

**WRITTEN STATEMENT OF
LANCE MORGAN, CEO, HO-CHUNK, INC.
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON INDIAN AND INSULAR AFFAIRS
OVERSIGHT HEARING ON
“ECONOMIC DIVERSIFICATION TO CREATE PROSPEROUS TRIBAL
ECONOMIES”
FEBRUARY 15, 2024**

Good morning, Chair Hageman, Ranking Member Leger Fernández and Members of the Subcommittee. My name is Lance Morgan, and I am the Chief Executive Officer of Ho-Chunk, Inc., a tribal economic development corporation owned by the Winnebago Tribe of Nebraska (“Winnebago Tribe” or “Tribe”). Thank you for the opportunity to testify at today’s hearing on “Economic Diversification to Create Prosperous Tribal Economies.”

I. DEVELOPMENT OF HO-CHUNK, INC.

Throughout the 20th century, times were hard on the Winnebago Reservation in northeast Nebraska. After Congress enacted the Indian Gaming Regulatory Act, the Tribe opened a casino on tribal land near the town of Sloan, Iowa in 1992. The casino was an immediate success, but in 1994 Iowa expanded gaming in the Tribe’s primary markets. The Tribe then realized that gaming revenues would not be a long-term solution to the Tribe’s overall goal of prosperity.

The Tribe started Ho-Chunk, Inc. in 1994 to help its people by creating jobs and diversifying the Tribe’s revenue. The name derives from the traditional name for the Winnebago people, “Hochungra,” which is often shortened to Ho-Chunk. The translation of Ho-Chunk, Inc. is “The People, Incorporated.” The Tribe and Ho-Chunk, Inc. set out with the intention of transforming our community from one of extreme poverty, to one with an emerging middle class with a variety of employment options.

Ho-Chunk, Inc. has grown tremendously since its inception and has made a significant economic and social impact on the Tribe. We started with no revenues and one employee. Now, Ho-Chunk, Inc. has 1,800 employees and reached a record \$419 million in revenue in 2023. We anticipate adding another 1,500 employees and adding another \$200 million in revenue in the next 18 months.

Ho-Chunk, Inc. has measurably improved the lives of tribal citizens in less than a generation. We recently completed a community-wide economic impact study which showed several remarkable results. In the last 20 years, the median household income has risen 78% to \$58,240 per household. The number of families below the median household income has dropped by 6, and the number of families above the median household income has grown by 188 families. Additionally, the number of tribal members with a college degree has quadrupled.

The Winnebago Tribe has also committed significant corporate resources to building an entirely new community, called Ho-Chunk Village. Ho-Chunk Village is an 80-acre, new urban style, walkable, healthy community with a wide variety of housing, cultural and entrepreneurial activities. The Tribe has also added over 220 housing units to our small rural community in the last 7 years.

II. TRIBAL ECONOMICS AND THE ROLE OF TRIBAL CORPORATIONS

The successes of Ho-Chunk, Inc. and the Winnebago Tribe are despite the challenging economic development environment we must navigate. Government systems were often imposed on tribes, and the federal Indian law system is built on precedents that were designed to limit or outright take tribal legal and economic rights away from tribes.

Most tribal land is held in federal trust which limits a tribe's ability to develop or use it to create traditional tax revenues. The limited ability to create a viable taxation system forces tribes to be dependent upon the federal government for funding basic services that would typically be funded by locally generated tax revenues. Federal trust land has also made homeownership, wealth creation, and entrepreneurship very difficult for individual tribal members.

Federal funding alone is not enough to tackle the typical tribes' social and economic issues, so tribes are compelled to create additional revenue sources. The economic limitations created by legal restrictions and the side effects of trust land limits tribes to just a few economic development options—primary gaming and natural resource-based development. The trust land system also greatly limits the ability of individuals to access capital.

Given all the legal and economic restrictions in Indian Country, tribes are often the only entity with any ability to raise significant capital and are forced to try and directly develop their economies. However, tribes are governments, not development companies, and are far more comfortable delivering social services than managing complex corporations.

Over the last 30 years, tribes have increasingly established quasi-independent tribal corporate entities that allow them to bypass some of the limitations of being a government-owned entity to evolve into highly reactive and efficient tribal corporations.

III. IMPACT OF TRIBAL CORPORATIONS

Tribal corporate entities do have some economic, tax, and legal advantages, but it takes time to accumulate the capital and knowledge to maximize those advantages. Once a tribal corporation reaches a certain level of success, it impacts the community in several ways: it will create jobs; it will generate a flexible source of income to the tribe that does not carry the restrictions of federal funding; and it will also serve as a primary driver of community and social development.

The tribal corporations are increasingly using complex business structures to develop opportunities both on and off tribal reservations. This combination of developing economic and legal skill sets is increasingly setting tribes on the path of being able to dictate how to invest in

their own communities and has the potential to create a virtuous cycle of expectation and opportunity for success for tribal members.

Some examples of tribal corporate growth include the following:

1. Creation of complex tribal and federally chartered holding company structures to consolidate corporate management functions over a broad base of businesses.
2. Complex real estate development both on and off tribal reservations.
3. Creating sophisticated holding companies to perform high level government contracting under the SBA 8(a) program.
4. Expansion of gaming off reservation and state regulated gaming opportunities.
5. Ownership of several banks, credit unions and Community Development Financial Institutions.
6. Moving up the more profitable economic value chain of natural resource development and not limiting themselves to just royalties.
7. Increasingly sophisticated financial investments.

IV. SUGGESTIONS TO HELP TRIBAL CORPORATE GROWTH

Tribal corporations are key sources of flexible capital, job creation and social and community development. Anything that helps tribal corporations helps tribes become more economically independent and self-determined. Therefore, we make the following recommendations:

1. Federal trust land greatly impacts the ability for tribal entities to access capital, especially for reservation-based development. The B.I.A. Loan Guaranty Program is one of the only ways that a tribe or tribal corporation can access capital for difficult on reservation development and it needs to be fully funded and expanded.
2. The IRS has not formally ruled on the taxation status of wholly-owned tribal corporations. This issue has been on-going for over 25 years. This ambiguity has created long term uncertainty and has resulted in tribes being forced to form federal corporations or tribally own limited liability entities instead. However, this long-term uncertainty could carry over to any tribally chartered entity and is not helpful for long term tribal development and planning.
3. Protect and promote the SBA 8(a) program. Government contracting has grown remarkably over the last 20 years and is one of the best ways for tribes without natural resources or significant gaming revenues to expand their economies. Most tribes create tribally chartered holding companies to conduct their government contracting activities which makes the lack of certainty for tax treatment even more of a long-term problem.
4. Tribes are currently not allowed to make an S-Corp election in the tax code. Tribal corporations will often acquire a company that must maintain its current status for regulatory or licensing reasons. The inability for a tribal corporation to make a S-Corp

election takes away one of the primary tools a tribal company utilizes to impact its community.

5. The New Markets Tax Credit Program is an excellent source for tribal communities and corporate development. Indian Country projects are complex and harder to do because of trust land capital restrictions, so most entities who have an allocation do not want to take the time to invest in them. The program went three years without allocating any tax credits to Indian Country. Recently three tribal affiliated entities received an allocation, however, it would be good if a small percentage of the allocation were set aside for Indian Country.

Thank you again for the opportunity to discuss the importance of diversifying tribal economies. I would be happy to answer any questions.