No. 03-855

IN THE

Supreme Court of the United States

CITY OF SHERRILL, NEW YORK,
Petitioner,
v.

ONEIDA INDIAN NATION OF NEW YORK, RAY HALBRITTER, KELLER GEORGE, CHUCK FOUGNIER, MARILYN JOHN, CLINT HILL, DALE ROOD, DICK LYNCH, KEN PHILLIPS, BEAULAH GREEN, BRIAN PATTERSON, and IVA ROGERS,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF FOR *AMICI CURIAE* THE PUYALLUP TRIBE OF INDIANS, THE SOUTHERN UTE INDIAN TRIBE AND THE PUEBLO OF ACOMA IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*

Amici Curiae are two federally recognized Indian Tribes with reservations where a large amount of the land is in non-Indian ownership and a Pueblo in a populous part of New Mexico.[1] The *amici* are deeply disturbed by Petitioner's

[1] No one other than *amici curiae* and their counsel made a monetary contribution to the preparation or submission of this brief. Counsel of

assertion—contrary to experience throughout the country—that if local communities cannot tax lands owned by tribes—here the Oneida's repurchase of its own land—the result will be fiscal bankruptcy and jurisdictional chaos for the local communities. Nothing could be further from the truth, and the Court should not be misled. The truth is that Indian tribes contribute substantially to the economies of the surrounding communities in amounts far greater than any loss of property tax base to those communities, and have long ago worked out mutually helpful jurisdictional agreements.

The *amici* also have an interest in the continued role of this Court as a protector of Indian rights to property, self-government and economic development—a role often taken by the Court when others did not care. The unanimous decision of the Court, written by Justice White, in *Oneida Indian Nation of New York v. County of Oneida*, 414 U.S. 661 (1974) (*Oneida I*), and this Court's opinion in *County of Oneida v. Oneida Indian Nation of New York*, 470 U.S. 226 (1985) (*Oneida II*), maintained that role for both the Court and the United States, as did the decision of the Second Circuit and district courts below. The *amici* submit this brief to assist the Court in reviewing the Oneidas' rights here at issue in an appropriate economic and intergovernmental context.

SUMMARY OF ARGUMENT

The City of Sherrill and its *amici* make an essentially equitable plea, arguing that even if the State's land purchases were illegal, the Court should nevertheless deny relief to Oneida because of the purported economic and administrative burden that granting relief would impose on the State and the City. That argument is meritless, both because the State and its subdivisions should not be allowed to profit from the

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record for both parties have consented to the filing of the brief, and letters of consent have been filed with the Clerk.

State's own illegal actions, and because their contentions about the economic and administrative consequences of the Second Circuit's ruling are contrary to nationwide experience and the facts at Oneida.

The very first Congress made crystal clear in the Indian Trade and Intercourse Act, ch. 33, 1 Stat. 137 (1790), now codified as amended at 25 U.S.C. § 177, that Indian land could only be purchased under federal auspices. Yet New York, purchasing Indian land without federal consent and at far less than its value in what has been found as clear bad faith, often ignored these laws. *See, e.g., Cayuga Indian Nation of New York v. Pataki*, 165 F. Supp. 2d 266, 347 (N.D.N.Y. 2001).

Based on consistent economic studies, tribal governments and their enterprises contribute dramatically to the financial well-being of local communities including their tax collections, through increases in land values, substantial purchases of goods, tourism income and increased Indian and non-Indian employment. These contributions far outweigh any loss of revenue from tribal lands being tax exempt. Moreover, governments ordinarily do not tax the property of other governments. New York and its cities and counties cannot tax the substantial federal holdings in the State, and states do not tax property owned by counties and cities. The reality is that nothing has so improved the previously depressed economy of the Sherrill area as the casino built by the Oneida Nation, the very same economic activity that has allowed Oneida to repurchase some of its land.

In addition, Congress in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721, only allows casino gambling—such as that at Oneida—under a compact agreed to by the State. Those compacts—particularly after this Court's decision in *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996), which ended federal court review of compact

terms—have regularly provided substantial income to states and local governments.

With regard to law enforcement and regulation, no jurisdictional or other "chaos" is created by the Oneidas' regaining tax exempt land or having it constitute "Indian Country." Congress granted New York jurisdiction over criminal offenses by Indians or against Indians and civil causes of action arising on Indian land in 1948 and 1950, 25 U.S.C. §§ 232 and 233, respectively, expressly reserving the tax exempt status of such land and federal court jurisdiction over Indian land transactions.

Finally, as this Court has recognized, "there are a host of cooperative agreements between tribes and state authorities to share control over tribal lands, to manage public services, and to provide law enforcement." *Nevada v. Hicks*, 533 U.S. 353, 393 (2001) (O'Connor, J., concurring). Tribes continue to work hand in hand with federal, state and local governments—in an atmosphere of mutual respect—to address issues related to regulatory authority and to resolve concerns impacting funding arrangements for public services.

ARGUMENT

I. THE STATE OF NEW YORK AND ITS POLITICAL SUBDIVISIONS SHOULD NOT BE ALLOWED TO BENEFIT FROM THE STATE'S PRIOR ILLEGAL ACTS.

