



# NATIONAL CONGRESS OF AMERICAN INDIANS

April 8, 2022

The Honorable Jim Himes  
Chairman  
House Select Committee on Economic  
Disparity & Fairness in Growth  
3470 O'Neill House Office Building  
Washington, D.C. 20024

The Honorable Bryan Steil  
Ranking Member  
House Select Committee on Economic  
Disparity & Fairness in Growth  
3410 O'Neill House Office Building  
Washington, D.C. 20024

## EXECUTIVE COMMITTEE

PRESIDENT  
**Fawn R. Sharp**  
*Quinalt Indian Nation*

1ST VICE PRESIDENT  
**Mark Macarro**  
*Pechanga Band of Luiseño Indians*

RECORDING SECRETARY  
**Stephen Roe Lewis**  
*Gila River Indian Community*

TREASURER  
**Shannon Holsey**  
*Stockbridge-Munsee Band of  
Mohican Indians*

## REGIONAL VICE PRESIDENTS

ALASKA  
**Mike Williams**  
*Akiak Native Community (IRA)*

EASTERN OKLAHOMA  
**Norman Hildebrand**  
*Wyandotte Nation*

GREAT PLAINS  
**Harold Frazier**  
*Cheyenne River Sioux Tribe*

MIDWEST  
**Rebecca Crooks-Stratton**  
*Shakopee Mdewakanton Sioux  
Community*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Melvin Sheldon, Jr.**  
*Tulalip Tribes of Washington*

PACIFIC  
**Jack Potter**  
*Redding Rancheria*

ROCKY MOUNTAIN  
**Mark Pollock**  
*Blackfeet Nation*

SOUTHEAST  
**Reggie Tupponce**  
*Upper Mattaponi Indian Tribe*

SOUTHERN PLAINS  
**Gonzo Flores**  
*Apache Tribe of Texas*

SOUTHWEST  
**Joe Garcia**  
*Ohkay Owingeh Pueblo*

WESTERN  
**Bernadine Burnette**  
*Fort McDowell Yavapai Nation*

CHIEF EXECUTIVE OFFICER  
**Dante Desiderio**  
*Sappony*

**NCAI HEADQUARTERS**  
1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

## RE: Economic Empowerment for Native Communities: Harnessing Innovation and Self-Governance to Unlock Economic Potential

Dear Chairman Himes and Ranking Member Steil:

On behalf of the National Congress of American Indians (NCAI), thank you for holding a roundtable on Economic Empowerment for Native Communities: Harnessing Innovation and Self-Governance to Unlock Economic Potential. NCAI would also like to thank Representative Gwen Moore for her leadership as moderator during this roundtable and her tireless dedication to Indian Country's most pressing issues. We also extend our thanks to Representative Stephanie Bice and Representative Sara Jacobs for their thoughtful discussion during this panel. And, of course, we are honored to be joined by the Co-Chair of the Congressional Native American Caucus, Representative Sharice Davids. We respectfully request that the following letter be placed into the official record of this roundtable.

The topics discussed during the April 7 roundtable are a passion of mine. I view the world, and many policies, through the lens of empowering tribal sovereignty through economic development. I often equate economic development to farming and water. If you set out to be a farmer and you go out and buy the best equipment, you have good lands, good workers, and infrastructure like barns and silos, you will fail if you do not have access to water. So, in the economic world, and the currency of the country, for economic development, capital is water. Viewing things through that lens is really helpful because Indian Country has been starved by not receiving the capital it needs – the water it needs – and it is reflected in the policies. This is really accurate for how we are looking at developing tribal governments. You have to look at this as access to federal revenue and capital in the right way for Indian Country.

