



## The National Congress of American Indians

Testimony on  
**Senate Bill 519**

### **The Native American Capital Formation and Economic Development Act of 2003**

Presented By:  
Tex G. Hall

President, National Congress of American Indians

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**NCAI HEADQUARTERS**  
1301 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036  
202.466.7767  
202.466.7797 fax  
www.ncai.org

### **Introduction**

Chairman Campbell, Vice-Chairman Inouye, and members of the committee, I would like to thank you for inviting me to testify on behalf of the National Congress of American Indians regarding the Native American Capital Formation and Economic Development Act.

On behalf of the member tribes and individuals, staff, and leadership of NCAI, I would like to express appreciation for the dedication this committee shows to Indian people and to the honorable fulfillment of federal trust and treaty responsibilities.

We also want to express our appreciation for the effort this committee is making to assist with economic development in Indian Country. We all know that one of the greatest problems facing much Indian country, despite the relative success of gaming for some tribes, is getting capital to make economic development efforts happen. The need for economic development in Indian Country remains acute, and impacts nearly every aspect of life in reservation communities. The unemployment rate hovers around 50 percent for Indians who live on reservation, nearly ten times that for the nation as a whole. Nearly a third of Indians live in poverty.

These crushing obstacles disproportionately impact our youth and elders, who are the cornerstones of our societies. Diseases such as diabetes, AIDS, alcoholism, and heart disease affect our reservations at much higher rates than the national average. NCAI believes that economic development is the key to turning around these problems.

The lack of access to capital is one of the major barriers to successful economic development in Indian Country. Whether it is the inability to leverage lands or homes, having no access to banks, unwillingness of lenders to do business in Indian Country, or plain unfamiliarity with financial processes, Indian entrepreneurs have often had a hard time accessing money or the technical assistance that will enable them to pursue business development.

But this is not new knowledge. Studies undertaken by scholars like those at the Harvard Project for American Indian Economic Development and other institutions have shown that for almost all parts of the country, access to capital for Indian tribes and individual Indian entrepreneurs is a major problem. The question has always been one of capital formation: how do enterprises, whether private or tribally operated, obtain the necessary start-up and operating capital to build a permanent economic base for Tribal Nations?

This bill represents one approach – a starting point for a discussion that has been ongoing for many years about how the Federal government and the private sector can be brought together to assist in capital formation in Indian Country.

As you know, I am already very familiar with the efforts in Indian country to develop a means for private capital formation. Not only am I the President of NCAI, I am also the Chairman of the Board of the holding company that owns the Native American Bank, an enterprise that in general owes its creation to the efforts of some of the members of this Committee.

The Native American Bank represents one inter-tribal approach to capital formation in Indian Country, of which I am proud to be a part. The Native American Bank also has a Community Development Corporation component that is undertaking some of the same tasks assigned to the corporate entity established by S. 519, and we are constantly working to improve that component of our banking efforts.

But we all know that one financial institution cannot provide for all of the needs of Indian country with regard to the kind of intensive capital development that is necessary to sustain economic development in the long run. For example, many of our banks are not equipped to handle the large scale development projects that tribes wish to undertake, smaller lending institutions are able to provide small loans only to a few people, and are not able to invigorate reservation economies as a whole, and training and technical assistance programs do not always have the resources to provide all of the assistance our communities need. We have islands of success out in Indian Country, but it's often a far swim between them.

This makes the discussion started by S. 519 very important. S. 519 represents an effort by the Federal government to assist in development of Native American financial institutions.<sup>1</sup> This represents a different approach to capital formation than something like the Native American Bank, but nevertheless, we believe the approach stated in S. 519 is worthy of discussion and development.

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<sup>1</sup> It should also be noted, however, that S. 519 has a relatively limited definition of Native American financial institutions. The bill is not talking about all Tribally owned banks, for example, but rather is limiting the discussion to financial institutions which satisfy the requirements of Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994.

