governance in the Departments of the Interior and Health and Human Services. This Congressional Committee can and should take a fair measure of credit of this accomplishment.

The Self-Governance Six-Tribe Consortium is comprised of the Mille Lacs Band of Ojibwe Indians, the Jamestown S'Klallam Tribe, the Lummi Indian Nation, the Sac & Fox Nation, the Hoopa Valley Tribe and the Quinault Indian Nation. We represent six (6) of the original ten (10) tribes that participated in the Self-Governance Demonstration Project in 1989. Together we have significant expertise and experience in this evolving effort at devolution; that is to return power and funding to the local level, the Indian Tribe level. The Consortium also administers the Self-Governance Communication and Education Project, which serves as the official Clearinghouse for historical and current Congressional, Administration and Tribal issues and activities relative to Self-Governance. In addition, we host a Spring and Fall Self-Governance Conference each year

for Tribal and Administration officials. Consortia members serve on the Tribal Self-Governance Advisory Committees at both DOI and IHS. While the success in advancing Self-Governance policy issues within the DOI and IHS is substantial, although varied, both of the Advisory Committees are effective forums for Tribal Leaders to discuss and debate topics and to further the Self-Governance initiative.

> *"I have no way of knowing what the outcome will be. It may be a great success, or it may fail. But as the Vice-Chairman indicated, Why not try? If we maintain the status quo and insist upon it, that is where we will be; right here. I think it is about time that we took bold steps,and in taking these steps we may fail. But that is the way we learn."*
>
> Senator Daniel K. Inouye, Chairman
> Senate Committee on Indian Affairs
> February 18, 1988

In 1988, P.L. 93-638 was amended by P.L. 100-472 with Section 301-309, Title III., establishing the Tribal Self-Governance Demonstration Project in the Department of the Interior for the Bureau of Indian Affairs (BIA) programs. In 1991,Congress satisfied with the progress of the Tribes in the BIA Self-Governance Demonstration again amended the ISDEAA to expand the demonstration authority to the Indian Health Service. In 1994, additional amendments permanently authorized Self-Governance for BIA programs and in 2000 the latest amendment to the ISDEAA, P.L. 106-260, Title V permanently authorized Self-Governance in the Indian Health Service. The 2000 Act also included a new Title VI which requires the Secretary of the Department of Health and Human Services to conduct a study to determine the feasibility of a Tribal Self-Governance Demonstration Project for appropriate programs, services, functions and activities of the agency.

Prior to Self-Governance, Tribes could not easily function as the primary service provider on our Reservations; that function had been assumed by federal bureaucracies. In the early stages of the Nixon reform of implementing a policy of Tribal Self-Determination, Tribes were permitted to contract to perform federal services under the 1975 Indian Self-Determination and Education Assistance Act. Oppressive regulations and federal contract oversight soon limited tribal freedom under Self-Determination contracting.

Contract reform, the elimination of excessive regulations, consolidation of funding and programs, the elimination of unnecessary supervision and the adherence to government-to-government relations under Self-Governance, has brought us to a point where we are delivering meaningful tribally relevant services at the local level. The simple concept that sovereign Tribal control at the local level works better than federal control hundreds of thousands of miles away is a hallmark of Self-Governance. We are also able to redesign and create new programs that better serve the immediate needs of our communities, as well as for the future existence and survival of our people.

Economic self-sufficiency remains an unattained goal for most Indian tribes. The reasons are many and too extensive for a mere recounting here today. S. 343 focuses on one aspect of the problems we face, and that is how to navigate through the available federal resources and then to determine how to best utilize those resources. S. 343 uses the Demonstration model of Self-Governance. It allows for a controlled experiment of inter-departmental cooperation and program consolidation, without trying to set all the elements in advance. It allows Tribes and the Departments to negotiate. It allows a Tribe who knowing its individual needs and resources, to design Indian program of economic development, and in effect, to search among the menu of the various federal programs (as well as State programs where a State agrees to cooperate) and put together the program elements and funds to support its own designed program. The bill also seeks to provide mechanisms of inter-agency administration, regulation consolidation, and one-stop shopping. We support the concept and thrust of this bill and will provide the Committee with detailed comments in the near future.

> *"In my experience as Chairman of this Committee, I have seen far too many instances where agencies are NOT cooperating and NOT coordinating their resources and efforts for the benefit of Indian people."*
> Senator Ben Nighthorse Campbell, Chairman
> Senate Committee on Indian Affairs
> September 27, 2000

S. 343 recognizes and builds on the premise that we are Sovereign Self-Governance Nations. This legislation allows Tribes the opportunity to engage in a demonstration project and negotiate with federal agencies to determine how best to make federal programs a successful effort towards achieving economic self-sufficiency. Just as the re-emergence of Tribal governments again operating our own programs and administering services to our own people has occurred, we can break the cycle of institutional dependency and begin to seek ways to develop sustainable reservation economies for our people. Legislation such as the *Indian Tribal Development Consolidated Funding Act of 2001* is a good next step.

We would like to recommend that Tribes seeking to participate in this demonstration project develop Tribal Economic Development Business Codes. All too often, tribes enter into negotiations to allow outside vendors to bring their business to the reservation, yet they are unaware of the need to have a tool in place such as the business codes to educate the outside parties about Indian culture. Outsiders should be respectful of and knowledgeable of the value of our culture to the inhabitants on the reservation. All economies that we bring to our land must reflect our traditions, and customs which are the very nucleus of our existence. .

Self-Governance has become the key part of redefining and restoring the "government-to-government" relationship between Tribes and the United States. Consistent with the Tribally-driven Self-Governance initiative, Tribes must take the leadership in structuring how the Federal government carries out its trust responsibilities to Indian Tribes.

This legislation, S. 343 will serve to streamline economic development funds that tribes can access whether as individual tribes or as a consortium.

We applaud the timeliness of this legislation. To authorize 24 tribes to enter into a demonstration project to access economic development funds from all Federal departments is a very positive step and we applaud your effort.

> *"We must thank our Federal "Fathers" for trying to do it their way, but it is now time for us to take control of our own affairs and look to the future. A future that will dictate the survival of our most valuable resource -- Our People."*
> Pearl Capoeman-Baller, President
> Quinault Indian Nation

Thank you for the honor of asking me to be here today.

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SOVEREIGNTY AND NATION-BUILDING: THE DEVELOPMENT CHALLENGE IN INDIAN COUNTRY TODAY

Stephen Cornell and Joseph P. Kalt*

The Indian nations of the United States face a rare opportunity. This is not the occasional business opportunity of reservation legend, when some eager investor would arrive at tribal offices with a proposal "guaranteed" to produce millions of dollars for the tribe — although such investors still appear, promises in hand. Nor is it the niche economic opportunity of gaming, although that has transformed some tribes' situations in important ways. This opportunity is a political and organizational one. It is a chance to rethink, restructure, reorganize — a chance not to start a business or exploit an economic niche but to substantially reshape the future. It is the opportunity for nation-building.

This opportunity has been unfolding over the last two decades. It is a product of changed relations between Indian nations and the federal government, relations with roots in the Indian politics of the 1960s and in the failure of a century of United States Indian policies that established the federal government as the primary decision maker in Indian Country. Since the mid-1970s, partly in response to the demands of Indians themselves, federal policy has shifted toward something called "self-determination": a belief, often more stated than acted upon, that Indian nations should determine their own futures. This shift toward self-determination has allowed those nations that have been willing to do so to engage in genuine self-governance, to turn sovereignty as a legal matter into "de facto" sovereignty: sovereignty in fact and practice. They still face many constraints, not least the power of the courts and of the United States Congress, but since 1975 a significant

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number of Indian tribes have become the effective decision-makers in their own affairs, often with strikingly positive results.

This new degree of control, unprecedented in the twentieth century history of these nations, constitutes an opportunity of major proportions. It is the opportunity for Native American peoples to reenvision their futures and rebuild their governments and their economic strategies so as to realize those futures.

It also may be a short-lived opportunity. In the late 1990s, we have seen a mounting assault on tribal sovereignty. Recent decisions in the United States Supreme Court have chipped away at the sovereignty that Indian peoples have struggled for a century to reestablish. Disputes over gaming and other issues have led to significant interference in the affairs of Indian nations on the part of states such as California, Arizona, and New Mexico. At century's end, a flurry of Congressional proposals threaten tribal sovereignty and powers. But for the time being at least, the opportunity is there. It is still federal policy that Indian nations should determine their own futures, and determined Indian nations can still do so. But shaping those futures will require not simply the assertion of sovereignty, a claim to rights and powers. It will require the effective exercise of that sovereignty. The task tribes face today is to use the power they have to build viable nations before the opportunity slips away. This is the major challenge facing Indian Country today.[1]

It also is the key to solving the seemingly intractable problem of reservation poverty. Sovereignty, nation-building, and economic development go hand in hand.

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[1] We use the term "Indian Country" loosely here to refer not only to the Indian reservations of the lower forty-eight states but to predominantly Native communities in Alaska. Although the U.S. Supreme Court ruled in February of 1998 in Alaska v. Native Village of Venetie Tribal Government that lands held by Native entities under the terms of the Alaska Native Claims Settlement Act (ANCSA) — in other words, most Native lands in Alaska — are not technically Indian Country, Alaska's Native peoples face many of the same challenges as reservations. The legal and political conditions under which they have to operate differ significantly from reservation conditions in the lower forty-eight states, partly as a consequence of the court's decision. Nonetheless, the fundamental tasks of self-governance and nation-building remain much the same. Despite our use of the term "Indian Country, the argument of this paper applies not only to the Indian reservations of the lower forty-eight but to Alaska's Native communities as well.

Without sovereignty and nation-building, economic development is likely to remain a frustratingly elusive dream.

The Puzzling Pattern of Reservation Development

The economic development situation in Indian Country presents a puzzle. Most people think of Indian reservations as poor, and many of them are. The facts are sobering. Across Indian Country, we find astonishingly high unemployment rates, average household incomes well below the poverty level, extensive dependency on welfare and other transfer payments, and high indices of ill health and other indicators of poverty.

As striking as the degree of poverty, however, are the exceptions to this pattern. Some are well known: In particular, a relative handful of tribes have generated enormous revenues in the niche gaming market and have attracted commensurate media attention as a result. Less well known, but much more intriguing, are those tribes that have broken from the prevailing pattern without depending on gaming as their primary revenue stream or source of employment. Consider the following examples:

- The Mississippi Choctaws are one of the largest employers in the state of Mississippi. Several thousand non-Indians migrate onto the reservation every day to work in the Choctaws' manufacturing, service, and public sector enterprises. The Choctaws are importing labor because there aren't enough Choctaws to fill all the jobs they've created. Choctaw unemployment has fallen dramatically.
- The White Mountain Apaches' forest products, skiing, recreation, and other enterprises have made it the economic anchor of the economy of east central Arizona. Towns there look to the Apaches as the motor force that pulls them through the winter, and as a major player in the regional economy. Their timber operation is one

of the most productive in the western United States, regularly outperforming private operators like Weyerhaeuser.

- In Montana, the Salish and Kootenai Tribes of the Flathead Reservation have built a successful private sector economy based on tourism, agriculture, and retail services. Unemployment on the Flathead Reservation is often lower than in the rest of rural Montana. The tribal college now gets non-Indian applicants who want the quality of education the Flatheads provide.
- At Cochiti Pueblo in New Mexico, effective unemployment is close to single digits — one of the lowest rates among western reservations — thanks to the Tribe's ability to employ in tribally-owned enterprises most of their own people who want on-reservation jobs.