We have broad federal policies that are very well intended, but fail Indian Country. Economic development and all of the policy and solutions discussed during the roundtable stem from the notion of infringements on sovereignty as the underlying issue. One of the fundamental pieces of being a government is protecting your own people, or being able to tax or raise revenue to provide government services and do government activities. During the April 7 roundtable, we discussed the tragedy of missing and murdered indigenous women that is made worse by the deterioration of tribal jurisdiction to police and prosecute crimes in our communities. This infringement on tribal sovereignty has created jurisdictional safe-havens for the worst types of crimes against humanity. The recent reauthorization of the Violence Against Women Act was successful in restoring some tribal criminal jurisdiction, but every Tribal Nation must have the fundamental right to protect its people. Restoring tribal sovereignty over public safety and justice will promote economic development by reducing risk or perceived risk and promoting social wellbeing.

With respect to the issue of dual taxation, another infringement on tribal sovereignty, when we do well and generate revenue, other governments seem to think it is their right to come in and take our revenue. It is really a disturbing practice, and is unique to the disparate treatment of tribal governments. This doesn't happen in any other jurisdictional authority in America except for Indian Country. They didn't feel it was their right when we were poor and had nothing, but when we are successful, we have all forms of governments infringing on Tribal sovereignty to try and take that revenue. We cannot have sustained economic development when multiple government jurisdictions are coming in and taking our revenues.

Other governments in this country can raise revenue through tax-exempt debt. The issuance of tax-exempt bonds are a valuable tool to raise capital because they have a longer payback period and lower interest, in general. Tribal Nations do not have parity in access to issuance of tax-exempt bonds because of the "essential government function" test, which requires a Tribal Nation to prove that it is going to use the money for an essential government function. However, the Department of the Treasury (Treasury) has not defined what it means, nor has the Internal Revenue Service (IRS). Tax-exempt debt used to be a market in Indian Country, but when the IRS decided it doesn't really know what an essential government function is, banks backed out of those sort of activities. So, when we go to raise capital for economic purposes, the same purposes we are uniquely reliant on to generate revenue, we are not able to use tax-exempt debt. Tribal governments are not able to use it for housing and other activities that, again, have other collateralized asset barriers when they take place on Trust lands. Indian Country needs patient capital. Changing this discriminatory practice around the issuance of tax-exempt debt would free up a lot of capital that other governments take for granted.

In March 2020, the House Ways and Means Committee held a historic hearing on some of the issues discussed during the April 7 roundtable. We would like to see those issues picked up again by the House Ways and Means Committee and carried forward. H.R. 4054, the Tribal Tax and Investment Reform Act of 2021, brings parity to the tax-exempt bond issue, as well as employee benefit or pension plans maintained by Tribal Nations, domestic relations orders issued pursuant to tribal law, and tribal charities and foundations.

Another policy initiative raised during the roundtable discussion that is critical to unlocking Indian Country's full economic potential is the need for an Office of Tribal Affairs within Treasury. Treasury maintains a long standing and significant role in matters that substantively impact the sovereignty and welfare of Tribal Nations. Recently, this role has expanded even further with the delegation of authority that Congress granted to Treasury in distributing funds pursuant to the Coronavirus Aid, Relief, and Economic Security Act and the American Rescue Plan Act. Treasury has other programs that make decisions affecting Tribal Nations and their citizens, such as the IRS, the Office of the Comptroller of the Currency (OCC), the Community Development Financial Institutions (CDFI) Program, and the Office of Recovery Programs. The broad crosscut of tribal policy needs across Treasury and IRS programs and operations necessitates that this office be meaningfully placed within the Office of the Secretary of the Treasury. Establishment of a permanent Office of Tribal Affairs within the Office of the Secretary of the Treasury will promote institutional expertise and guidance across Treasury policy and activity. Treasury should welcome this opportunity to reduce costs and increase efficiencies associated with necessary operations of the agency, while simultaneously maximizing the American taxpayer's investment in this country and growing local, regional, and national economic productivity. We cannot afford to backtrack on the historic paradigm shift in our Nation-to-Nation relationship. Establishing this Office of Tribal Affairs will help us grow and better serve the people, together.