## **The Goals of S. 519**

With this background in mind, it is my hope that S. 519 will be developed, amended and commented on by Tribal leaders, Tribal members, financial experts, and the Congress consistent with the following goals:

- 1) Any entity created Federally should provide assistance in capital formation for institutions like the Native American Bank and other similar Tribally owned banking institutions so that they can continue to grow and assist economic development in Indian country as private institutions;
- 2) The institution created should be able to provide technical expertise to Tribes and individual Tribal members and other financial institutions such as banks and other investment companies that are working to make capital available for economic development in Indian country; and
- 3) Any institution created Federally should be complementary to, not competitive with, existing Tribal financial institutions when it comes to providing services such as lending, venture capital and advice on business formation.

How does S. 519 measure up in relation to these goals? At present, I am not yet convinced that the structure of the Native American Capital Development Corporation outlined in S. 519 will do everything we want it to, but I do know that I and NCAI are willing to continue to work to find a structure that will.

We believe that the Native American Capital Formation and Economic Development Act can be a starting point for a discussion of how Congress and the Federal government can best assist Tribes to solve the economic development puzzle.

## **The Functions of the Native American Capital Development Corporation**

It is important to look at what S. 519 does and does not include with regard to the functions of the Native American Capital Development Corporation (NACDCO) created by the Act. The Act calls for the creation of an Indian development corporation, to be capitalized by Indian tribes, and with instructions (stated in Section 102) to provide technical assistance to help establish Tribal financial institutions; to provide technical assistance to existing Tribal financial institutions as they develop a loan portfolio; to help provide technical assistance to overcome barriers on mortgage lending on Indian land and to assist Tribes and individuals to work with Federal home mortgage institutions; to act as an information clearinghouse on financial practices in Indian country; and to obtain capital investments from tribes.

Because of this last function of NACDCO, to obtain capital investments from tribes as mentioned in the Act, it is not clear to us whether the NACDCO is intended to be a source of capital for Tribal economic enterprises by itself, or if it is simply to become a technical advisor to Tribal financial institutions who themselves are doing the lending. As structured, we believe NACDCO can be most useful as a technical advisory institution, one that can contract with existing or newly forming Tribal financial institutions to provide technical assistance. However we would also note that some of the suggested functions of NACDCO may already be provided in the private sector, and it is our hope that the NACDCO will not be duplicative of existing private institutions.

Let me discuss what we see as the possible role of NACDCO in a little more detail. Several years ago, NCAI testified in support of the Native American Financial Services Organization that this committee proposed. The NAFSO proposal mirrored this Act. The NCAI continues to support all efforts to provide the kind of technical assistance needed to access capital and in general supports the technical assistance functions of S. 519. We recently developed an “Economic Development White Paper”, and getting access to capital was at the top of the priority list for Tribal Nations. If NACDCO can provide technical assistance to obtain that capital, we see that role as very helpful.

As I said, there is a lot of good work going on already in Indian country, from a variety of directions. Some government programs have proven successful, other partnerships with educational institutions and non-Indian community organizations have been doing very useful and important work on reservations as well. Most meaningful, however, has been the hard work and dedication shown by Indian people themselves.

Institutions like the Native American Bank, the Lakota Fund, the First Nations Development Institution, and dozens of other smaller but no less vital organizations have done—far and away—the most work in the development of tribal economies. It is our hope that this Committee strongly considers the suggestions these organizations may have to improve this bill. We believe that the institutions created by S. 519 should be structured so as not to take anything away from these efforts.

NCAI believes it is essential to maintain the ability of these organizations to continue their work, and would hope that the NACDCO created by S. 519 will be able to assist in their efforts. Many of these organization hold the faith and trust of the tribal communities they work with, they are familiar with the complex and unique problems that the tribes in their areas experience, and they know the needs and capacities of their communities. In short, these organizations are specifically equipped to provide services in Indian country.

