

Nation Building & Corporate Governance

***A Presentation for the
National Renewable Energy Laboratory
Conference on Tribal Business Development & Financing***

THE TAYLOR POLICY GROUP

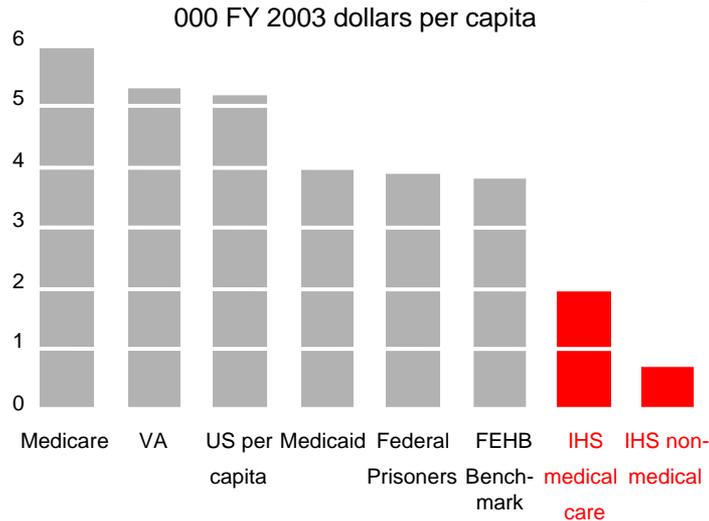


Jonathan Taylor

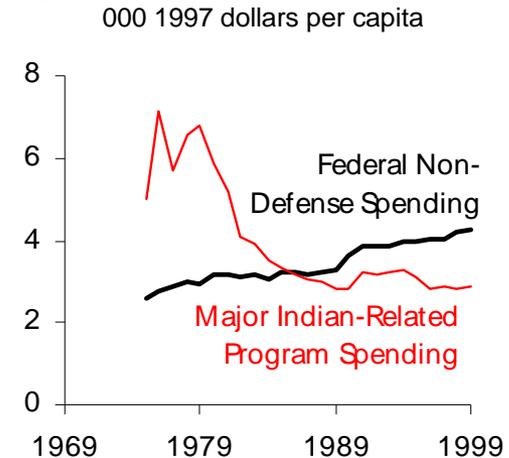
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Progress in the Self-determination Era

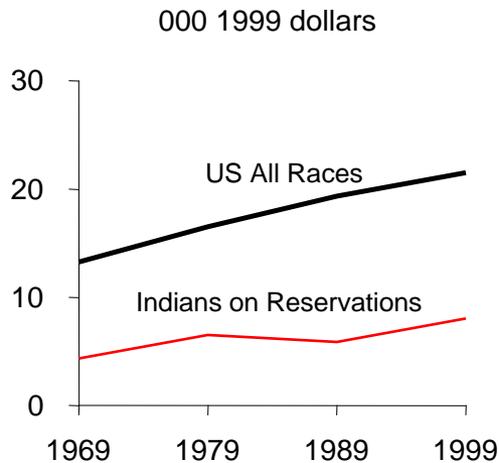
Relative Funding of Indian Health Programs



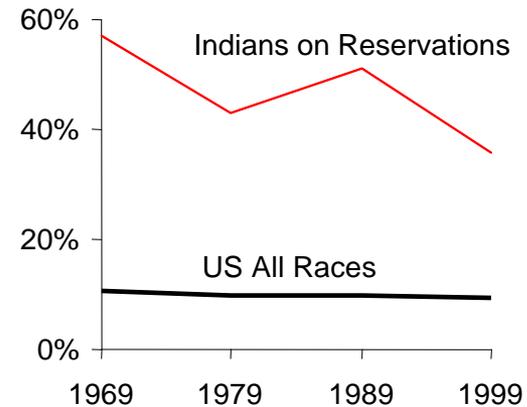
Major Federal Indian Spending



Real Per Capita Income



Families Living in Poverty



US Commission on Civil Rights (2003); Walke (2000); Kalt & Singer (2004); and Taylor & Kalt (2005).

Two Approaches to Development

The Standard Model

1. Development = jobs & income.
2. Project orientation: “Get something going on here!”
3. Outsiders set the development agenda.
4. Indigenous culture is as an obstacle to development.