What is odd or puzzling is that these stories — and others like them — do not conform to a lot of common, top-of-the-head ideas about economic development. For example, simply having resources — natural, human, or financial — does not account for what the relatively successful tribes have been able to achieve. It is not the case that relatively successful tribes are those that have good natural resources or high rates of educational attainment, or the ones who have been able to get their hands on the most financial capital.

Obviously, having more resources to work with is better than having less. The Apaches, for example, are blessed with a major Ponderosa pine forest, superb elk habitat, and wonderful ski country. But just having resources is not the key — nor even necessarily a key — to getting a reservation economy off the ground. The Crow Tribe of Montana has as rich a natural resource endowment as any tribe, possessing some of the largest coal reserves in the world, extensive timber, rich wheat-growing land, and arguably the best grazing land in the West. The Crows also have experienced significant infusions of capital through federal programs and a number of large monetary claims

settlements. High school graduation rates at Crow are well above the national reservation average. Yet official unemployment is almost 60% and real unemployment much higher. The return on Crow wealth — what the tribe and its people earn from that enormous resource endowment — is minuscule. All those resources have not produced wealth, nor have they produced a viable, working economy.

In contrast, the home of the Mississippi Choctaws, centered in the town of Philadelphia, Mississippi, is by no means rich in natural resources, and Choctaw development got going before the recent improvements the Tribe has made in its educational system. Neither natural resources nor education was the key to the Choctaws' success.

If natural, human, and financial resources aren't the key to economic development — if they cannot explain the development pattern in Indian Country — then what can?

This is the problem that we have been working on for the better part of the last decade at the Harvard Project on American Indian Economic Development.[2] On the one hand, there is widespread poverty on Indian reservations. On the other hand, a number of Indian nations have broken away from the legacy of poverty and are building successful economies on their own terms. What do these breakaway tribes share? What distinguishes them from other tribes? What explains the emerging pattern?

Two Approaches to Economic Development

In our research in Indian Country, we encounter two very different ways of approaching economic development. The first we call the "jobs and income" approach. Tribes that work with the "jobs and income" approach begin by saying, in effect, "we've

[2] The Harvard Project on American Indian Economic Development is a research project operated under the auspices of the Kennedy School of Government at Harvard University and the Udall Center for Studies in Public Policy at The University of Arizona. The project is directed by Dr. Manley Begay (Harvard), Professor Stephen Cornell (Arizona), and Professor Joseph P. Kalt (Harvard).

got a problem here. The problem is not enough jobs and not enough income, and the solution is to get some businesses going on the reservation." Often that means calling in the tribal planner and saying, "go get some businesses going." The tribal planner goes off and writes some grant proposals or looks for some investors or comes up with some business ideas, and everyone hopes that somehow the problem will be solved.

There's a persuasive logic to this approach to economic development: there aren't enough jobs on most reservations; there isn't enough income; too many people are poor; too many people are on welfare. So jobs and income are critical.

The problem is that this approach typically doesn't work. It may produce lots of ideas but it seldom produces lasting businesses. The stories are familiar. An enterprise gets started but fails to live up to its advance billing. Or the tribe obtains a grant that provides start-up funding for a project, but when the grant runs out there's no more money and the project starts downhill. Or an investor shows up but gets entangled in tribal politics, loses heart, and eventually disappears. Or a new business gets underway with lots of hoopla and has a good first year, but then the tribal government starts siphoning off the profits to meet its payroll or some other need, as a result there's no money to fix the leaky roof or upgrade the accounting system, and soon the business is in trouble. Or the enterprise becomes primarily an employment service as people demand that it provide lots of jobs, costs rise, it finds itself unable to compete with non-reservation businesses whose labor costs are less, it becomes another drain on the tribal treasury, two years later it folds and the jobs it provided disappear. Or the new tribal chair decides the business is a source of patronage, personnel are hired based on their votes in tribal elections instead of their business skills, with each election the business gets a new manager and a new set of operating guidelines, customers get cynical, quality declines, and the business collapses. One way or another, the tribe ends up back at square one, once again asking the planner to "get something going," and the cycle starts

over. Eventually, both planners and council feel as if they're banging their heads against the wall.

This pattern, familiar on many reservations, makes one wonder if the economic development problem can be reduced to "jobs and income," and if the solution can be reduced to "getting some businesses going" or winning grants or talking an investor into a joint venture. Maybe it's time for a new approach.

This is where the second approach to economic development comes in. It is a "nation-building" approach. This approach begins with the same perception — we've got a problem — and it recognizes that a big part of the problem is the lack of jobs and income. But it argues that solving the problem will require a solution both more ambitious and more comprehensive than trying to start businesses or other projects. The solution is to build a nation in which both businesses and human beings can flourish. The "nation-building" approach says the solution is to put in place an environment in which people want to invest. They want to invest because they believe their investment has a good chance of paying off. It may produce monetary profits. It may produce satisfaction in a job well done. It may raise the quality of life in the community. It may reduce dependence on the federal government or bolster tribal sovereignty. The point is that most investors have choices. If they don't see a decent possibility of a payoff here, there is little to stop them from going somewhere else or doing something different.

This problem involves more than money. Our definition of "investors" is broad. An investor may be a cash-rich joint venture partner, but it also could be a tribal member considering a job with tribal government or with a tribal enterprise, or someone with a new solution to a reservation problem, or a tribal member hoping to start up a feed store or a beauty salon or some other reservation business and employ a couple of family members, or a newly-trained school teacher hoping to return to the reservation. Investment is not just a financial matter. An investor is anybody with time or energy or ideas or skills or good will <u>or</u> dollars who's willing to bet those assets on the tribal future.

Attracting investment is a matter of attracting those people, of persuading them to make that bet. A development plan that ignores the problem of persuading investors --- of all kinds --- to invest is a development plan in trouble. Nation-building is a solution to that problem.

A "nation-building" approach to development doesn't say "let's start a business." Instead, it says "let's build an environment that encourages investors to invest, that helps businesses last, and that allows investments to flourish and pay off." A "nation-building" approach requires new ways of thinking about and pursuing economic development. Telling the planning office to go get some businesses going doesn't begin to crack the problem. The solutions lie elsewhere: in the design and construction of nations that work.

Table 1 compares the two approaches to reservation development. The "jobs and income" approach sees development as first and foremost an economic problem and consequently focuses attention on getting grants, finding a joint venture partner, or any other strategy that might produce usable capital. The "nation-building" approach, on the other hand, sees development as first and foremost a political problem. It focuses attention on laying a sound institutional foundation, on strategic thinking, and on informed action.

Most important, the "nation-building" approach produces different outcomes. Our research consistently finds that the "jobs and income" approach can occasionally lead to some quick business start-ups and perhaps some short-term successes, but it does not produce a sustainable future for the nation. A nation-building approach is no guarantee of economic success, but it vastly improves the chances that economic development will take root and be sustainable. It is far more likely to produce prosperity for the nation and its people. Along with sovereignty, it is the key to economic development.

Table 1. Two Conceptions of Economic Development

"Jobs and Income"	"Nation-Building"
Reactive	Proactive
Responds to anyone's agenda (from the feds or off the street)	Responds to your agenda (from strategic planning for the long-term future)
Emphasizes short-term payoffs (especially jobs and income *now*)	Emphasizes long-term payoffs (sustained community well-being)
Emphasizes starting businesses	Emphasizes creating an environment in which businesses can last
Success is measured by economic impact	Success is measured by social, cultural, political, *and* economic impacts
Development is mostly the tribal planner's job (planner proposes; council decides)	Development is the job of tribal and community leadership (they set vision, guidelines, policy; others implement)
Treats development as first and foremost an economic problem	Treats development as first and foremost a *political* problem
The solution is money	The solution is a sound institutional foundation, strategic direction, informed action

The Components of Nation-Building

If we look back at the activist Indian politics of the 1960s and 1970s, it is apparent that sovereignty was the core issue at stake. Who would call the shots in Indian Country? Would the federal government continue to make decisions for tribes, to promote its own version of the tribal future, to control the use of tribal resources, and to wield veto power over tribal actions, or would Indian nations be allowed to govern themselves? The self-determination policy launched formally in 1975 and attendant court decisions and legislative actions answered that question, at least in the abstract. The sovereignty of Indian nations was affirmed.

This left tribes with two major tasks. First, they have had to assert the sovereignty promised by policy. Against the entrenched interests of federal bureaucracies, the resistance of state governments, and the efforts of numerous other interests making claims to tribal resources, tribes have had to struggle to make their sovereign status a practical reality, to turn the abstract promise of sovereignty embedded in the self-determination policy into genuine decision-making power. This has not been easy. It has involved court battles, lobbying in Congress, and in some cases a good deal of chutzpah as tribes have seized control of their affairs, displacing federal and other decision makers.

Second, tribes have had to back up their assertions of self-governance with the ability to govern effectively. It is one thing to have the power to govern; it is another to deliver effective governance. The shift in governance from outsiders to tribes — a shift that many tribes have not yet been able to make — puts the spotlight directly on tribal capability. This is a fact the opponents of tribal sovereignty have been quick to point out, pouncing on every indication of tribal incapacity or incompetence in tribal government.

Real self-governance is a bit of a two-edged sword for tribes and tribal leaders. Once tribes are in the driver's seat in reservation affairs, they begin to bear more responsibility for what happens in those affairs. When things go well, they are entitled to credit; when things go badly, they bear a larger share of the blame. As tribes exercise more and more real power, the argument that the federal government or some other set of outsiders alone is responsible for what's wrong becomes less convincing. This doesn't mean that responsibility rests solely with tribes. The long history of warfare, imported disease, land loss, cultural suppression, racism, and paternalistic federal control of reservations has had a lasting impact on Indian nations that continues to handicap them today. But the decisions tribes make now and the capabilities they bring to the tasks of self-governance are crucial determinants of tribal futures.

Assertions of sovereignty will have little impact on tribal socioeconomic conditions in the absence of effective governing capability. But what does effective governing capability involve? If successful development requires effective self-governance, what does effective self-governance look like?

The key is the institutions through which tribes govern, the ways they organize themselves to accomplish collective tasks. One of the unfortunate consequences of a century of federal control of Indian nations is a legacy of institutional dependency, a situation in which tribes have had to rely on someone else's institutions, someone else's rules, someone else's models, to get things done. On many reservations, tribal government has become little more than a grants-and-programs funnel attached to the federal apparatus. On others, tribes simply have adopted the institutions of the larger society without considering whether those institutions, in fact, are appropriate to their situations and traditions. Such dependency and blind imitation are the antithesis of self-determination.

For sovereignty to have practical effects in Indian Country, tribes have to develop effective governing institutions of their own. Harvard Project research indicates such institutions will have to provide the following:[3]

- Stable institutions and policies.
- Fair and effective dispute resolution.
- Separation of politics from business management.
- A competent bureaucracy.
- Cultural "match".

Stable institutions and policies: The institutions of governance are the formal mechanisms by which societies organize themselves to achieve their goals. Through formal constitutions, charters, laws, codes, and procedures, and through informal but established practices and norms, a society establishes relationships among its members and between the society and outsiders, distributes rights and powers, and sets the rules by which programs, businesses, and even individuals operate. Those who deal with that society, whether members or not, look to those institutions to understand the rules of the game. They look to those institutions to tell them what their rights are, to tell them which decisions are likely to be politicized and which ones aren't, to tell them how to act in order to achieve their own goals, to tell them what to expect in their dealings with that society, and so forth.

