
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

Hearing on -

S. 439,

“Indian Development Finance Corporation Act”

Thursday, April 29, 2010
628 Senate Dirksen Building

Written Testimony of the
NATIONAL CONGRESS OF AMERICAN INDIANS
Embassy of Tribal Nations
1516 P Street, NW
Washington, DC 20005
202-466-7767

The National Congress of American Indians supports the proposition of a federally-guaranteed development bank to promote economic and community development in tribal communities. This idea has become especially significant during these difficult economic times where credit is scarce, unemployment is high, and the need to build tribal economies is great.

The Senate Committee on Indian Affairs (Committee) is well aware of the difficult economic and social conditions plaguing Native communities. Without adequate investment in tribal communities, things simply will not change. We know this from the substantial and successful investments recently made by the federal government in tribal governments through the American Recovery and Reinvestment Act (Recovery Act). Tribes were able to access government funds for infrastructure and economic projects that were planned but left unfunded or under-funded, sometimes for decades.

The federal investment through the Recovery Act yielded positive returns for tribal communities, including improved citizen services, strengthened institutions and infrastructure, and increased job opportunities. As a result health care facilities, schools, houses and senior care facilities were built to improve the health and well-being of tribal and surrounding community members. Airports, roads, and water treatment facilities were undertaken to improve market access and build the required infrastructure needed for economic and community growth well into the future.

- See attached “Investing in Tribal Governments” for examples of federal return on investments under the Recovery Act.

These federal investments in tribal governments are important and need to continue; however, there is a role for the federal government in ensuring that capital finds its way to tribal communities. The federal government should serve a key role, through a tribal

development bank, in mitigating early capital risk and perceived investment and political risk associated with financing tribal government projects.

One of the main arguments against the formation of a government-backed development bank has always been that it would step on the toes of the private sector. But, as we are all keenly aware, private capital has not found its way into Indian Country on any substantial scale. This is the case (especially in the current downturn), even in maturing industries like gaming and energy where tribes are currently having a difficult time gaining access to credit or reasonably priced debt. In addition, because tribes, as a portfolio, have a relatively small impact on more sizable investment firms that are needed to underwrite the risk, there are relatively few firms making decisions to enter or support the tribal market. This often leads to higher-priced transactions with higher yields for tribes.

As part of the Recovery Act, tribal governments were given access to \$2 billion in tax-exempt debt for economic development purposes. The Department of Treasury, in an effort to ensure the greatest number of tribes would benefit, set an allocation cap of \$30 million for each applicant. Both tranches of \$1 billion each were over-subscribed making it very clear that the demand for reasonably priced debt is very high. This exercise also made it very clear that even though there was very high demand from tribal governments, there was very little appetite from the investment community to extend credit to tribal governments with less than a handful of tribal governments completing the underwriting process to date. Tribal leaders are now left wondering how if they will be able to use this one-time allocation.

A well-designed development bank could help accelerate private sector investment in tribal economic projects. A well-designed development bank should serve as an incentive for private capital to invest alongside the bank and target areas where private capital has failed or is insignificant enough to drive rate or equity competition for the

benefit of the tribe. All this should be done while being mindful of generating enough revenue to make the bank stand on its own with little support from taxpayers.

The Indian Development Finance Corporation Act (IDFCA) [S. 439] introduces the development bank in Indian Country. In moving toward a successful introduction, Indian Country can learn from other government-backed development bank models, since many receive a high profile -- like the World Bank or International Monetary Fund. We can also learn from other government programs that have successfully entered into the government-backed capital arena, like the Indian Loan Guarantee Program at the Office of Indian Energy and Economic Development within the Department of the Interior.

In looking at other models and what has already proven successful, NCAI would like the Committee to consider certain aspects, some included in the legislation that is the subject of this hearing, including:

- **Bank Self-Sufficiency and Borrowing Costs** – The development bank should be able to access funds, for the purposes of extending and refinancing debt, from the federal government’s Federal Reserve. Borrowing funds utilizing the discount, overnight, or inter-bank rates is essential to maximize taxpayer returns, and to generate revenue to offset losses and administrative expenses. Indian tribes are limited to issuing only debt for certain enterprises, making the low borrowing rates essential in providing cost-effective debt. This also reduces the amount of appropriated funds that need to be set aside for the purpose of backing loans, since only a fraction needs to be available for possible defaults.
- **Training and Technical Assistance** – The development bank legislation should provide specific authorization [of appropriations] for initial and on-going

training and technical assistance. In other development bank models, it is essential that the right expertise be available to build upon and enhance the skills of the entrepreneur. Training and technical assistance integrated throughout the business start up and development stages improves the business success rate, and protects the development bank risk while building capacity.

One of the reasons that a development bank is needed in Indian Country specifically is because the development community providing capital is reluctant to navigate diverse tribal codes. Tribes pay a premium when financial firms and investors assume this presumption of risk. Training and technical assistance should extend to developing effective tribal codes that can facilitate financial transactions while honoring tribal sovereignty in an effort to build investor confidence in the tribal market.

- Structural Integrity – A development bank should be structured in a manner that provides visibility and objectivity, and takes advantage of Indian Country capacity. Taking lessons from other banks may be helpful in developing an effective structure. One of the international banks has representatives from every member nation involved in the decision-making process. While this is inclusive, it has also created an unnecessary bureaucracy and politics. Short terms of service also tend to limit the capacity and effectiveness of the decision-makers. And an development bank in Indian Country should consider the lessons of the World Bank as a structure to avoid where the developed countries appear to be the decision-makers and by default the ones to blame when loan or equity financing is not advanced, or worse, when a business fails or a loan defaults.

An Indian Country development bank may want to avoid equity buy-ins to the bank or a structure that provides the appearance that wealthier tribes that can afford to invest may be the decision-makers for those who may not be able to

participate in the same manner. Keeping participation open and diverse is essential for objectivity and visibility. This arrangement also encourages the development of tribal governments as separate investors into investment bank projects, while avoiding any appearance of a conflict of interest.

- Tribal Government Alternative Needs - The development bank should also consider using guarantees, insurance, and other innovative structures to drive infrastructure investment and business development. Financing a large infrastructure project up front saves on construction and materials cost, adding value for the tax payer. Utilizing the bank to finance projects and use appropriations or grant revenues (similar to states) to repay the debt would help advance economic and community development. In addition to financing large infrastructure projects, the bank can be used to provide larger surety guarantees or provide short-term bridge financing for government contracts or pre-market financing.

Indian Country needs a development bank now more than ever. Indian Country is well positioned to move into the new economy through the development of its vast and diverse natural resources, expansion of its telecommunication infrastructure, growth of maturing industries, and by adequately valuing our cultures for development of a local tourism industry.

NCAI looks forward to working with the Committee as it continues to develop the development bank concept. Producing a model institution that will serve the immediate capital needs of tribal governments and entrepreneurs is of utmost importance to the future growth of tribal economies, while mitigating the investment risk of private capital partners.