The Nation-Building Model

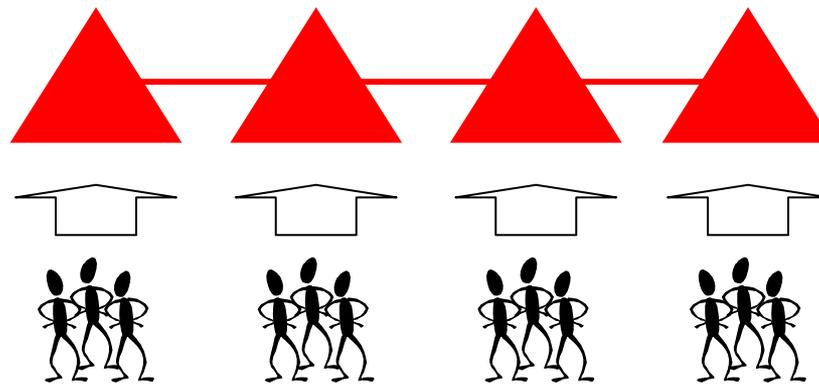
1. *De Facto* sovereignty.
2. Effective institutions.
 - a. Independent courts
 - b. **Politics and business specialized**
 - c. Checks and balances, staggered terms, etc.
 - d. Professional bureaucracies
3. Culture supports institutions and development choices.
4. A long-term strategic orientation.

Cultural Match: A Contrast

	IRA Constitution (1934 -)	Apache (ca. 1850)	Lakota (ca. 1850)
Government	Whole Reservation	✓ Centralized	✗ Decentralized
Executive	Strong	✓ Strong Chief	✗ Three Shirt Wearers
Council	Weak	✓ Selected by Chief	✗ Select Shirt Wearers
Judiciary	Not independent	✓ Chief	✗ Independent
Business	Under political institutions	✓ Under Chief	✗ Delegated

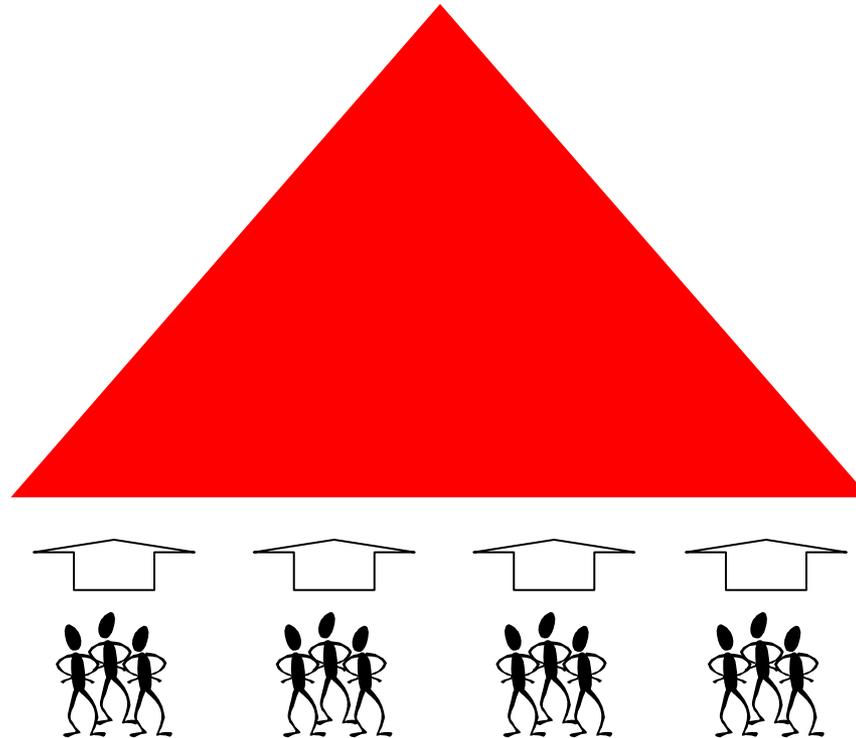
Cornell & Kalt (1995).