Again, as I have noted, there has been some concern about whether the services to be provided by the NACDCO will be duplicative of the services already provided in Indian country. We want the NACDCO to be complementary of, and supplemental to what is already going on in our communities.

### **The Structure of the NACDCO**

Of great importance to NCAI, the NACDCO will be tribally owned. It should also be a corporate entity operated by Indian tribes and their members. This will give the corporation some additional credibility that will be important to its overall success.

The act also provides for an Advisory Council with regional representation to advise the board on its actions and policy determinations. This council is required to have an Indian majority, and that is very helpful.

The board of directors for NACDCO, on the other hand, is only required to have two members from Indian tribes. We believe that *de facto* control of the organization must reside with Indian people as they know the needs of their people best. We propose that the majority of corporate board members be required to be tribal members. Thus, in addition to the 2 of 3 Presidential appointed members being tribal members, we would like to see at

least 3 of 6 of those elected by class A shareholders and 2 of 4 of those elected by class B shareholders be members of Indian tribes.

### **Policy Analysis and Incubation Centers**

S. 519 also sets up some two corollary funds proposed in this bill are also helpful additions to the work of the proposed organization. The Native American Economies Diagnostic Studies Fund is well positioned to analyze the state of Indian economies, the viability of policies both applied and removed from tribal business, legal and regulatory schema and their effects, as well as general economic trends on our reservations.

As we noted, there has been work done on the status of Indian Country's economies. However, we have not seen a strong relationship between the existing data and the financial policies that have been applied. Hopefully, the Diagnostic Fund will be able to deal directly both with the state of Indian Country economies, and—as an arm of the NACDCO—the implementation of policies that will eliminate the identified barriers and problems.

The other fund, the Native American Incubation Center Fund could also be helpful. However, as mentioned above regarding the question of the purpose of the NACDCO, it is unclear exactly what are the purposes of the Incubation Center Fund. Is this fund intended to provide financial assistance to Tribal communities directly, or is it simply to be clearinghouse for other Federal funds that are available for economic development efforts on behalf of Tribal communities?

### **Summary – Potential of the Corporation**

We believe that S. 519 acts to start the discussion of how the Federal government can help the Tribal Nations and help Tribal financial institutions grow and prosper. With a few amendments, it contains some of the important elements of that assistance – control and ownership by Tribal members and a commitment to technical assistance, among others. Conceptually, the corporation has the potential to be a force for financial reform for Indian Country economies.

But the success of this effort will depend largely on acceptance of the concepts in S. 519 throughout Indian country. Indian Tribes will have to be convinced that an investment in a federally chartered institution will be a good and wise investment. That may be a hard sell.

Further, whether NACDCO can create and maintain the availability of broad-based financial services and technical assistance for businesses in Indian Country will be critical to its success, and it will need to show that its particular expertise in the area of Tribal housing funding is useful and needed in Indian country. It will also need to complement existing private efforts that have been initiated by Tribes, both individually and inter-tribally, as has been mentioned.

Perhaps, in time, the NACDCO can also work to reduce the confusion and misconceptions surrounding political differences that arise from tribal sovereignty. Like the Overseas Political Insurance Corporation, perhaps NACDCO will be able to provide a sort of insurance for 'international' risk. NCAI has identified this as one of the keys to comprehensive development in Indian Country, and we feel that NACDCO may have the

potential to assist fulfilling this role farther down the road, but again, we would hope that NACDCO will do this in cooperation with existing and to be created Tribally owned institutions.

### **Conclusion**

Again, we thank Senator Campbell for the opportunity to testify on this important bill. We believe this bill can provide a good starting point for discussion of these issues. We encourage further dialogue and work on this concept so that it can truly help existing Tribally owned economic development institutions and can help start new ones.

We also thank you again for introducing legislation to try to help tribes develop financial institutions that will enhance the lives of our citizens and will serve to strengthen our tribal governments. We look forward to working with the Committee to make this bill as effective and helpful to Indian Country as possible.