As many developing countries around the world can attest, if governing institutions are subject to abrupt and frequent changes, then the rules of the game become

[3] Harvard Project results have been published in a number of places, but see especially the following papers by Stephen Cornell and Joseph P. Kalt: "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations," in What Can Tribes Do? Strategies and Institutions in American Indian Economic Development, edited by Stephen Cornell and Joseph P. Kalt (Los Angeles: American Indian Studies Center, UCLA, 1992), pp. 1-60; and "Where Does Economic Development Really Come From? Constitutional Rule among the Contemporary Sioux and Apache," Economic Inquiry 33 (July 1995): 402-26. See also the various papers published in the Harvard Project Report Series, available from the Harvard Project on American Indian Economic Development at the John F. Kennedy School of Government, Harvard University.

uncertain. Faced with uncertain rules, investors are less likely to invest. Tribal members are less likely to put their energy and skills into the tribal future if they're uncertain what role politics will play in their jobs. Small business owners are less likely to start or expand their businesses if they think the rules of the game might change at any moment. A joint venture partner is less likely to commit if tribal policies and practices are inconsistent. In other words, instability in governing institutions discourages investment.

Instability comes not from changes in personnel, but from the changes personnel and politics make in institutions. Measured by unemployment and by sustained enterprise success, Cochiti Pueblo is one of the most successful tribes in Indian Country. But the senior tribal administration changes on a yearly basis. One of the characteristics of Cochiti governance is that the tribal executives you are dealing with this year probably will not be the ones you are dealing with next year. But while the senior personnel frequently change, the institutions of Cochiti governance — the rules of the game — seldom do. Rooted in Pueblo traditions and indigenous governing structures, they have enormous stability. This encourages both tribal members and non-members to invest energy and time and skill in the tribal future.

Governing institutions at some other reservations lack this stability. Sometimes the rules are unclear to begin with or are set on an ad hoc basis, making it impossible for anyone to know what to expect in dealings with tribal government. Sometimes newly elected officials change the rules to serve their own interests or those of their supporters. Sometimes the rules are simply ignored, having only a paper reality. In such cases, stability disappears. All too often, investment goes with it.

Fair and effective dispute resolution. Governing institutions have to be able to provide consistently non-politicized, fair dispute resolution. They have to be able to assure people that their claims and disputes — including disputes with the tribe itself —

will be fairly adjudicated. The key to doing this for most tribes is a strong and independent judicial system.

On many reservations, the tribal court is controlled by the tribal council. Either the judges can be fired by the council or president and serve at their pleasure, or the decisions of the court can be appealed to the council. Either way, the council or the president has the last word in disputes.

This is not a promising environment for a potential investor. Consider a tribal member trying to start a small business on the reservation who has a complaint against the tribal council. Perhaps this person thinks the council unfairly canceled a lease on tribal land or is pressuring the new business to hire certain people, and the member goes to tribal court to complain. On some reservations, the tribal council is going to have the last word, either via appeal to the council or through political pressure brought to bear on tribal judges. In other words, the decision finally will rest with the very people who are the target of the complaint. Under those circumstances, the chances that the tribal member is going to get a fair shake are slim. Given the prospects, such investors are likely to take their money or ideas or time or energy — and the jobs they might have produced — somewhere else.

At the Harvard Project we have examined 67 tribes for which comparable information is available, and have found that those tribes that have strong, genuinely independent judicial systems outperform — economically — those that don't. The measure we used was employment. If you control for the effects of other factors on employment, you find that simply having an independent judicial system reduces unemployment, on average, by five percent.[4] Thus, if a tribal council is looking for ways to reduce long-term unemployment on the reservation, one of the best things it can do is

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[4] See Stephen Cornell and Joseph P. Kalt, "Successful Economic Development and Heterogeneity of Government Form on American Indian Reservations," in Getting Good Government: Capacity Building in the Public Sectors of Developing Countries, edited by Merilee S. Grindle (Cambridge: Harvard Institute for International Development, Harvard University, 1997), pp. 272.

establish a strong, genuinely independent judiciary that can fairly settle disputes and adjudicate claims.

This illustrates the difference between a "jobs and income" strategy and a "nation-building" strategy. The "jobs and income" strategy says go find an investor or start a business. The "nation-building" strategy says build a judicial system that reassures investors, levels the playing field, and gives both tribal and non-tribal businesses an opportunity to flourish. In fact, the lesson from Indian Country is the same one that is being learned in the former Soviet Union, where investment in legal systems is the necessary foundation on which economic development is being built.

Separation of politics from business management. Tribal governments have to be able to separate politics from day-to-day business decisions. On many reservations the tribal government — typically the tribal council or the tribal president — controls tribal businesses. Business decisions are made by the council; administrative and personnel disputes are referred to the council; and the council or president often assumes responsibility for much of the day-to-day running of the enterprise.

At first glance, this may make sense to some people. After all, tribal enterprises belong to the tribe and the government represents the tribe; therefore, the government should run the enterprises. But most societies don't choose leaders on the basis of their ability to read market conditions or manage a labor force or negotiate purchasing agreements with suppliers. Societies ideally choose leaders on the basis of vision, integrity, ability to make wise long-term decisions, leadership attributes, and so forth. When it comes to running businesses, what societies typically need is to find the best business people available, people who know how to make businesses succeed and become lasting sources of income, jobs, and productive livelihood.

To sustain businesses as businesses, rather than temporary welfare programs, requires a clear division of responsibility. The elected tribal leadership is responsible for

the long-term future of the nation. Among other things, they properly consider strategic issues: What kind of society are we trying to build? What uses should we make of our resources? What relationships with outsiders are appropriate? What do we need to protect and what are we willing to give up? These are proper matters for political debate and they are the sorts of questions elected leaders appropriately deal with. But when it comes to things like hiring the new foreman at the plant; working out the payroll at the casino; dealing with personnel issues, purchasing, or operating hours; putting together the business plan for next year; or deciding how much the middle managers should be paid — these are not appropriately political matters. They are business matters, and they should be decided by skilled business people working within the strategic directions set by the tribe but free of the interference of tribal leadership. When politics gets involved in business operations, businesses typically either fail or become a drain on tribal resources, preventing those resources from being used to the full advantage of the tribe. Businesses cannot compete successfully when the decisions are being made according to political instead of business criteria.

The Harvard Project has been carrying out a running survey of tribally-owned businesses on reservations. To date, we have surveyed approximately 125 such businesses on more than thirty reservations. The results are compelling. Those tribally-owned businesses that are formally insulated from political interference — typically by a managing board of directors and a corporate charter beyond the direct control of council members or the tribal president — are four times as likely to be profitable as those businesses that are directly controlled by the council or the president. To be sure, there are some council-controlled businesses out there that are successful. But the evidence from Indian Country shows that the chances of being profitable rise <u>four hundred percent</u> where businesses are insulated from political interference in day-to-day operations.[5]

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[5] Some of this evidence is presented in Cornell and Kalt, "Reloading the Dice...," p. 32.

Of course a tribe might decide that it is not interested in profits; it is interested in jobs. The enterprise, in this view, should employ as many people as possible; if it also makes money for the tribe, that's gravy. But our experience has been that, in a competitive environment, enterprises run as employment services invariably run into difficulties which typically threaten to bring the whole business down. Tribal enterprises in such situations have cost levels higher than is efficient. Their products therefore are expensive; sales tend to fall; and eventually the tribe — which typically doesn't have much money — has to subsidize the business, which often fails as political support evaporates.

If an enterprise in a competitive market is not itself competitive, the jobs it creates won't last very long. On the other hand, a strategy that reinvests profits to maintain and expand the business, eventually employing more people, or that invests profits in new businesses, accomplishing the same thing, may produce fewer jobs today but far more jobs tomorrow.

A competent bureaucracy. The White Mountain Apache Tribe in Arizona recently reached an agreement with the U.S. Fish and Wildlife Service under which the Tribe is able to manage its forest and recreational resources in conformance with the Endangered Species Act. This agreement was a product of negotiations between the two entities over the Service's concerns about endangered species on the Apache reservation. The agreement avoided potentially costly litigation that would have pitted the Service's concerns against the Apaches' right to manage their own resources. Under the agreement, the Service recognizes Apache sovereignty while the Apaches put in place a conservation plan that recognizes the endangered species concerns of the Service.

One of the key elements in the success of these negotiations was the Apaches' resource management capabilities. Over the years, the White Mountain Apache Tribe has developed sophisticated forestry, wildlife, and recreational management capabilities.

Among other things, they boast one of the most productive sustained-yield timber operations in the west and the country's premier commercial elk hunting operation. In other words, they have a competent, sophisticated resource management bureaucracy. It gets things done and does them well. This capable bureaucracy has enabled them to assume the driver's seat as far as their natural resources are concerned. Without this capability, their claim to control over endangered species management would not have been credible. The Apache case illustrates how important it is to negotiate from strength — in this case the organizational and managerial strength of tribal government.

As Indian nations increasingly take over the management of social programs and natural resources on reservations, as they undertake ambitious development programs, as their governing tasks become more financially and administratively complex, their bureaucratic capabilities become even more essential to their overall success. Attracting, developing, and retaining skilled personnel, establishing effective civil service systems that protect employees from politics, putting in place robust personnel grievance systems, establishing regularized bureaucratic practices so that decisions are implemented and recorded effectively and reliably — all of these are crucial to a tribe's ability to govern effectively and thereby to initiate and sustain a successful program of economic development.

Cultural "match". The task of governing institutions is to back up sovereignty with the ability to exercise that sovereignty effectively. That's where sovereignty pays off — in its effective exercise. But where do those institutions come from? Should they simply be imported from somewhere else?

Cultural "match" refers to the match between governing institutions and the prevailing ideas in the community about how authority should be organized and exercised. Such prevailing notions are part of the culture of a tribe or of any cohesive society. Governing institutions "match" a society's culture when governing authority is

exercised when, where, and by whom the society's norms — often unspoken and informal — regard as legitimate. Where cultural match is high, the institutions of governance tend to have a high degree of support in the community; they command allegiance and respect. Where cultural match is low, legitimacy is low, and governing institutions are more likely to be toothless, ignored, disrespected, and/or turned into vehicles for personal enrichment.

Two of the tribes that the Harvard Project on American Indian Economic Development has worked with extensively are the White Mountain Apache Tribe of the Fort Apache Reservation in Arizona and the Oglala Sioux Tribe of the Pine Ridge Reservation in South Dakota. Both have tribal governments organized under the provisions of the Indian Reorganization Act (IRA) of 1934. Both governments are classic IRA systems: Power is centralized in the tribal government, chief executive officers exercise extensive power, there is no independent judiciary, and there is executive oversight of business operations. In short, the tribal constitutions at Fort Apache and Pine Ridge are near replicas of each other, and the institutions of governance are largely the same on both reservations.

But the performances of these two Indian nations are radically different. Economically, as we already have noted, the White Mountain Apaches are one of the most successful tribes in the country, having built a number of successful tribal enterprises in timber, manufacturing, and recreational tourism. Pine Ridge, on the other hand, is statistically the poorest Indian reservation in the country. The record of failed tribal enterprises at Pine Ridge is long and depressing. It has some of the highest rates of unemployment and related social problems in Indian Country.

What's the difference? Resources certainly are part of it. The Fort Apache Reservation is blessed with a rich natural resource endowment, while Pine Ridge has comparatively less to work with. But resource differences cannot explain the very

different record in the performance of tribal enterprises. Tribal businesses at Fort Apache tend to be productive and to last. Tribal businesses at Pine Ridge, typically, do poorly.

Our research strongly suggests that a central part of the difference has to do with the institutions of governance. Those institutions are essentially the same in structure. But in the Apache case, there is a much closer match with Apache traditions. In the Sioux case there is no match at all. A comparison of Apache and Sioux systems of governance prior to the mid-nineteenth century, before either tribe had come under the effective control of the United States, shows substantial differences between them. This comparison is summarized in Table 2.[6]

6 For a more detailed version of this comparison and for the sources on which it draws, see Stephen Cornell and Joseph P. Kalt, "Where Does Economic Development Really Come From? Constitutional Rule among the Contemporary Sioux and Apache," Economic Inquiry 33 (July 1995): 402-26.