Forms of Government: Confederate



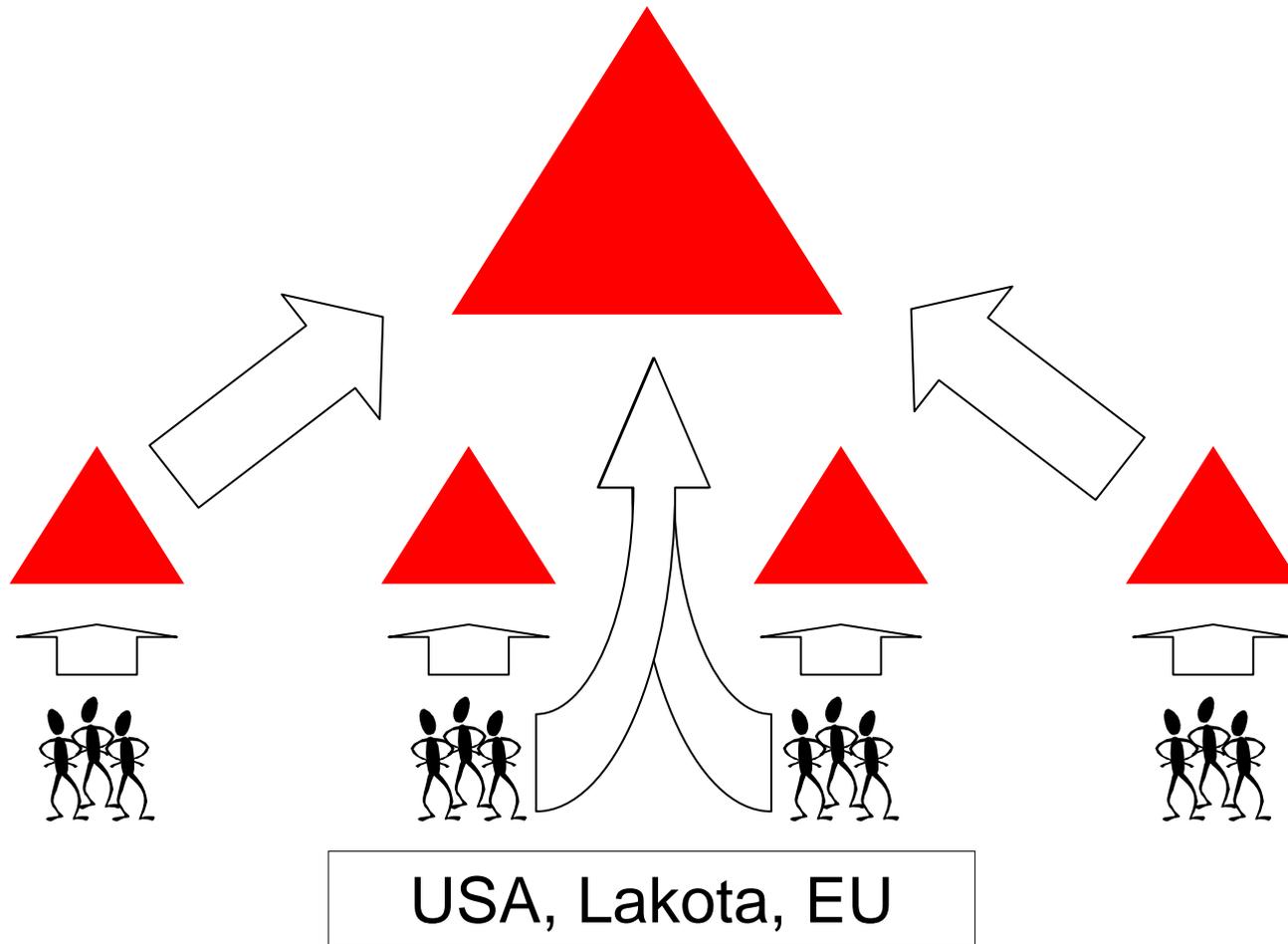
Iroquois, EC, USA (pre-1787)