The City of Sherrill and its *amici* make an essentially equitable plea, arguing that even if the State's land purchases were illegal, the Court should nevertheless deny relief because of the purported economic and administrative burden that granting relief would impose on the State and the City.[2] That argument is meritless, both because the State and the

[2] *See* Sherrill Pet. for Cert. at 2, New York *Amicus* Br. at 1-2; Town of Lennox *Amicus* Br. at 2.

City should not be allowed to profit from the State's illegal actions, and because their contentions about the economic and administrative consequences of the Second Circuit's ruling are contrary to nationwide experience and the facts at Oneida.

The problems that the City of Sherrill alleges, if they were real, would come from a long refusal of the State of New York to accept the division of authority established in the Constitution of the United States. *See Oneida I*, 414 U.S. at 678 and n.13 (citing Gerald Gunther, *Governmental Power and New York Indian Lands—A Reassessment of a Persistent Problem of Federal-State Relations*, 8 Buffalo L. Rev. 1 (1958)). The Articles of Confederation left ambiguous the powers of the States over Indian Nations. The Constitution has no ambiguity on this issue. *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515, 558 (1832). And the very first Congress made crystal clear in the Indian Trade and Intercourse Act, ch. 33, 1 Stat. 137 (1790), now codified as amended at 25 U.S.C. § 177, that Indian land could be purchased only under federal procedures. Yet New York, purchasing Indian land without federal consent, and often at far less than its value, frequently and in bad faith ignored these laws. *See, e.g., Cayuga Indian Nation*, 165 F. Supp. 2d at 347.

New York's refusal to obey the law has created a situation where non-Indians have possession of areas of land which lawfully belong to Indian tribes. The federal courts in New York, relying in part on this Court's footnote on remedies in *Oneida II*, 470 U.S. at 254 n.27, have denied the New York Tribes the remedy of evicting non-Indians from Indian land. *Cayuga Indian Nation of New York v. Cuomo*, Nos. 80-CV-930, 80-CV-960, 1999 WL 509442, at *17-30 (N.D.N.Y. July 1, 1999); *Oneida Indian Nation v. County of Oneida*, 199 F.R.D. 61, 90-94 (N.D.N.Y. 2000). This means that the only way that the Tribes can regain some of their land is by purchases from willing sellers, or settlement of land claims—

in the latter situation at far less than their value. A balance has thus already been struck between the rights of the Tribes and the rights of the non-Indians very much in favor of the non-Indian possessors. Consequently, where a tribe can in fact repurchase its own land it is entitled to have the full value of that land, including its exemption from state and local taxation.[3]

In *Cass County v. Leech Lake Band of Chippewa Indians*, 524 U.S. 103 (1998), this Court considered whether land within an Indian reservation allotted to individual Indians, sold to non-Indians and repurchased by the Tribe was subject to state and local taxation. In reviewing the allotment statutes passed by Congress, the Court held that the land in question was taxable, but only because those federal statutes unmistakably allowed such taxation. In a unanimous opinion by Justice Thomas, the Court held that state and local governments may not tax tribally owned land within the

[3] The Town of Lenox argues, Lennox *Amicus* Br. at 19-21, that even if tribes are denied the right to evict unlawful possessors of their land, and even if a tribe purchases its own land from a willing seller, the tribe should still be required to go through 25 U.S.C. § 465 procedures with the Secretary weighing the desirability of returning property to Indian status before a tax immunity could be recognized. But 25 U.S.C. § 465 was part of the 1934 Indian Reorganization Act ch. 576, 48 Stat. 985, designed to allow the Secretary to acquire land for Indian tribes regardless of the land's prior status. It has no applicability to the return of a tribe's illegally held land. Further, any balance between Indian and non-Indian interests has already been more than met by the denial of the right of eviction. It would be grossly unfair to a tribe to deny it the right to evict, require it to buy back its own land and then impose still another gate for the Tribe to go through. This is particularly so because the Secretary's track record in preserving Indian land in New York is too poor to justify the Court's granting the Secretary additional discretion not provided by Congress.

boundaries of Indian reservations absent clear congressional permission to do so:

> absent cession of jurisdiction or other federal statutes permitting it. . . . We have consistently declined to find that Congress has authorized such taxation unless it has made its intention to do so unmistakably clear.

Id. at 110 (citations and internal quotations omitted).

Congress has not authorized taxation of Oneida lands. Indeed, Congress in 1950 in extending certain civil jurisdiction over Indian reservations to the State of New York specifically stated that "nothing herein contained shall be construed as subjecting the lands within any Indian reservation in the State of New York to taxation for State or local purposes . . . ." Act of Sept. 13, 1950, Pub. L. No. 81-785, ch. 947, § 1, 64 Stat. 845 (codified as amended at 25 U.S.C. § 233). That statute should be the end of Sherrill's argument.