Table 2. IRA, Western Apache, and Lakota Governing Structures

Typical IRA Governments (1930s...)	Western Apache Government, c. 1850	Lakota Government, c. 1850
Centralized (single units, power concentrated in chairs or presidents)	Mixed (local band autonomy, power concentrated in single chiefs)	Decentralized (local band autonomy, power dispersed among individuals and institutions)
Modest separation of powers (strong executive, weak legislature)	Minimal separation of powers (strong executive, weak legislature)	Separation of powers (executive, legislative, judicial)
Directly elected executive oversees representative council	Directly elected executive selects council	Parliamentary design (council selects executives)
No independent judiciary (council or chair is court of appeal)	Judicial functions in hands of executive	Independent judicial and law enforcement functions (*Akicita* societies)
Executive or legislative oversight of business operations	Executive oversight of business operations	Separation of strategic affairs from day-to-day business operations

Traditional Apache government was centralized. It put enormous power in the hands of a single, charismatic leader. That leader selected the legislature or council, which were looked to for advice, but over which the executive had the last word. There was no independent judiciary; the chief executive resolved major disputes as chief judge and jury. He made the major economic decisions as well.

This traditional Apache system looks very much like the contemporary IRA government. By chance, when they adopted their IRA constitution, which was written by the federal government, the Apaches got a governing system that in many ways resembled the system they had developed over centuries on their own. As a result, the people tended to believe in that government, and still do so. The institutions of governance at Fort Apache have community support because they fit Apache conceptions of the appropriate organization and exercise of political authority.[7] They have cultural match.

The situation is very different at Pine Ridge. Traditional Lakota government looked radically different from the contemporary IRA version. It placed little power in the hands of single individuals. A legislative council exercised the largest degree of power. In parliamentary fashion, that council chose four executives, called Shirt Wearers, who served at the pleasure of the council. The council also oversaw selection of a police force from among the warrior societies, called the *akicita*, and assigned them responsibility for enforcing the law and settling disputes. Once appointed, the *akicita* and their judicial powers were remarkably independent. There are cases in the historical record, for example, of the *akicita* physically beating members of the legislature and Shirt Wearers — chief executives — for failing to observe the law. Being able, by general

[7] This is not to say that those institutions are conflict-free or that the individuals who serve in those institutions necessarily enjoy the same degree of support but only that the institutions themselves appear to be viewed by most tribal members as legitimate.

cultural assent, to punish chief executives and legislators is a persuasive sign of culturally legitimate judicial independence.

Historic Lakota government also provided for a clear separation between strategic decisions and day-to-day business management. The council might decide where the camp should move next, or when to gather for the buffalo hunt, or whether to engage in raiding against another nation. When it came to the business of actually moving or hunting or going to war, the council chose individuals known to be superbly skilled in those managerial functions, and put responsibility in their hands. Once the hunt began, it was not the leaders of the nation, but the most skilled and knowledgeable hunters who held decisionmaking power. Indeed, traditional Lakota government was a highly sophisticated system, complete with its own separation of powers, checks and balances, and clear division of authority. What's more, it worked.

The IRA government at Pine Ridge looks very different today. It places enormous power in the hands of single leaders, has no effective separation of powers, muddies lines of authority, fails to place checks on the behavior of leaders, and offers no independent, impartial means for settling disputes. At almost every point, it departs from the political ways of the past. As a result, it has little legitimacy among the people. Few of them are willing to invest in those activities where the government exercises significant power. Those who do invest take significant risks. Some get burned, resources are squandered, and the chances of long-term prosperity disappear.

What is at issue here is cultural match and the legitimacy of governmental institutions that it produces. The institutions of governance at Fort Apache match the culture of the people — their ideas about how authority should be organized and exercised — and therefore have legitimacy. The virtually identical institutions of governance at Pine Ridge have little match with Lakota culture and therefore have little legitimacy with the Lakota people.

In short, the institutions of governance have to have legitimacy with the people if they are going to work. This is not necessarily a signal to revive traditional governing systems. Those systems were designed to meet the problems of their time. Tribal governments operate in a very different environment today and often have to solve very different kinds of problems. Furthermore, not only have the demands on tribal governments changed, but in many cases the ideas carried in the community — tribal cultures — have changed as well. The trick is to invent governments that are capable of operating effectively in the contemporary world, but that also match people's ideas — traditional or not — about what is appropriate and fair.

The Building Blocks of Development

Putting in place effective institutions of self-governance is a critical piece of the development puzzle, but it is not the only one. Institutions alone will not produce development success. Sound institutions have to be able to move into action. In our research and in our work with Indian nations, we think about development as having four central pieces or building blocks: sovereignty, effective institutions, strategic direction, and decisions/action.

Sovereignty is the starting point; without it, successful development is unlikely to happen in Indian Country. But, as we have argued above, sovereignty has to be backed up with effective governing institutions. These provide the foundation on which development rests. Development itself, however, still needs focus. For most Indian nations, not just any kind of development will do. Most nations have priorities: aspects of their society or situation that they wish to change, features that they wish to preserve or protect, directions they see as compatible with their views of the world, directions they wish to avoid. The crucial issues for societies to decide as they put together a development agenda are these:

- What kind of society are we trying to build?
- What do we hope to change in our society?
- What do we hope to preserve or protect? What are we willing to give up?
- What are our development priorities (e.g., sovereignty, health, employment, income, skill development, etc.)?
- What are our development concerns (e.g., cultural impacts, environmental impacts, changing demographics, out-migration, etc.)?
- What assets do we have to work with?
- What constraints do we face?

The answers to these questions form the basis of a development strategy. They provide criteria against which development options can be evaluated and development decisions can be made. They do not tell a tribe what to do in every case, but they orient decision-making to long-term goals and to the realities of the tribe's situation. Without a sense of strategic direction, there is a danger that the tribe will move into a reactive mode, responding to the agendas of funding agencies or outside investors instead of proactively pursuing its own goals and seeking ways to achieve them.

Finally, there are practical development decisions to be made and implemented: this is the action piece of the puzzle. In our experience, many tribes focus the bulk of their development attention on decisions/action, at the expense of institution-building and strategic direction. Faced with urgent problems and often transitory opportunities, tribal councils deal with development on a short-term basis, as a set of decisions that have to be made. A funding agency is willing to provide start-up funds for tourism; let's do that. An outside investor has offered an opportunity to start up a company but needs a decision now; what shall we do? The new tribal planner has put three business proposals before us; which ones should we pursue? Timber prices are up; shall we increase the cut?

All of these are real issues that need attention. But without appropriate and effective institutions, the council probably is trying to answer these questions with only

limited information. And some may not be council business at all. Moreover, without some sense of strategic direction, it is not clear which options make sense. Under these conditions, development becomes a haphazard affair. In contrast, a tribe that has effective institutions in place and has developed a clear strategic direction not only is in a better position to make development decisions, but is more likely to see those decision pay off.

Thus institutions and strategic direction are not only pieces of the development puzzle; they are building blocks: successful development rests in part on them. These building blocks are shown in Figure 1. The arrow indicates the appropriate sequence of steps.

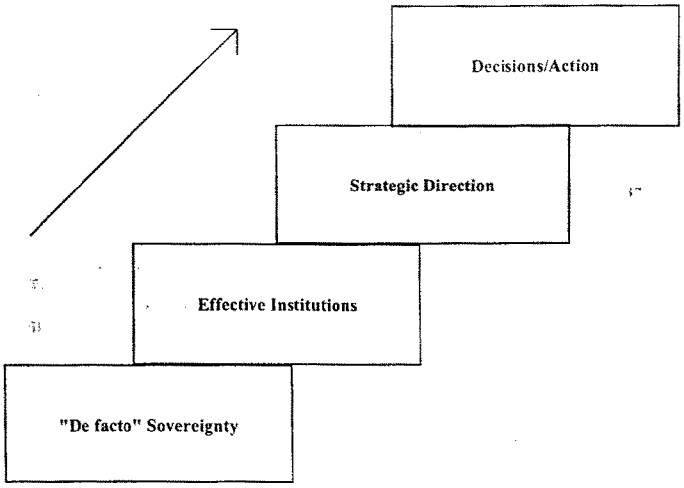

Figure 1. The Building Blocks of Economic Development

The Argument for Sovereignty

Of the building blocks of development shown in Figure 1, three are substantially under tribal control. It is up to tribes to put in place institutions that work, to determine their own strategic directions, and to make informed decisions and act on them. Sovereignty is different. Sovereignty is fundamentally a matter of the relationship between political entities, of the rights and powers they recognize each other as possessing. For example, the treaties signed between Indian nations and the United States typically included, among other things, explicit recognitions and specifications of relevant sovereign powers belonging to each party.

Figure 1, however, refers not simply to sovereignty. It refers to "de facto" sovereignty. By "de facto" sovereignty we mean acting as the effective decision maker in tribal affairs. Who is really deciding the economic strategy? Who is really deciding how many trees will be cut? Who is really deciding whether the joint venture agreement with an outside investor will go forward? Who is really deciding how the housing money will be spent? When the answer to these questions is "the tribe," we have "de facto" sovereignty — sovereignty in fact and in practice.

We have argued that a distinctive feature of the last twenty-five years in Indian-White relations — and a critical foundation of tribal economic success — has been federal acknowledgment of tribal sovereignty as not only a legal but a practical matter. For those tribes that have been willing and able to assert it, these have been decades of "de facto" sovereignty, of practical self-governance.

The attack on tribal self-governance — on sovereignty — which began in the mid-1990s is not new; tribal sovereignty has been under attack many times before. But the attack now comes at a time when many tribes, through the assertion of their sovereign powers and the development of institutions that can exercise those powers, have begun to

put their sovereignty to effective use. At century's end, the attack continues in the Congress, the courts, state legislatures, and to some degree in public and media debate.

This attack is both misguided and dangerous. There are legal and historical arguments for tribal sovereignty that we need not rehearse here. Another important argument, however, gets too little attention. Among the most powerful arguments for tribal sovereignty is the simple fact that it works. Nothing else has provided as promising a set of political conditions for reservation economic development. Nothing else has produced the success stories and broken the cycles of dependence on the federal system in the way that sovereignty backed by capable tribal institutions has done.

The history of Indian policy is amply clear on this point. The United States has been concerned to overcome the dismal economic situation on Indian reservations at least since 1928, when the so-called Meriam Report marshaled massive evidence of reservation poverty and hopelessness.[8] In its attempts to deal with those conditions, subsequent federal Indian policy has ranged across the map, from assimilationism to the termination of federal responsibility for tribes to multiplying social programs and explicit support for tribal governments. To date, however, only one federal policy orientation has been associated with sustained economic development on at least those Indian reservations that have exercised de facto sovereignty through their own institutions: the self-determination policy that emerged in the 1970s. In other words, not only does tribal sovereignty work, but the evidence indicates that a federal policy of supporting the freedom of Indian nations to govern their own affairs, control their own resources, and determine their own futures is the only policy orientation that works. Everything else has failed.

In our work, we cannot find a single case of successful economic development and declining dependence where federal decision makers have exercised de facto control

[8] Lewis Meriam and Associates, The Problem of Indian Administration (Baltimore: Johns Hopkins Press, 1928).

over the key development decisions. In every case we can find of sustained economic development on Indian reservations, from the Salish and Kootenai at Flathead in Montana to the Mescalero Apaches in New Mexico to the Muckleshoots in Washington to the Choctaws in Mississippi, the primary economic decisions are being made by the tribe, not by outsiders. In every case, the tribe is in the driver's seat. In every case, the role of the BIA and other outside agencies has shifted from decision maker to merely a source of helpful resources, from the controlling influence in decisions to advisor or provider of technical assistance.