Forms of Government: Unitary



United Kingdom, Mescalero, USSR

Forms of Government: Federal



The Two Kinds of Results

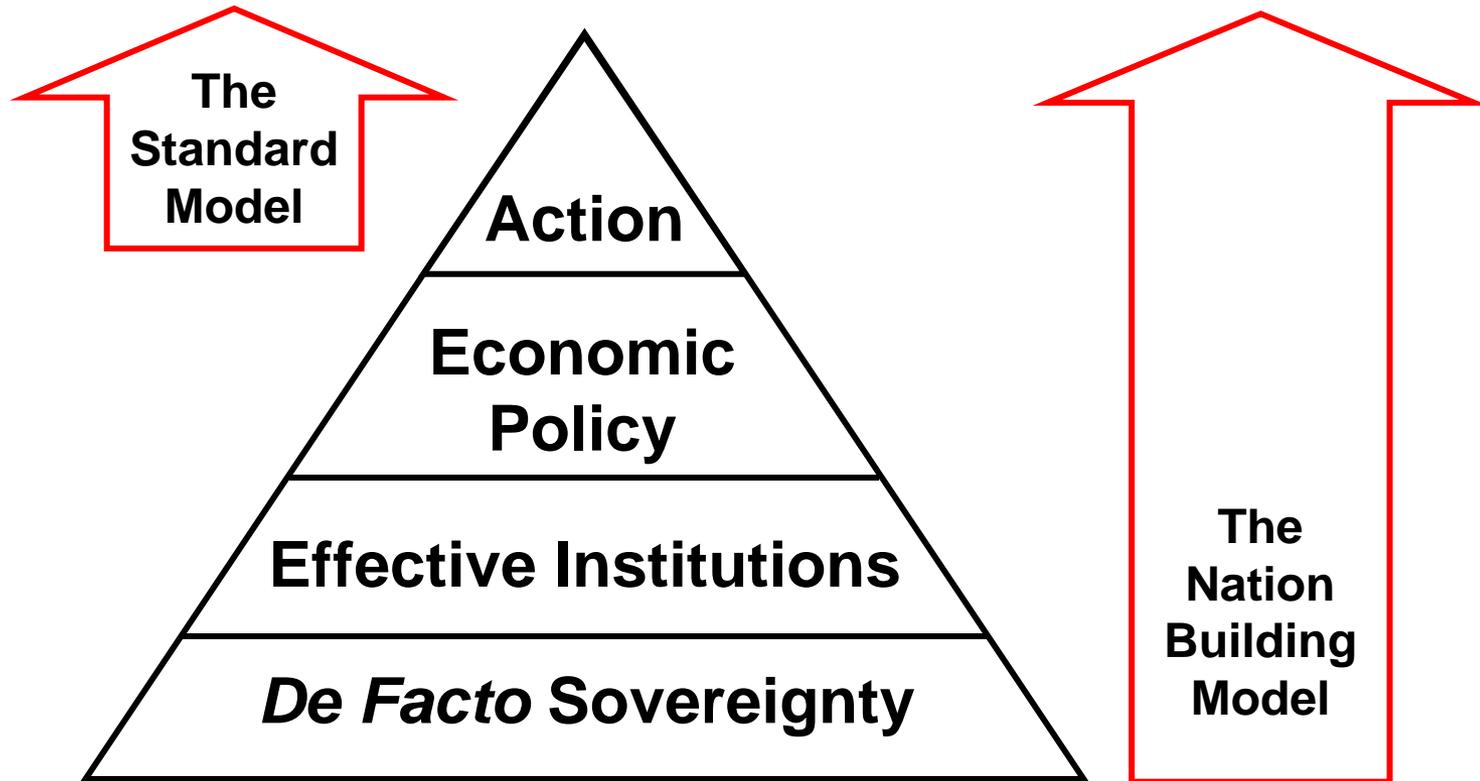
The Standard Model

1. Failed enterprises.
2. A politics of spoils.
3. Perceptions of incompetence and chaos that undermine the defense of sovereignty and the effectiveness of government.
4. Continuing poverty.

The Nation-Building Model

1. More effective access to and use of resources.
2. Increased chances of sustained and self-determined economic development.
3. More effective defense of sovereignty.
4. Societies - not just economies - that work.

The Logic of the Two Models



Nation Building Makes Investors Secure

“**Investors**” could be anyone with time, talent, energy, ideas, or money that could be useful to the tribe:

- A top-notch gas company that wants to make a deal but doesn't know how its contract will be interpreted in the tribal court.
- A tribal manager who's savvy about programs and laws but burnt-out from the tribal “run-around.”
- A tribal member with Fortune-500 experience hesitant to return to the reservation because taking a risk and failing is “punished.”
- A bi-lingual elder who wants pass on the tribal language but is concerned she would be fired because of some long-ago feud.

Nation building puts *political systems* and *policies* in place that allow human, financial, natural, social, and physical capital to accumulate.

Development is first and foremost a *political* problem.

More About Nation Building

- Harvard Project on American Indian Economic Development, JFK School of Government, Harvard Univ.
ksg.harvard.edu/hpaied
- Native Nations Institute for Leadership, Management, and Policy, Udall Center for Studies in Public Policy, Univ. of Arizona
udallcenter.arizona.edu/nativenations/index.html

The missions of HPAIED & NNI:

1. Social science research
2. Applied research for tribes (PAEs, Nation Building II)
3. Honoring Nations
4. Executive education
5. Students (high school through Ph.D.)

