

Nation Building for Native Nations:

NNI EdVenture Curriculum

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“Entrepreneurship and Doing Business on Indian Lands: Part II”

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Then you have this regulatory environment that you have to go through. You'll have to comply with federal regulations; you'll have to comply with tribal regulations. Two of them that you're going to find all the time are preferential employment, which is usually administered by TERO [Tribal Employment Rights Office] and that's had a lot of controversy over the years and gets more controversial all the time. And then the other is the environmental protection and if your nation doesn't have its own environmental code then you're going to have to abide by the national environmental code. Again, if it's absent then usually they go to the federal law.

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Business licensing; there are a few tribes that require you to have a business license. Sometimes it's as simple as having what they call the BIA Peddlers Permit. And it's maybe a nominal five dollars or ten dollars for an entire year. And that's for you to go out and sell anything on the reservation. Other times it's very complex. Navajo has a pretty complex process to get a business permit to operate on the reservation. Taxes is another thing you'd have to pay. We're going to go through a few of these things in just a little bit; we'll quickly just show you what's more common.

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A business activity tax, it's usually a percentage that's applied. Some of them are non-member owned but they're increasingly starting to charge tribal members this tax. They call it a gross receipts tax, it's usually a threshold and most of the ones I've seen are, if you make gross receipts of a \$100,000 or more, anything above that, we're going to start charging you a fee to go back into the tribal coffers. But most of our business, for the most, have not been making that, they don't have to pay that tax. Sales tax, which is also a transaction privilege tax, that's increasingly common on reservations today. Unless they've done some pre-planning up front and they've dedicated, for example to infrastructure, to economic development or to any of those things, it just goes back into tribal coffers and nobody sees what happens with it. Sometimes it's an annual fee and a percentage, other times it's just a straight out percentage. Hotel Occupancy Tax, for a long time I'd only seen Navajo were the only ones for a long time that charged a H.O.T. tax but now you see it's common almost everywhere. Cigarette and tobacco taxes is another one that's also charged wholesalers and retailers. Possessory tax; and this usually has been charged against non-tribal businesses, non-Indian businesses who have buildings. There was a big stink about this at Maricopa County for many years and I don't think it's fully ever resolved. With Gila River, what they did is Maricopa County got up in a helicopter and went around the entire county and starting shooting all these digital photos. You've all gone up I-10 right, going up to Phoenix? Right outside you see, there's the new Love's gas station, right in there is called the Lone Butte Industrial Park. That's probably the most successful and still surviving Indian industrial park that you're

going to find on an Indian reservation. Well, what the county assessor was doing was coming in and taking these photos and sending bills to all those tenants of that industrial park saying you have to pay this possessory tax to the county. And the nation, Gila River itself didn't have this tax in existence at that time. So there was a big old fight and it was battling for long time. The nation told all of their tenants, we do not have that law, you do not have to pay the county; these are the only taxes you have to pay us. So, they were able to stand by and support their tenants in that fight.

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These are just some less common taxes that you're going to find. The ones that kind of interesting is the impact fees. I've only run across a few tribes that have this. Are you familiar with Ft. Mojave in the tri-state area, Nevada, California, and Arizona, in that corner, south of Las Vegas? They were having a lot of building and growth that was occurring all around them. They didn't have a way to address all this growth and the impact it was having on their water, their sewer and their roads. So they decided to pass this impact fee which then allows any time new construction occurs or expansions or whatever, it's a fee. They didn't call it a tax, because their community was against taxation so they called it a fee to get it by. They assessed this primarily on the non-tribal citizens and the development that's coming in.

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Within all of this, getting through that whole regulatory environment, all of the processes, getting the land, it's really difficult. What might the nation do to support citizen entrepreneurs like yourself? One, you have to have sensible regulation, zoning really helps. These are land use plans and you are all youth that are going to go back to your communities and youth that have connection with your family. This is something that you can get reinforced within your own family to say, we really need to decide how we are going to grow, how land is going to be used because that's what we get into fights about all the time. So if you can start this, get that ingrained in their heads, it can be done and if you think about it, traditionally we used to do zoning. Take my community for example, Old Oraibi, we lived in small communities so we had the residential area, we had common places, that was our plaza where all of our community activities began. For a long time we didn't have infrastructure there so all of our outhouses went along the perimeter of the village, nobody could have it inside, and there were rules on where it could go. All the fields were below, all the agriculture was below certain areas, all the orchards were in certain areas. We practiced all of these things for a long time but we didn't call them the terminology that we have to abide by today. Leasing is another one and I'm going to give you an example of one real soon. Any codes that deal with what you don't want to have occur on your lands, some examples I can think are take all of the farming communities. Like Ak'Chin, Gila River, and Salt River, they've adopted pesticide codes, so they only want certain kinds, it has to meet certain criteria and it gets monitored and enforced by their level. They have sign codes, the heights, the size, where it can be placed and where it can't be. These are all things you can set in place in the form of an ordinance. Commercial code, I think if I remember correctly, in Arizona there are only two tribes that have established commercial codes, and that's Navajo and Ft. Mojave. And the rest of us operate on a case-by-case basis. Salt River has got a federal