We realize that in finding that sovereignty is the precondition of economic development on reservations we have reached a very pro-Indian conclusion, but it is based on the evidence. In fact, it is not surprising. The same lessons enumerated here have been taught to the world by former Soviet attempts to exercise the de facto decision making role in Eastern Europe. Such a strategy did not produce successful economies there. It should come as no surprise that it does not work in Indian Country.

The underlying logic to the finding that only sovereignty works in overcoming the long-standing problems of reservation poverty, dependence, social ill-being is clear. As long as the BIA or some other outside organization carries primary responsibility for economic conditions on Indian reservations, development decisions will reflect the goals of those organizations, not the goals of the tribe. Furthermore, when outsiders make bad decisions, they don't pay the price of those decisions. Tribes do. As long as the outside decision maker doesn't pay the price of bad decisions, there's no incentive for that decision maker to make better decisions.

Once the tribe is in the driver's seat, the situation changes. The quality of the decisions improves as the tribe pays the price of bad decisions and reaps the reward of good ones. Making the federal government bear responsibility for improving economic conditions on Indian reservations may be good political rhetoric, but it is bad economic strategy. When tribes take responsibility for what happens economically on reservations

and have the practical power and capacity to act on their own behalf, they start down the road to improving reservation conditions.

In short, "de facto" sovereignty is an essential precondition for reservation economic development. A decade of Harvard Project research has been unable to uncover a single case of sustained development that did not involve the recognition and effective exercise of tribal sovereignty: the practical assertion by tribes of their right and capacity to govern themselves. There is a major policy lesson here. The lesson is that sovereignty is one of the primary development resources any tribe can have. The reinforcement of tribal sovereignty should be the central thrust of public policy. One of the quickest ways to bring reservation development to a halt and prolong the impoverished condition of reservations would be to undermine tribal sovereignty.

Furthermore, tribal sovereignty works not only for Indians; it has benefits for non-Indians as well. Around the country, economically successful Indian nations are becoming major players in local and regional non-Indian economies. The most abundant evidence of this fact comes from gaming tribes. The evidence is rapidly mounting that some Indian gaming operations are making major economic contributions not only in Indian communities, but in non-Indian ones: creating jobs, providing new business to non-Indian vendors of various kinds, attracting increased tourism to certain areas, expanding sales by local retailers, moving people off state welfare rolls, and increasing state income and sales tax receipts.[9] On top of that are the major investments in non-

[9] See, e.g., Kalt, Joseph P., Testimony before the National Gaming Impact Study Commission, March 16, 1998. See, also, Center for Applied Research, The Benefits and Costs of Indian Gaming in New Mexico (Denver: Center for Applied Research, 1996); Center for Applied Research, Indian Reservation Gaming in New Mexico: An Analysis of Its Impact on the State Economy and Revenue System (Denver: Center for Applied Research, 1995); John M. Clapp, et al., The Economic Impacts of the Foxwoods High Stakes Bingo & Casino on New London County and Surrounding Areas (Arthur W. Wright & Associates, September, 1993); Steven C. Deller, Amy Lake, and Jack Sroka, *The St. Croix Casino: A Comprehensive Study of Its Socioeconomic Impacts* (Madison: University of Wisconsin Extension, 1996); Stephen A. Hoenack and Gary Renz, Effects of the Indian-Owned Casinos on Self-Generating Economic Development in Non-Urban Areas of Minnesota (Plymouth, MN: Stephen A. Hoenack and Associates, 1995); James M. Klas and Matthew S. Robinson, Economic Benefits of Indian Gaming in the State of Minnesota (Minneapolis: Marquette Advisors, 1997); James M. Klas and Matthew S. Robinson, Economic Benefits of Indian Gaming in the State of Oregon (Minneapolis: Marquette Advisors, 1996); Minnesota Indian Gaming Association and KPMG

Indian enterprises that some gaming tribes are making with their profits, becoming significant contributors of investment capital for non-Indian businesses.

Of course gaming is an easy activity to point to. The money involved is often substantial, it makes a big splash, and it captures the attention of the media. But other tribal economic activities also contribute to the economies of Indian and non-Indian communities. Tribes with successful economies — whether gaming is involved or not — typically become net contributors to the larger economies around them. We have already noted the Mississippi Choctaws, who are importing non-Indian labor because there aren't enough Choctaws to fill all the jobs they've created. Some non-Indians now look to the Choctaws for an economic future that is otherwise unavailable to them in that part of Mississippi. As noted above, the White Mountain Apache Tribe has become a keystone of the non-reservation economy in east-central Arizona, bringing both people and dollars into Pinetop and Snowflake and other communities. When the Tribe's natural resource economy was threatened by federal endangered species policies, not only did the Tribe put itself in the position to exercise de facto sovereignty on species issues, the non-Indian communities around them organized in support of the Tribe's assertions of self-rule. In Montana, it was not gaming that turned the Confederated Salish and Kootenai Tribes of the Flathead Reservation into a major economic force in the Flathead Valley, where their economy accounts for a significant part of the growth taking place in the corridor running from Missoula north toward Kalispell and Glacier National Park. Elsewhere, too, tribes that are engaged in successful economic development — with and without gaming — are moving tribal members off welfare, reducing the need for some social programs, helping families survive, taking over functions previously filled by the federal government,

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Peat Marwick, Economic Benefits of Tribal Gaming in Minnesota, 1992 (Minnesota Indian Gaming Association, April, 1992); James M. Murray, Direct and Indirect Impact of Wisconsin Indian Gaming Facilities on Wisconsin's Output, Earnings, and Employment (Madison: University of Wisconsin Extension, 1997; James M. Murray, The Impact of American Indian Gaming on the Government of the State of Wisconsin (Madison: University of Wisconsin Extension, 1993). Dennis J. Nelson, Howard L. Erickson, and Robert J. Langan, Indian Gaming and its Impact on Law Enforcement in Wisconsin (Attorney's Process and Investigation Services, Inc., 1996).

supporting the education of tribal members, and improving the quality of life on reservations. These activities reduce the support burdens on the rest of the society — on taxpayers — and reduce the squandering of human resources that has plagued Indian Country for more than a century.

Such benefits as these also give states such as Arizona, Mississippi, and Montana a major stake in tribal economic prosperity. And what is the foundation of tribal economic prosperity? It all comes back to sovereignty: rights and powers of self-governance and the ability to exercise them effectively. This set of connections — from sovereignty to reservation development to non-reservation payoffs — is largely left out of the thinking and tactics of those who would now squash tribal sovereignty. But what is the alternative? We believe the alternative to sovereignty and real progress on reservation development is a return to a system dominated by federal and state programs that perpetuate institutional and individual dependence and consign tribes to debilitating futures of poverty and despair.

Conclusion

The policy implications of this research can be summarized briefly. Economic development on Indian reservations is first and foremost a political problem. At the heart of it lie sovereignty and the governing institutions through which sovereignty can be effectively exercised.

This directs attention first to the federal and state policy levels, for it is at these levels that sovereignty, as a set of rights and powers, will be either affirmed or reined in. The lesson of the research is clear. It is increasingly evident that the best way to perpetuate reservation poverty is to undermine tribal sovereignty. The best way to overcome reservation poverty is to support tribal sovereignty. Furthermore, the evidence is mounting that successful tribes, whether in gaming or skiing or timber or

manufacturing or some other activity, can make important contributions to local, regional, and national economies.

At the tribal level, the lesson is that those tribes that build governing institutions capable of the effective exercise of sovereignty are the ones that are most likely to achieve long-term, self-determined economic prosperity. They are the ones who will most effectively shape their own futures, instead of having those futures shaped by others. For tribes, nation-building is the only game in town.

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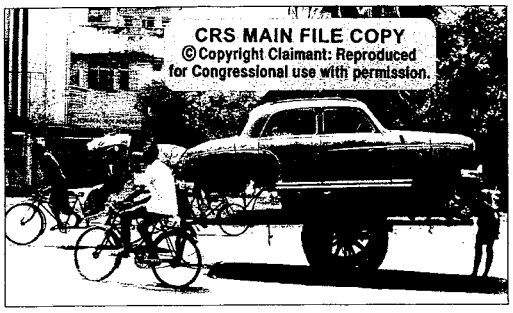
FINANCE AND ECONOMICS



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Time to roll out a new model

WASHINGTON, DC

The World Bank wants to be the best in the development business. Does that business still exist?

JAMES WOLFENSOHN, president of the World Bank, is not shy of grand statements. He famously said that his organisation's success should be judged by "smiles on the faces of children" in poor countries. Now he is proposing a "comprehensive programme of renewal", to make the World Bank the "premier global development institution" of the 21st century.

Apart from its grandiose language, the most striking aspect of this proposal is its cost. Aside from giving up to $150m to workers who will be laid off, Mr Wolfensohn wants to spend a whopping $420m over the next two years to make the World Bank better at what it does. Whether that investment makes sense depends on whether the World Bank is in an expanding industry or a declining one. Knowing the answer means first asking what, if anything, development is really about.

This may seem a strange question. Mr Wolfensohn, for one, would be quick to point out that there are 4.7 billion people living in the developing world, many of them in abject poverty. These are the Bank's "clients", and helping them is its business. A touching sentiment, but a trite one. Justifying the use of public money (which is what the World Bank's money in effect is) to help poor people in a world where private capital flows predominate, where rich countries are painfully tightening their fiscal belts, and where much previous foreign aid has been an abject failure, demands more than heartwarming words.

That has not always been the case. In the 1950s and 1960s, when the development business began, it had an intellectual rationale and a goal. People believed poor countries were truly different from rich ones. Markets and prices, many argued, did not work well in isolated, agrarian societies. Free trade would mean misery, not prosperity, for countries dependent on exports of commodities, such as rubber or coffee. So promoting development meant building up subsidised domestic industries behind protective trade barriers. The World Bank saw its job as lending governments money for particular projects, such as roads or irrigation schemes. The development business was basically about alleviating a capital shortage.

This approach failed miserably. Closeted behind their protective barriers, poor countries built up uncompetitive industries, borrowed money they were increasingly unable to repay, and stifled economic growth with over-regulation, big budget deficits and high inflation. By the 1980s, the bankruptcy (literally) of such state-led development was clear. A new orthodoxy emerged. Development, mark two, was all about putting markets first.

Development economics, 1980s-style, held that poor countries were not inherently different from rich ones. What made them poor, said the new wisdom, was bad economic policy and too much government. Fiscal prudence, freer trade, privatisation and deregulation would turn poor economies around. The World Bank embraced this intellectual change. Its research department helped to define and justify the free-market theorising, and its bankers offered countries loans in return for market-oriented reforms.

At one level, market-based development has been remarkably successful. Many poor countries are today growing far faster than rich ones. Private finance is pouring into emerging markets: around $230 billion in 1996, up tenfold from a decade ago (see chart on next page). Private money now dwarfs official aid, which has not been increasing and now amounts to only about $50 billion a year.

Unfortunately, that is not the whole story. The recipe of the 1980s provides necessary, but not always sufficient, ingredients for prosperity in poor countries. Private capital favours a small number of countries; many economies, particularly in Africa, have failed to attract private money despite significant free-market reforms. Understanding why is perhaps the central development issue of the 1990s.

Superficial answers are easy. Many countries lag because their reforms have barely begun. In others, reform has been piecemeal and ineffective. In yet others it is simply that the pay-off from liberalising reforms seems slow to arrive. Such explanations are clearly not enough. Why is it that some governments seem able to reform and others not? Why is it that reform works in some countries and not in others? These questions do not undermine the case for market-led development. They simply suggest that it involves more than completing a checklist of "sensible" policies. Much development thinking today is about where that checklist may be incomplete, and why it can be difficult to implement.