Indian Tribes Have Distinct Advantages

- Sole source federal contracting under 13 CFR 124 (a.k.a. “section 8(a) status”)
- Tax exempt status of tribal enterprises under IRS, Revenue Rule 94-16.
- Small & disadvantaged business status under Certain federal accelerated depreciation and employment tax credits.
- Grant, loan, loan guarantee, and tribal governmental program funding.
- Regulatory flexibility.

Yet Indian economic development remains a challenge. Why?

Corporate Governance

- The systems by which owners of assets convey responsibility for developing those assets to a group of overseers and/or expert managers while retaining authority and accountability for the ultimate performance of those assets.
- Many kinds of organizations depend upon sound systems of governance for their effective functioning:
 - Cooperatives (Ocean Spray, Associated Press)
 - Shareholder corporations (IBM, Sealaska)
 - Board-managed non-profits (The United Way, Boy Scouts)
 - Government-owned companies (Amtrak, Pemex)

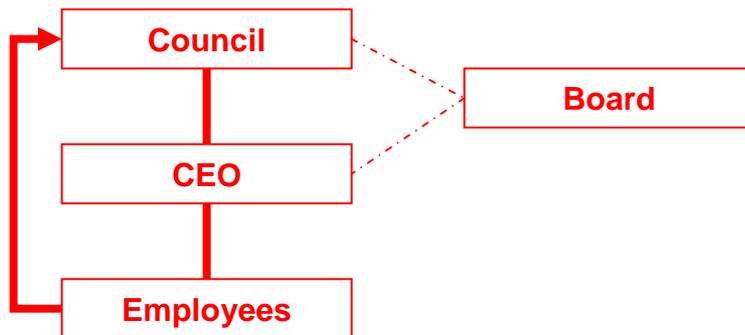
A Poorly Managed Tribal Business

- A western casino corporation facing strong competition.
- Personnel issues kept arriving at tribal council: “We own this company. It exists for us, and I deserve my job back!”
- Corporation would not advance tribal strategic objectives nor report to tribe regularly.
- Tribal council member sold under-performing trucking business to casino corporation.
- A gradually weakening board of directors:
 - Outsider members acquired consulting contracts with the tribe.
 - Council’s board members repeatedly viewed as “brainwashed.”
 - Discretion over capital investing (<\$250,000) and salary-setting taken away by tribal council.
- CEO: “My job is to run political interference.”

Result: Tribal-member CEO and excellent VPs all left in frustration.

Two Models of Nation-Owned Business

The Council-Run Model

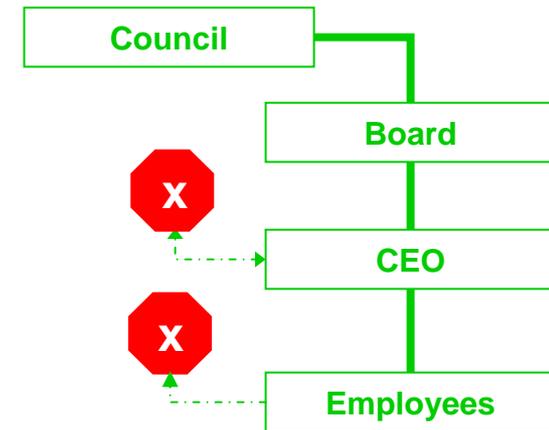


The Council sits as the “board” over the enterprise and is in frequent contact with the CEO.

Employees can approach Council directly about Corporation matters.

The board (if it exists) advises Council and the CEO about strategy but has no power to act on important corporate policy issues.

The Separated Model



The Council sets the strategic direction, and it leaves execution to the Board and day-to-day management to the CEO.

The CEO & Council have little or no relationship with each other.

Employees do not approach Council directly about Corporation matters.

The Board informs business strategy and sets policy. It reports to Council regularly.