Most tribal lands are land held in trust by the United States, so we don't have the same asset base or tax base as other governments. As a result, our government revenue structure is different; we need to rely on federal government funding, which a lot of tribal governments do, and on economic development. The middle class is built on the premise of being able to leverage the home to receive loans, and trust lands are completely left out of that asset to leverage. It underscores the need for programs such as the Bureau of Indian Affairs' Loan Guarantee Program. Indian Country is on marginal lands, so we have to work really hard to make things work and build economies on those lands.

When you take into consideration that we are on marginal lands and we are peoples with a unique cultural tie to our lands, we don't tend to move when the economy goes bad. That means our unemployment rate is a lot higher, and we rely on economic development to give us discretionary money to support our cultural and tribal government activities. So, the policies that fail to consider that we don't have the same capital equity because we are on trust lands make it more difficult to start businesses or to get capital and address some of the other issues surrounding Indian Country, causing these policies to not be as successful as they are intended.

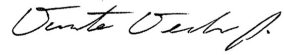
On the Community Reinvestment Act (CRA), the CRA is based around a bank's branch network. So if you have bank branches in your community, then that is the community it serves. The issue of Redlining came from banks not including certain populations in banking activities in their service area – that branch network. Indian Country is not even in the position to be redlined. For instance, we don't have branches on the Badlands in South Dakota, we don't have branches in a lot of our rural and remote communities. So we are completely excluded from the CRA and the incentive to come in and do business in Indian Country. There is limited language in the CRA on investment in tribal communities, but none of the banks in my 10+ years working on the CRA have viewed these investments as a way to get CRA credits for these activities. They do it as a gesture of good will, and that takes a lot of work to get to that point.

When considering capital market incentives such as tax credits, we have theoretical access to them, but we do not get them. We get zero allocation of New Markets Tax Credits (NMTC) because the people reading these projects don't understand Indian Country. Treasury allows the Community Development Entities (CDEs) that receive these funds to actually review these applications and evaluate them for NMTC issuance. Treasury is giving up its trust responsibility to Tribal Nations by having NMTC reviews go out to the private interests that often have no idea about Indian Country. So, we do not tend to score well on the applications. We have really great and talented companies that turn out great applications, but the private interests reviewing the applications do not understand it. Even when CDEs do receive these tax credits with the intent to invest in Indian Country, they change their mind and there is no penalty. Regarding low income housing tax credits, there is not an incentive for states to give those tax credits to Tribal Nations. Why are Tribes not getting those credits directly? It is federal money, we shouldn't be going through states. Since tax credits are renewed retroactively, no one really can be proactive as a Tribal Nation and get people to come to Indian Country if we don't know whether they will be renewed. Companies end up taking them, but they don't serve a purpose for Tribal Nations. This all leads to the idea that we need proportionate allocations of these tax credit programs. We keep doing the same thing, expecting a different result. It is time we do something different.

Congress must be bold and look at new and unrealized solutions to economic development and diversification in Indian Country. This Committee should work with other Committees of Congress to recommend a development bank for Indian Country. We need a development bank for different reasons than most because of the complexities associated with tribal jurisdiction and land status. The banks would feel more comfortable if they were going in on these projects along with other capital. But just like the World Bank, a community development bank for Indian Country should not just give a Tribal Nation capital and expect them to do miracles. There needs to be investment capability across a diversity of projects and technical assistance that comes along with that money. We are trying to fit Tribal Nations into these programs that don't fit. Another role a community development bank for Indian Country must serve is mediator between the federal government and the lack of capacity to be able to implement programs in Indian Country. With a successful, functioning, and well capitalized community development bank for Indian Country, we can go out and get the private capital to match the community development bank investment. The CRA can be lined up to clearly incentivize investment in Indian Country by the private sector, along with proportionate allocation of tax credits and better-utilizing other federal programs that already exist but are not working in concert.

Thank you, again, for this opportunity to sit on yesterday's roundtable and to discuss creative solutions to empower Tribal Nations to harness innovation and unlock their full economic potential. If you have any questions, please do not hesitate to contact me at [ddesiderio@ncai.org](mailto:ddesiderio@ncai.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "Dante Desiderio".

Dante Desiderio  
*Chief Executive Officer*  
National Congress of American Indians