So development economics, mark three, has rediscovered that institutions matter. The ideological proponents of free markets have tended to forget that, for markets to work well, an economy requires a complex web of effective institutions, from basic property rights and well-run legal systems to effective and uncorrupt bureaucracies. In poor countries such institutions are

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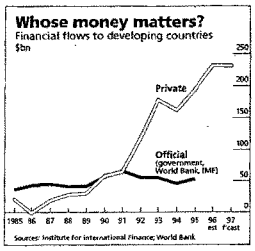


often weak or non-existent. A batch of new academic research has shown how this matters for economic growth. Countries where property rights are weakly enforced, where the rule of law cannot be counted on and where governments are corrupt tend to grow more slowly, even if they claim to give their citizens' capitalist impulses free rein.

Improving institutions should therefore be a top priority. How to go about it is less clear. At the most basic level, economists emphasise putting in place basic market structures, such as property and contract rights. This means more than simply writing laws and titling lands.

It means building a credible legal system to enforce them, complete with uncorrupt judiciaries. It also means setting up the kinds of institutions that themselves are likely to lead to better policies. Few doubt, for instance, that monetary policy is better handled by an independent central bank than by politicians focused on re-election. Similarly, fiscal policy could be improved through a clear and transparent budget process. The basic ideas behind all this institutional emphasis are that markets need the rule of law to work properly, and corrupt bureaucracies can do less damage if they have less room for manoeuvre.

Another big change from the 1980s is that economists are paying more attention to the political dynamics of reform. Sustaining and implementing reforms is not simply a matter of ticking off a checklist, but a question of strategy and priorities. Governments not only need to do the right reforms in the right order; they also need to make them stick. This means building a consensus for reform. It sometimes means compensating losers, often government elites themselves. The difficulty is how to create the kinds of incentives that will ensure these elites want to continue reform.

Many of these issues remain unresolved. The new development model is far from complete, though it is clear that it goes beyond the solutions of the 1980s. Does that leave a job for a development institution such as the World Bank? In principle, yes. The Bank could be much stricter about not lending to countries with inadequate institutions, and could focus on helping them to build better ones. Mr Wolfensohn himself acknowledges that the bank needs to move in this direction, but he has not made this the top priority. If it were, it might even warrant some investment.

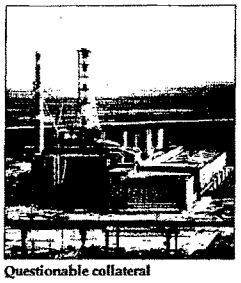
Meltdown

IN PRINCIPLE, development banks exist to help poor countries get rich. In practice, they often succumb to political pressure and squander money on grand, uneconomic, projects. The European Bank for Reconstruction and Development (EBRD), whose lavishly marbled London headquarters still raises eyebrows, is now faced with just such a conflict between politics and principle.

The cause is a plan to shut down Chernobyl, the nuclear complex in Ukraine which was the scene of the world's worst nuclear accident in 1986, and where one reactor is still generating electricity. In 1995, Ukraine promised to close Chernobyl provided rich countries paid for its decommissioning and lent money for other energy projects. As part of the deal, the EBRD was asked to stump up money to complete two unfinished Soviet-era nuclear reactors in Ukraine, Khmelnitsky 2 and Rovno 4. But on February 18th the bank published a study by a panel of independent experts which, awkwardly, found that the project does not meet the "least cost" requirement necessary for the EBRD to lend money. Simply put, it is a waste of money.

The EBRD now says it must consider the supporting technical papers from the independent panel. Conveniently, this will delay the agonising decision. On the one hand, the bank is under pressure from environmental groups to accept the report and reject the loan. Yet if it does, the whole deal to close Chernobyl may collapse. According to American officials, Washington will drop its support if the EBRD backs away. If that happens, Chernobyl is likely to keep on running unless West European governments pick up the tab.

There is high-level pressure on the EBRD not to rock the boat, and not just to reduce the risk of another accident at Chernobyl. Orders for new nuclear plants have virtually dried up in rich countries. Western firms such as Electricité de France are therefore desperate for business in the former Soviet Union. So the politically convenient option for the EBRD is to fork out the money. Some bank officials suggest in private that the experts' report is flawed because it fails to take into account the wider political situation in Ukraine. If they rubbish the report, they may save the deal. But what will that do to the EBRD's credibility?



Questionable collateral

invoked the need for a show of unity.

The consequence of these shenanigans is a growing reluctance on the part of oil officials to take decisions. They are afraid, says a foreign executive, "of appearing corrupt, or incompetent, or both." At least two foreign companies are said to have pulled out of development projects: the terms on offer got less attractive as the political temperature rose. The award of a commercial tender for Bangestan, which could turn out to be one of Iran's biggest fields, has been delayed. There is no sign, either, of eagerly awaited tenders for the production of liquid natural gas for export. Perhaps most embarrassing of all, the NIOC's dispute with Total, a French oil giant, over alleged overspending may end up in the courts.

For all their frustration, the big foreign companies are unlikely to leave Iran; the potential prizes are too great and, with American companies sanction-bound, the field is open. Smaller companies, however, tired of allocating manpower and capital to fruitless surveys and cost analyses, are having a rethink. At this week's oil and gas show, Mr Zanganeh alarmed foreigners when he seemed to suggest that, in future, more than half the value of each project would be allocated to Iranian companies. They thought of Petro Pars: contracted to develop six phases of the South Pars gas and oil field, the Iranian company is behind schedule in one phase, and reportedly having trouble raising financial backing for three of the others. ■

Ghana as economic model

Good, but not at election time

ACCRA

Does laisser-faire hurt the poor? Ghana's example fuels both views

A WATCHMAN in Accra, arriving late for work, blamed the IMF's programme for heavily indebted poor countries. The story is told by Ghana's president, John Kufuor, to illustrate how quick Ghanaians are to blame all ills on those wicked foreigners who have forced Africans to adopt laisser-faire policies. Since the World Bank and IMF touted it as a "model" reformer in the 1980s, its every failure has been paraded, by those who dislike those policies, as proof that markets make the poor poorer.

They point out, correctly, that after two decades of reform, Ghana's economy still crashes periodically, and half its rural population still has to drink water with filth in it. But they lose sight of how bad things were before Ghana attempted, haltingly, to reform. The military regimes of the 1970s and early 1980s were violent, crooked and fond of enterprise-throttling controls. Cocoa farmers, for example, were obliged to sell their crop to the government for as little as a twentieth of the world price, and the penalty for trying to obtain a fairer price by smuggling cocoa out of the country was death. By the early 1980s, Ghana was in such a mess that one Ghanaian in ten chose to live in Nigeria instead.

Reform began in 1983, under President Jerry Rawlings, though he too was a military man who had come to power by a coup. He lifted price controls and imposed a measure of fiscal sanity. It worked. Between 1983 and 2001, average incomes grew by about 2% a year. During the 1990s, the proportion of Ghanaians living in poverty fell from 53% to 43%.

But the gains remain fragile. Partly, this

A market inflicts untold suffering

is because Ghana produces significant quantities of only two things that foreigners want to buy: gold and cocoa. And in part it is because since Ghana started holding genuine elections, no government has resisted the temptation to bust the budget to buy votes. Before the 1992 election, civil servants got an 80% pay rise. Before the 1996 one, the government set afoot a huge public-works programme, padding contracts to pay off important interest groups. In 2000, the ruling party simply handed out fistfuls of cash to voters—at a time when the economy was in deep trouble.

In 1999-2000, cocoa and gold prices tumbled, while the price of oil, which Ghana has to import, soared. Because an election was near, the government, which subsidises fuel, did not pass the oil price increase on to consumers. To finance its generosity, it borrowed massively. The result was inflation of up to 40% and a collapse of the cedi, the local currency. Though GDP did well enough in volume terms, in dollar terms it crashed in 2000 by a third.

This is often cited as proof that a country can follow the IMF's free-market prescriptions and still foul up. In fact, Ghana has done well when it swallowed the IMF's harsh medicine, but badly when—as often—it spat it out. In 1999, the budget deficit reached 10% of GDP—almost as bad as in Zimbabwe. In 2000, Mr Rawlings's government exceeded its borrowing targets by a factor of three.

Despite that last pre-electoral splurge, his chosen successor lost to Mr Kufuor, who seems to understand the link between populism and penury. He has promised to "make the hard choices to live within our means", and so far he has kept his word. He also understands that Ghana needs to produce things other than gold and cocoa, and has promised to promote a "golden age of business" in Ghana.

The days of tuna and roses?

He will have his work cut out. "Non-traditional" exports such as tuna, roses and pineapples trebled in the 1990s, but still make up only a fifth of the total. An American insurance firm recently set up an office in Accra, where Ghanaians process claims and whizz them back to Kentucky via satellite. But despite Ghana's cheap and well-educated workforce, its stability, and its business-friendly president, there has been no stampede of investors.

Mr Kufuor says he wants to encourage entrepreneurship. But most Ghanaians, following the lead of their revered first president, Kwame Nkrumah, expect the government to do everything for them. Even now, government jobs probably account for most formal employment—and, by one estimate, half are superfluous. Many are obviously so: there is still a Prices and Incomes Board, long after price controls were scrapped. The finance minister, Yaw Osafo-Maafo, says he wants to slim the bureaucracy, but not until there are jobs for the redundant to go to.

If anti-globalisation protesters are looking for an example of laisser-faire gone mad, Ghana is not it. Under Mr Kufuor, it seems to be ambling in the right direction. And if he can hold steady through the next election in 2004, Ghana might start to look like a real model. ■

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PUBLIC PAPERS OF THE PRESIDENTS

OF THE UNITED STATES

Richard Nixon

Containing the Public Messages, Speeches, and Statements of the President

1970

UNITED STATES GOVERNMENT PRINTING OFFICE

WASHINGTON : 1971

and poorer countries. It represents people of differing religions and different languages and different backgrounds.

We have differences sometimes in our policies. Sometimes we have one government that differs in its form from another government; and one policy may not be popular in another country.

There is one thing I feel very deeply, and I know everybody in this room shares this feeling: The differences we have in the Americas are differences of the head and not of the heart, because we are truly one family as the Organization of American States would imply.

I had this brought home to me very eloquently by the trip that Mrs. Nixon took to Peru. Whatever differences nations may have, when one member of this family has problems, when children are orphaned, when families are homeless, when people suffer, the heart of America beats as one.

The point that I wish to emphasize is that our Government, the United States Government, is hopeful that its policies will be cooperative with the wishes and desires of the governments of all the people in the hemisphere.

But whatever those government policies may be, we want you to know that the people of the United States have a feeling of very great friendship and a feeling of being very close to all the people of the Americas, because I personally believe that more important than great amounts of money—and all the nations in the hemisphere have made their contributions to the suffering in Peru—more important than that is the fact that all of the people in this hemisphere, regardless of our other differences, found that our hearts were going out to the people of this country.

Sometimes it takes tragedy to bring a family together—and this is one family.

After our Fourth of July, when so many citizens of the United States were saying, "Long live the United States, long live America," I would like to say it in a different way today.

When I refer to America, I refer to all of America—to the United States of America, to North America, to Central America, to South America. And when I say, "Long live America," I say today, *"Viva la familia Americana!"*

NOTE: The President spoke at 5:48 p.m. in the East Room at the White House.

213 Special Message to the Congress on Indian Affairs. *July* 8, 1970

To the Congress of the United States:

The first Americans—the Indians—are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom.

This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny. Even the Federal programs which are intended to meet

their needs have frequently proven to be ineffective and demeaning.