law that allows them to do arbitration. Gila River, any time they're dealing with any kind of a business venture, they put an arbitration clause in their contracts and in all of their deals and that resolves the conflict. What the commercial code does is, helps you address how you resolve the conflict, how you go in and collect collateral that might have been pledged under a loan. Investors need to feel a level of comfort that they're going to be treated fairly on the reservation; that the lease isn't going to be cut off. Even though you have a 25-year lease and are only into the fifth year, that new administration isn't going to come in there and just say, ok we wanted that piece of land, we're going to take over everything; we're going to run you out. They want to feel safe, they want it for that purpose, they want to be able to go out and get financing for their businesses. They want the individual to feel safe, they want to come onto the reservation and know what the rules are.

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Most of us had available to us under the BIA, the old revolving credit program. Some of its still in existence, some of it still has outstanding loans from forty decades ago. Others have morphed it into something that's more workable for them. But that's a possibility, providing an equity, a small equity grant to help a businesses get off the ground. A grant, remember, is one you don't have to repay. Because a lot of us don't have the cash to go out and start a business. For new start-ups, they're the most risky investment that an banker or investor is going to make. And he's going to want full assurance that business is going to be able to go and that person is going to be able to repay their loan back. Because it's so risky, you have to come up with 20% of the cash or hard tangible equipment and I'm talking about usable equipment or inventory, something that you can just get up and go right with it. A lot of us don't have that so equity grants that are a percentage of what you need, work really well. Loans work really well because they serve as incentives for you to be able to go out and get your business off the ground because then you have a personal stake in making sure that business is going to succeed. When the money is given to you 100%, who cares if you blow 100K, 10K, 50K, or whatever it might be; who cares if you blow it, because it's not your money. Loans we've found have been really successful at building incentives for making sure that they succeed. Lines of credit are an option, I don't like lines of credit unless they're done through the loan program. I've seen them done by tribal councils where they provide a line of credit for an individual member and it becomes very political at that point. And I've seen times too when the individual has reneged on his loan and the tribe ends up paying the bill. It's unfair to the rest of the citizenship because they don't have that same opportunity to get the same line of credit that one individual was able to do. It can be done through established programs. Just like the grants and scholarships program that you learned about. If you have a revolving loan program, a community development financial institution in place, they can set up the rules for those kinds of things to occur.

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Small business services are another where they provide education on how you start a business and once you're in the business, how to maintain it so it is profitable. Things like support services, making sure that when you're getting off the ground maybe you can come back to these counselors within the tribe who can then help make sure you're

accounting is right, that you file the right tax forms and so on, maybe taking advantage of marketing efforts that the nation is working on. Are you familiar with small business development centers? They have an SBDC at Pima Community College. You'll find these almost anywhere across the United States no matter where you are, they're usually attached to community colleges. They provide free assistance, free workshops in many cases, once you get your business plan off and rolling, they'll come in and help you; they'll review it with you. Clean up your spelling, give you lots of pointers, all of that good stuff. Infrastructure, again here, that goes hand in hand with the zoning. If you're able to get the tribe to zone area then they can go in and bring in all that infrastructure because on most of our reservations, all we have is raw land out there. Dirt, dirt, dirt, dirt out there. So we would need all of the water, the sewer, the electricity, the phone lines. The tribal government can get a grant to do many of those things. Otherwise, if you're required to do it on your own, usually it increases your costs to start a business by at least two times of whatever you were projecting sometimes a lot more depending on how remote you are. And this last thing about having this efficient and effective dispute resolution mechanism in place, making sure your court system or whether you decide you go with arbitration is a way to resolve those conflicts that might come up, that's very important.

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Here's a story about a counterproductive policy. There's this large Native American Indian reservation, it has a really high unemployment rate, it probably hovers around 60%. It has a really big internal market because there's enough people within those communities to be able to support retail services. But they have a few businesses that are in existence. Like many of our reservations, the dollars are spent off the reservation. They're probably one of those tribes where eighty cents of every dollar goes off. But they have a lot of people that are interested in becoming an entrepreneur and starting a business. Many, many people are interested in doing that. But their site leasing process has more than 100 steps. Can you believe that? And on that slide it says it takes an average of one year but most people will tell me, two years to get a business off the ground, to even go through that whole process. But yet nearby, in that off reservation community, that city, you can start a business in probably less than thirty days. So what ends up happening is, all those people go with all those great ideas and all those resources that they have, off into those nearby towns. All their energy goes with them and we end up losing hundreds of jobs. And if you think about it, if that business created one job, even two jobs, that were permanent and some part-time, four or five part-time jobs or seasonal jobs, that's still two to seven more jobs than we would have had in our community. Because no one out there is developing jobs. No one is creating jobs out there.