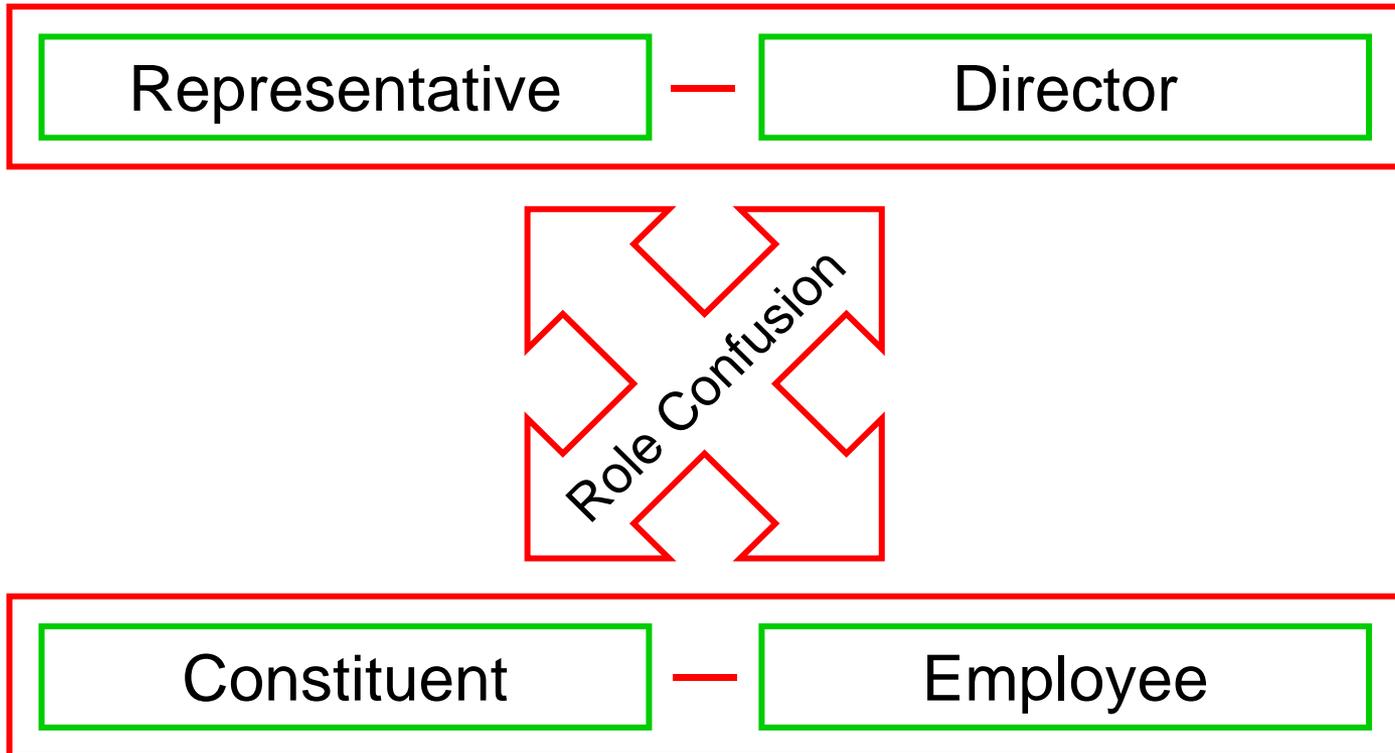
Advantage of the Separated Model

	Council-Run	Separated
Profitable	29	47
Not Profitable	24	10
Odds of Profitability	1.2 to 1	4.7 to 1

Nation-owned enterprises that are insulated from political interference are about *four times as likely to be profitable* as those that are not.

Cornell and Kalt. (1992).

Conflicts of Interest Under Council-run



Foundations of Separation

**Business
Activity**

**Processes of
Corporate Governance**

Corporate Charter

**Sound Civic
Governance**

Foundations Explained

Sound Civic Governance

- Checks and balances
- Staggered terms
- Independent courts
- Clear and predictable rules
- Civil service protections

Sound Corporate Governance

- Specialization of business functions
- Clear specification of roles
- Clear powers for each role
- Clear relationships of accountability

Managing the Separation

- Clear connection to community objectives
- Annual planning and review
- Regular, clear, & robust reporting
- Independent, expert, open, and self-improving board

A Well-Managed Tribal Business

- Winnebago of Nebraska – 2 years without gaming competition.
- Established Ho-Chunk Inc.
 - Board of directors with independence.
 - High caliber CEO.
 - Five years of no dividends to the Tribe.
 - Five years of 20% of gaming net income to the business (only got \$8M over first two years).
 - Goal = profit.
- Established hotels, Indian-made cigarette distribution, C-stores, gasoline wholesaling and retailing, indianz.com, allnative.com, order fulfillment center, prefab housing, used cars, construction.
- Personnel disputes by due process, regular reporting to TC, learning-by-doing, entrepreneurial spirit, strategic integration.
- CEO: “We make the fastest mistakes in the Tribe.”

Result: Unemployment down (70% to 13% in 5 years)

Revenue growth (100% annually for 5 years).

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