But the story of the Indian in America is something more than the record of the white man's frequent aggression, broken agreements, intermittent remorse and prolonged failure. It is a record also of endurance, of survival, of adaptation and creativity in the face of overwhelming obstacles. It is a record of enormous contributions to this country—to its art and culture, to its strength and spirit, to its sense of history and its sense of purpose.

It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions.

Self-Determination Without Termination

The first and most basic question that must be answered with respect to Indian policy concerns the historic and legal relationship between the Federal government and Indian communities. In the past, this relationship has oscillated between two equally harsh and unacceptable extremes.

On the one hand, it has—at various times during previous Administrations—been the stated policy objective of both the Executive and Legislative branches of the Federal government eventually to terminate the trusteeship relationship between the Federal government and the Indian people. As recently as August of 1953, in House Concurrent Resolution 108, the Congress declared that termination was the long-range goal of its Indian policies. This would mean that Indian tribes would eventually lose any special standing they had under Federal law: the tax exempt status of their lands would be discontinued; Federal responsibility for their economic and social well-being would be repudiated; and the tribes themselves would be effectively dismantled. Tribal property would be divided among individual members who would then be assimilated into the society at large.

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years, through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide

community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.

The second reason for rejecting forced termination is that the practical results have been clearly harmful in the few instances in which termination actually has been tried. The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before.

The third argument I would make against forced termination concerns the effect it has had upon the overwhelming majority of tribes which still enjoy a special relationship with the Federal government. The very threat that this relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disavow its responsibility and cut them adrift.

In short, the fear of one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsive to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving. This is the second of the two harsh approaches which have long plagued our Indian policies. Of the Department of the Interior's programs directly serving Indians, for example, only 1.5 percent are presently under Indian control. Only 2.4 percent of HEW's Indian health programs are run by Indians. The result is a burgeoning Federal bureaucracy, programs which are far less effective than they ought to be, and an erosion of Indian initiative and morale.

I believe that both of these policy extremes are wrong. Federal termination errs in one direction, Federal paternalism errs in the other. Only by clearly rejecting both of these extremes can we achieve a policy which truly serves the best interests of the Indian people. Self-determination among the Indian people can and must be encouraged without the threat of eventual termination. In my view, in fact, that is the only way that self-determination can effectively be fostered.

This, then, must be the goal of any new national policy toward the Indian people: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and

Federal support. My specific recommendations to the Congress are designed to carry out this policy.

1. *Rejecting Termination*

Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new Concurrent Resolution which would expressly renounce, repudiate and repeal the termination policy as expressed in House Concurrent Resolution 108 of the 83rd Congress. This resolution would explicitly affirm the integrity and right to continued existence of all Indian tribes and Alaska native governments, recognizing that cultural pluralism is a source of national strength. It would assure these groups that the United States Government would continue to carry out its treaty and trusteeship obligations to them as long as the groups themselves believed that such a policy was necessary or desirable. It would guarantee that whenever Indian groups decided to assume control or responsibility for government service programs, they could do so and still receive adequate Federal financial support. In short, such a resolution would reaffirm for the Legislative branch—as I hereby affirm for the Executive branch—that the historic relationship between the Federal government and the Indian communities cannot be abridged without the consent of the Indians.

2. *The Right to Control and Operate Federal Programs*

Even as we reject the goal of forced termination, so must we reject the suffocating pattern of paternalism. But how can we best do this? In the past, we have often assumed that because the government is obliged to provide certain services for Indians, it therefore must administer those same services. And to get rid of Federal administration, by the same token, often meant getting rid of the whole Federal program. But there is no necessary reason for this assumption. Federal support programs for non-Indian communities—hospitals and schools are two ready examples—are ordinarily administered by local authorities. There is no reason why Indian communities should be deprived of the privilege of self-determination merely because they receive monetary support from the Federal government. Nor should they lose Federal money because they reject Federal control.

For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the Federal authorities and not the Indian people who finally make that decision.

This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency. To this end, I am proposing legislation which would empower a tribe or a group of tribes or any other Indian community to take over the control or operation of Federally-funded and administered programs in the Department of the Interior and the Department of Health, Ed-

ucation and Welfare whenever the tribal council or comparable community governing group voted to do so.

Under this legislation, it would not be necessary for the Federal agency administering the program to approve the transfer of responsibility. It is my hope and expectation that most such transfers of power would still take place consensually as a result of negotiations between the local community and the Federal government. But in those cases in which an impasse arises between the two parties, the final determination should rest with the Indian community.

Under the proposed legislation, Indian control of Indian programs would always be a wholly voluntary matter. It would be possible for an Indian group to select that program or that specified portion of a program that it wants to run without assuming responsibility for other components. The "right of retrocession" would also be guaranteed; this means that if the local community elected to administer a program and then later decided to give it back to the Federal government, it would always be able to do so.

Appropriate technical assistance to help local organizations successfully operate these programs would be provided by the Federal government. No tribe would risk economic disadvantage from managing its own programs; under the proposed legislation, locally-administered programs would be funded on equal terms with similar services still administered by Federal authorities. The legislation I propose would include appropriate protections against any action which endangered the rights, the health, the safety or the welfare of individuals. It would also contain accountability procedures to guard against gross negligence or mismanagement of Federal funds.

This legislation would apply only to services which go directly from the Federal government to the Indian community; those services which are channeled through State or local governments could still be turned over to Indian control by mutual consent. To run the activities for which they have assumed control, the Indian groups could employ local people or outside experts. If they chose to hire Federal employees who had formerly administered these projects, those employees would still enjoy the privileges of Federal employee benefit programs—under special legislation which will also be submitted to the Congress.

Legislation which guarantees the right of Indians to contract for the control or operation of Federal programs would directly channel more money into Indian communities, since Indians themselves would be administering programs and drawing salaries which now often go to non-Indian administrators. The potential for Indian control is significant, for we are talking about programs which annually spend over $400 million in Federal funds. A policy which encourages Indian administration of these programs will help build greater pride and resourcefulness within the Indian community. At the same time, programs which are managed and operated by Indians are likely to be more effective in meeting Indian needs.

I speak with added confidence about these anticipated results because of the favorable experience of programs which have already been turned over to Indian control. Under the auspices of the Office of Economic Opportunity, Indian communities now run more than 60 commu-

nity action agencies which are located on Federal reservations. OEO is planning to spend some $57 million in Fiscal Year 1971 through Indian-controlled grantees. For over four years, many OEO-funded programs have operated under the control of local Indian organizations and the results have been most heartening.

Two Indian tribes—the Salt River Tribe and the Zuni Tribe—have recently extended this principle of local control to virtually all of the programs which the Bureau of Indian Affairs has traditionally administered for them. Many Federal officials, including the Agency Superintendent, have been replaced by elected tribal officers or tribal employees. The time has now come to build on these experiences and to extend local Indian control—at a rate and to the degree that the Indians themselves establish.

3. *Restoring the Sacred Lands Near Blue Lake*

No government policy toward Indians can be fully effective unless there is a relationship of trust and confidence between the Federal government and the Indian people. Such a relationship cannot be completed overnight; it is inevitably the product of a long series of words and actions. But we can contribute significantly to such a relationship by responding to just grievances which are especially important to the Indian people.

One such grievance concerns the sacred Indian lands at and near Blue Lake in New Mexico. From the fourteenth century, the Taos Pueblo Indians used these areas for religious and tribal purposes. In 1906, however, the United States Government appropriated these lands for the creation of a national forest. According to a recent determination of the Indian Claims Commission, the government "took said lands from petitioner without compensation."

For 64 years, the Taos Pueblo has been trying to regain possession of this sacred lake and watershed area in order to preserve it in its natural condition and limit its non-Indian use. The Taos Indians consider such action essential to the protection and expression of their religious faith.

The restoration of the Blue Lake lands to the Taos Pueblo Indians is an issue of unique and critical importance to Indians throughout the country. I therefore take this opportunity wholeheartedly to endorse legislation which would restore 48,000 acres of sacred land to the Taos Pueblo people, with the statutory promise that they would be able to use these lands for traditional purposes and that except for such uses the lands would remain forever wild.

With the addition of some perfecting amendments, legislation now pending in the Congress would properly achieve this goal. That legislation (H.R. 471) should promptly be amended and enacted. Such action would stand as an important symbol of this government's responsiveness to the just grievances of the American Indians.

4. *Indian Education*

One of the saddest aspects of Indian life in the United States is the low quality of Indian education. Drop-out rates for Indians are twice the national average and the average educational level for all Indians under Federal supervision is less than six school years. Again, at least a part of the problem stems from the fact that the Federal government is trying to

do for Indians what many Indians could do better for themselves.

The Federal government now has responsibility for some 221,000 Indian children of school age. While over 50,000 of these children attend schools which are operated directly by the Bureau of Indian Affairs, only 750 Indian children are enrolled in schools where the responsibility for education has been contracted by the BIA to Indian school boards. Fortunately, this condition is beginning to change. The Ramah Navajo Community of New Mexico and the Rough Rock and Black Water Schools in Arizona are notable examples of schools which have recently been brought under local Indian control. Several other communities are now negotiating for similar arrangements.

Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools. This control would be exercised by school boards selected by Indians and functioning much like other school boards throughout the nation. To assure that this goal is achieved, I am asking the Vice President, acting in his role as Chairman of the National Council on Indian Opportunity,[1] to establish a Special Education Subcommittee of that Council. The members of that Subcommittee should be Indian educators who are selected by the Council's Indian members. The Subcommittee will provide technical assistance to Indian communities wishing to establish school boards, will conduct a nationwide review of the educational status of all Indian school children in whatever schools they may be attending, and will evaluate and report annually on the status of Indian education, including the extent of local control. This Subcommittee will act as a transitional mechanism; its objective should not be self-perpetuation but the actual transfer of Indian education to Indian communities.

We must also take specific action to benefit Indian children in public schools. Some 141,000 Indian children presently attend general public schools near their homes. Fifty-two thousand of these are absorbed by local school districts without special Federal aid. But 89,000 Indian children attend public schools in such high concentrations that the State or local school districts involved are eligible for special Federal assistance under the Johnson-O'Malley Act.[2] In Fiscal Year 1971, the Johnson-O'Malley program will be funded at a level of some $20 million.

This Johnson-O'Malley money is designed to help Indian students, but since funds go directly to the school districts, the Indians have little if any influence over the way in which the money is spent. I therefore propose that the Congress amend the Johnson-O'Malley Act so as to authorize the Secretary of the Interior to channel funds under this act directly to Indian tribes and communities. Such a provision would give Indians the ability to help shape the schools which their chil-

[1] Executive Order 11551, dated August 11, 1970, provided for additional Indian members on the National Council on Indian Opportunity. A White House release dated August 31, announcing the appointment of eight new members to the Council, is printed in the Weekly Compilation of Presidential Documents (vol. 6, p. 1132).

[2] Public Law No. 638, June 4, 1936 (49 Stat. 1458; 25 U.S.C. 452–455).

dren attend and, in some instances, to set up new school systems of their own. At the same time, I am directing the Secretary of the Interior to make every effort to ensure that Johnson-O'Malley funds which are presently directed to public school districts are actually spent to improve the education of Indian children in these districts.

5. *Economic Development Legislation*

Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only $1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the "Indian Financing Act of 1970."

This act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increased from approximately $25 million to $75 million.

2. It would provide additional incentives in the form of loan guarantees, loan insurance and interest subsidies to encourage *private* lenders to loan more money for Indian economic projects. An aggregate amount of $200 million would be authorized for loan guarantee and loan insurance purposes.