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Some of the ways that government discourages citizen businesses and as a result they lose out on where the jobs are, is competing with our own citizens. I've heard this many, many times, over and over and over again. Where you get so far through the process, maybe usually to the legislative oversight review and they say, "You can't start that business, we were planning on starting that same business, in fact, right across the corner

from you.” They impose those punitive taxes or fees forcing them to fold. Pine Ridge story: they have a Chamber of Commerce that is in existence up there. As you know, Pine Ridge has a very high unemployment rate just like that other story that I told you about on that last slide, but that wasn’t their nation. What they did is, the Council was looking at their budget and they decided that, looking at their shortfalls in their budget projections and said, we got to come up with some new revenue sources and they were looking across there, how do we do this, what can be done, they were looking across their community. And they realized they had some pretty good businesses that are in operation, in existence there. In fact, they had Big Bats big old gas station and C-store [convenience store] all shiny and new, producing, a lot of people were coming through. The guy’s making a mint. All these businesses out there, this restaurant that’s doing well. So, let’s increase their lease fee. Somehow or another, the word got out into the community that the council was considering a 1500% increase in their lease payments. It got out to these business owners, so they mobilized very quickly through their chamber of commerce and what they did is they strategized and figured a way, we can’t allow this to happen. So, they went out and identified who was going to call who, within their reps, because their regional reps and they were going to fight the issue. All night that’s all they did, called all these councilmen all night, went in and talked to them. Told them, you can’t raise our lease payment by 1500%, we’ll be out of business and yet we’re the ones that are providing x number of jobs within the community. They were very fortunate, the next day it worked, all their lobbying worked because the next day when it came up to vote in the council, it failed.

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Delaying the processing of permits, where people just get fed up and quit. Those are the people I dealt with and that’s really why I started the youth entrepreneur camp because I had worked with so many adults, they just got fed up and I said there has be a way to get this word out to people who can start businesses. I said, I’ll start with the kids because the kids can be the ones perhaps who start the business. Loading them down with unnecessary regulations. We saw that long list of things that people have to do. And there are common things that have to be done, but they’re easier ways to do it. Stacking the deck against them by letting politics, getting into court decisions. There’s another example of an individual who owned a feed store. He was from one of the Plains tribes. He had a lease with the council already to operate this feed store. What ended up happening is, elections happened, there was new turnover and leadership came in. There was a councilman, who got elected to the new council, he didn’t like the owner of this feed lot store so he decided to make it his cause to make the guy’s life miserable. What he did was, he can talk to other council members and told them whatever he had to tell them, all this badmouthing about the individual who was operating thr feed lot, and convinced them that we’re going to cut out his lease, even though he has years left on it, we’re going to terminate his lease, we have better uses for the land. So it got brought to council, council, because the guy had done all of his work by, again lobbying other council members was able to get the support to terminate the individual’s business lease. The individual, the feedlot owner, filed an appeal in the tribal court system. The courts ruled on his behalf, they sided with him and said, council you can’t terminate his lease, you entered into an agreement with him for x number of years, and you still have this

many years left, you can't do that, so they upheld his court decision. What did council do? It appealed. Who do you think they appealed to? Who did the council file there appeal with? You know who the Supreme Court was in their case? Themselves. The council, that was the right of appeal, it went to the council and the council could decide. So the owner said, and was telling Steve Cornell, he said, we might as well put up a big old billboard when you come onto the reservation that says: "Do not invest here, you're going to be hostage to politics here, do not start a business here." Because that's what it was.

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This is just an example of how things can be positive within our communities and this isn't the only one, the Mille Lacs Band of Ojibwe, there's several of them throughout the country. What they wanted to do, was they wanted to diversify their economy. They already had tribal enterprises so they thought that if they started really helping to support citizen entrepreneurs, that would help diversify it. So, with their gaming revenue they created their own small business development program. What it does is provide that technical assistance, training on writing a business plan, how you price your products or how you market your products. And then they also set up a low interest loan program for their citizens. But what they did was they made all their applicants go through a very stringent feasibility study phase. They had to make sure the business was going to fly and was going to be able to make the money to be able to repay the loans back. In its first four years, it was able to get more than thirty businesses off the ground. And all those businesses, even if they employed one person in that business, created thirty new jobs that they would have never had in their community. Sometimes two new jobs, five new jobs in our community is major significance to us because there just aren't jobs out there that can be created that readily. And this is happening, as I said, in many other communities as well.

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The challenge really becomes that you create this environment that invites talented people to participate in development by building their own businesses and serving their people. And that's really what the role of the government is, is to create that environment. Right? They create the rules within which it operates.

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Tribes that, whatever combination they choose, whether it's a tribal enterprise, whether it's ones in where they're going to have the citizens do all the businesses, or a combination of the two, is going to be again, dependant on those rules that you set in place and how fairly you enforce those rules. And that's what we call our citizen entrepreneurship development strategy.