I also urge that legislation be enacted which would permit any tribe which chooses to do so to enter into leases of its land for up to 99 years. Indian people now own over 50 million acres of land that are held in trust by the Federal government. In order to compete in attracting investment capital for commercial, industrial and recreational development of these lands, it is essential that the tribes be able to offer long-term leases. Long-term leasing is preferable to selling such property since it enables tribes to preserve the trust ownership of their reservation homelands. But existing law limits the length of time for which many tribes can enter into such leases. Moreover, when long-term leasing is allowed, it has been granted by Congress on a case-by-case basis, a policy which again reflects a deep-rooted pattern of paternalism. The twenty reservations which have already been given authority for long-term leasing have realized important benefits from that privilege and this opportunity should now be extended to all Indian tribes.

Economic planning is another area where our efforts can be significantly improved. The comprehensive economic development plans that have been created by both the Pima-Maricopa and the Zuni Tribes provide outstanding examples of interagency cooperation in fostering Indian economic growth. The Zuni Plan, for example, extends for at least five years and involves a total of $55 million from the Departments of Interior, Housing and Urban Development, and Health, Education and Welfare and from the Office of Economic Opportunity and the Economic Development Administration. I am directing the Secretary of the Interior

to play an active role in coordinating additional projects of this kind.

6. *More Money for Indian Health*

Despite significant improvements in the past decade and a half, the health of Indian people still lags 20 to 25 years behind that of the general population. The average age at death among Indians is 44 years, about one-third less than the national average. Infant mortality is nearly 50% higher for Indians and Alaska natives than for the population at large; the tuberculosis rate is eight times as high and the suicide rate is twice that of the general population. Many infectious diseases such as trachoma and dysentery that have all but disappeared among other Americans continue to afflict the Indian people.

This Administration is determined that the health status of the first Americans will be improved. In order to initiate expanded efforts in this area, I will request the allocation of an additional $10 million for Indian health programs for the current fiscal year. This strengthened Federal effort will enable us to address ourselves more effectively to those health problems which are particularly important to the Indian community. We understand, for example, that areas of greatest concern to Indians include the prevention and control of alcoholism, the promotion of mental health and the control of middle-ear disease. We hope that the ravages of middle-ear disease—a particularly acute disease among Indians—can be brought under control within five years.

These and other Indian health programs will be most effective if more Indians are involved in running them. Yet—almost unbelievably—we are presently able to identify in this country only 30 physicians and fewer than 400 nurses of Indian descent. To meet this situation, we will expand our efforts to train Indians for health careers.

7. *Helping Urban Indians*

Our new census will probably show that a larger proportion of America's Indians are living off the reservation than ever before in our history. Some authorities even estimate that more Indians are living in cities and towns than are remaining on the reservation. Of those American Indians who are now dwelling in urban areas, approximately three-fourths are living in poverty.

The Bureau of Indian Affairs is organized to serve the 462,000 reservation Indians. The BIA's responsibility does not extend to Indians who have left the reservation, but this point is not always clearly understood. As a result of this misconception, Indians living in urban areas have often lost out on the opportunity to participate in other programs designed for disadvantaged groups. As a first step toward helping the urban Indians, I am instructing appropriate officials to do all they can to ensure that this misunderstanding is corrected.

But misunderstandings are not the most important problem confronting urban Indians. The biggest barrier faced by those Federal, State and local programs which are trying to serve urban Indians is the difficulty of locating and identifying them. Lost in the anonymity of the city, often cut off from family and friends, many urban Indians are slow to establish new community ties. Many drift from neighborhood to neighborhood; many shuttle back and forth between reserva-

tions and urban areas. Language and cultural differences compound these problems. As a result, Federal, State and local programs which are designed to help such persons often miss this most deprived and least understood segment of the urban poverty population.

This Administration is already taking steps which will help remedy this situation. In a joint effort, the Office of Economic Opportunity and the Department of Health, Education and Welfare will expand support to a total of seven urban Indian centers in major cities which will act as links between existing Federal, State and local service programs and the urban Indians. The Departments of Labor, Housing and Urban Development and Commerce have pledged to cooperate with such experimental urban centers and the Bureau of Indian Affairs has expressed its willingness to contract with these centers for the performance of relocation services which assist reservation Indians in their transition to urban employment.

These efforts represent an important beginning in recognizing and alleviating the severe problems faced by urban Indians. We hope to learn a great deal from these projects and to expand our efforts as rapidly as possible. I am directing the Office of Economic Opportunity to lead these efforts.

8. *Indian Trust Counsel Authority*

The United States Government acts as a legal trustee for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance *both* the *national* interest in the use of land and water rights *and* the *private* interests of Indians in land which the government holds as trustee.

Every trustee has a legal obligation to advance the interests of the beneficiaries of the trust without reservation and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists.

In order to correct this situation, I am calling on the Congress to establish an Indian Trust Counsel Authority to assure independent legal representation for the Indians' natural resource rights. This Authority would be governed by a three-man board of directors, appointed by the President with the advice and consent of the Senate. At least two of the board members would be Indian. The chief legal officer of the Authority would be designated as the Indian Trust Counsel.

The Indian Trust Counsel Authority would be independent of the Departments of the Interior and Justice and would be expressly empowered to bring suit in the name of the United States in its trustee capacity. The United States would waive

its sovereign immunity from suit in connection with litigation involving the Authority.

9. *Assistant Secretary for Indian and Territorial Affairs*

To help guide the implementation of a new national policy concerning American Indians, I am recommending to the Congress the establishment of a new position in the Department of the Interior—Assistant Secretary for Indian and Territorial Affairs. At present, the Commissioner of Indian Affairs reports to the Secretary of the Interior through the Assistant Secretary for Public Land Management—an officer who has many responsibilities in the natural resources area which compete with his concern for Indians. A new Assistant Secretary for Indian and Territorial Affairs would have only one concern—the Indian and territorial peoples, their land, and their progress and well-being. Secretary Hickel and I both believe this new position represents an elevation of Indian affairs to their proper role within the Department of the Interior and we urge Congress to act favorably on this proposal.

CONTINUING PROGRAMS

Many of the new programs which are outlined in this message have grown out of this Administration's experience with other Indian projects that have been initiated or expanded during the last 17 months.

The Office of Economic Opportunity has been particularly active in the development of new and experimental efforts. OEO's Fiscal Year 1971 budget request for Indian-related activities is up 18 percent from 1969 spending. In the last year alone—to mention just two examples—OEO doubled its funds for Indian economic development and tripled its expenditures for alcoholism and recovery programs. In areas such as housing and home improvement, health care, emergency food, legal services and education, OEO programs have been significantly expanded. As I said in my recent speech on the economy, I hope that the Congress will support this valuable work by appropriating the full amount requested for the Economic Opportunity Act.

The Bureau of Indian Affairs has already begun to implement our policy of contracting with local Indians for the operation of government programs. As I have noted, the Salt River Tribe and the Zuni Tribe have taken over the bulk of Federal services; other projects ranging from job training centers to high school counseling programs have been contracted out to Indian groups on an individual basis in many areas of the country.

Economic development has also been stepped up. Of 195 commercial and industrial enterprises which have been established in Indian areas with BIA assistance, 71 have come into operation within the last two years. These enterprises provide jobs for more than 6,000 Indians and are expected to employ substantially more when full capacity is reached. A number of these businesses are now owned by Indians and many others are managed by them. To further increase individual Indian ownership, the BIA has this month initiated the Indian Business Development Fund which provides equity capital to Indians who go into business in reservation areas.

Since late 1967, the Economic Development Administration has approved ap-

proximately $80 million in projects on Indian reservations, including nearly $60 million in public works projects. The impact of such activities can be tremendous; on the Gila River Reservation in Arizona, for example, economic development projects over the last three years have helped to lower the unemployment rate from 56 to 18 percent, increase the median family income by 150 percent and cut the welfare rate by 50 percent.

There has been additional progress on many other fronts since January of 1969. New "Indian Desks" have been created in each of the human resource departments of the Federal government to help coordinate and accelerate Indian programs. We have supported an increase in funding of $4 million for the Navajo Irrigation Project. Housing efforts have picked up substantially; a new Indian Police Academy has been set up; Indian education efforts have been expanded—including an increase of $848,000 in scholarships for Indian college students and the establishment of the Navajo Community College, the first college in America planned, developed and operated by and for Indians. Altogether, obligational authority for Indian programs run by the Federal Government has increased from a little over $598 million in Fiscal Year 1970 to almost $626 million in Fiscal Year 1971.

Finally, I would mention the impact on the Indian population of the series of welfare reform proposals I have sent to the Congress. Because of the high rate of unemployment and underemployment among Indians, there is probably no other group in the country that would be helped as directly and as substantially by programs such as the new Family Assistance Plan and the proposed Family Health Insurance Plan. It is estimated, for example, that more than half of all Indian families would be eligible for Family Assistance benefits and the enactment of this legislation is therefore of critical importance to the American Indian.

This Administration has broken a good deal of new ground with respect to Indian problems in the last 17 months. We have learned many things and as a result we have been able to formulate a new approach to Indian affairs. Throughout this entire process, we have regularly consulted the opinions of the Indian people and their views have played a major role in the formulation of Federal policy.

As we move ahead in this important work, it is essential that the Indian people continue to lead the way by participating in policy development to the greatest possible degree. In order to facilitate such participation, I am asking the Indian members of the National Council on Indian Opportunity to sponsor field hearings throughout the nation in order to establish a continuing dialogue between the Executive branch of government and the Indian population of our country. I have asked the Vice President to see that the first round of field hearings are completed before October.

The recommendations of this Administration represent an historic step forward in Indian policy. We are proposing to break sharply with past approaches to Indian problems. In place of a long series of piecemeal reforms, we suggest a new and coherent strategy. In place of policies which simply call for more spending, we suggest policies which call for wiser spending. In place of policies which oscillate between the deadly extremes of forced termination and constant paternalism, we

suggest a policy in which the Federal government and the Indian community play complementary roles.

But most importantly, we have turned from the question of *whether* the Federal government has a responsibility to Indians to the question of *how* that responsibility can best be fulfilled. We have concluded that the Indians will get better programs and that public monies will be more effectively expended if the people who are most affected by these programs are responsible for operating them.

The Indians of America need Federal assistance—this much has long been clear. What has not always been clear, however, is that the Federal government needs Indian energies and Indian leadership if its assistance is to be effective in improving the conditions of Indian life. It is a new and balanced relationship between the United States government and the first Americans that is at the heart of our approach to Indian problems. And that is why we now approach these problems with new confidence that they will successfully be overcome.

RICHARD NIXON

The White House
July 8, 1970

NOTE: On the same day, the White House released a summary of the message and the transcript of a news briefing on it by Vice President Spiro T. Agnew and Leonard Garment, Special Consultant to the President.

214 Remarks on Presenting the Defense Distinguished Service Medal to General Earle G. Wheeler. *July* 9, 1970

Mr. Secretary, General Wheeler, Mrs. Wheeler, and distinguished guests:

This is a ceremony that will only come once in terms of this White House because General Wheeler has served longer as Chairman of the Joint Chiefs of Staff than any man in our history—6 years—probably longer than any man will serve in the future.

He also will receive for the first time a new decoration, a new medal, the Defense Distinguished Service Medal, which will be presented to him, the first of its kind.

After that, we will try to maintain the level and the distinction of the medal in terms of those to whom it is presented.

In talking about General Wheeler—and I know that he has been through many ceremonies over the past few days and weeks, looking toward his retirement as Chairman of the Joint Chiefs—there is not much that I can add, except to say this:

He is known as a soldier and he is proud of being known as a soldier. He is known among his colleagues at the Joint Chiefs as a great planner and strategist, and he is naturally proud of being so designated.

I know him as a statesman. In the meetings of the National Security Council he is a man who can wear his military hat, as he must always wear it in representing the views of the services, but who can also represent the views of the whole country in the best spirit of statesmanship; one who thinks deeply and very profoundly about national and international issues.

He has made an enormous contribution