II. THE ARGUMENTS OF THE CITY OF SHERRILL AND ITS *AMICI* THAT THEIR TAX BASES AND ECONOMIC WELFARE WILL BE DESTROYED BY THE DECISION BELOW ARE WITHOUT MERIT; TRIBAL GOVERNMENTS AND ENTERPRISES CONTRIBUTE SUBSTANTIALLY TO THE FINANCIAL WELL-BEING OF SURROUNDING LOCAL COMMUNITIES AND TO THE STATE'S OVERALL ECONOMY.

The Oneida Nation, purchasing back its own land and having that land be tax exempt, does not pose a threat to local communities. Indian tribes have possessed tax exempt lands in or near non-Indian communities across the country for hundreds of years. Sherrill's complaint that Oneida purchases of its own land from willing sellers in and around the City of Sherill does the City irreparable damage has no basis in fact. The district court, denying Sherrill's motion for a preliminary injunction, specifically rejected Sherrill's assertion that it is

"on the verge of extinction" as a result of Oneida's land purchases:

> Sherrill's contention that it is on the verge of extinction is exaggerated. Sherrill has had budget surpluses for the last five years. (First Carmen Aff. Ex. 31). Sherrill retorts that each year its surplus becomes less and less. Sherrill's financial condition is not indicative of being on the brink of bankruptcy, and is not supportive of a claim of irreparable harm.

Oneida Indian Nation of New York v. City of Sherrill, 145 F. Supp. 2d 226, 255 (N.D.N.Y. 2001).

This is not surprising. The costs to a local jurisdiction of an Indian tribe buying land in or around it are usually far outweighed by the economic growth and development that the tribe brings to the area. As a result of this economic growth, real estate increases in value, thus causing property tax collections to rise. Further, as a result of substantial purchases of goods and services by tribes and their members, and increased employment for Indians and non-Indians alike, local governments gain substantial additional revenue as shown by a number of consistent economic studies. *See* Veronica E. Tiller and Robert A. Chase, *Economic Contributions of Indian Tribes to the Economy of Washington State* (1998) (commissioned by the State of Washington and the Washington tribes) (hereafter Tiller and Chase). App. A, *infra*; *New Mexico Study Group*, *Indian Reservations and the New Mexico Economy: Monograph 1: Reservation-Based Gaming Enterprises* and *Monograph 2: Tourism* (1999) (hereafter New Mexico Study). App. B, *infra*; Economic Development: S. Hrg. 105-572 Before the Sen. Comm. on Indian Affairs, 105th Cong. 129 (1998) (Prepared statement of Robert F. Robinson, President, The Center for Applied Research, Inc.) (hereafter Robinson), *available at* http://indian.senate.gov/1998hrgs/0409_rr.htm; Ethel Steinmetz and Thomas O. Skjervold, *Estimating Native American Con-*

tributions to Washington State Tax Revenue, *available at* http://www.evergreen.edu/nwindian/pdf/enacwstr/Full.pdf. Showing that the same is true at Oneida, *see* Zogby Int'l, *Oneida Indian Nation Economic Impact Study 2000* (hereafter Oneida Economic Impact Study) at JA 237-76.

That Oneida lands should be exempt from taxation is not unusual. Governments in the United States commonly exempt each other's property from taxation. Federal property is immune from state taxation.[4] Yet one rarely hears of a state asking for a federal facility such as a military base to be closed – to the contrary, the states commonly fight against such closures. This is because military bases, like Indian reservations, add more to the economy than any cost of tax exempt land. The United States does not tax state and local government properties.[5] Nor does the United States tax Indian tribes.[6] Similarly, many states in their constitutions or by statute, including New York, have created property tax exemptions for lands owned by local governments.[7]

The State of Washington this year enacted legislation that *in addition* to exemptions provided by federal law exempts

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[4] *United States v. New Mexico*, 455 U.S. 720, 733 (1982).

[5] The federal government does not have a tax on real property so there is no issue concerning the federal taxation of state lands. With respect to income tax, the Internal Revenue Code provides that "Gross income does not include—(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia . . . ." 26 U.SC. § 115(1).

[6] Rev. Rul. 94-16, 1944-1 C.B. 19.

[7] *See, e.g.*, N.Y. Real Prop. Tax Law § 406; Ariz. Const. art. 9, § 2, cl. 1; Me. Rev. Stat. tit. 36, ch. 105, § 651(1)(D); N.M. Const. art. 8, § 3; Utah Code § 59-2-1101(2)(c); Wis. Stat. § 70.11(2).

tribally-owned property on or off reservations, regardless of status, from state taxation if used for certain purposes:

> (1) All property belonging exclusively to the United States, the state, or any county or municipal corporation; all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services . . . is exempt from taxation.
>
> * * *
>
> (2) For the purposes of this section, "essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

Wash. Rev. Code § 84.36.010.

Thus, the fact that property owned by the Oneida Nation within the City of Sherrill will be exempt from state and local taxes is hardly earth shaking.

A. Indian Enterprises Increase Land Values Which Serves To Raise Local Income From Real Estate Taxes.

As noted, the district court rejected the City of Sherrill's argument that the Oneida Indian Nation's land purchases create a crisis for the City. Real estate brokers in the Sherrill area go further. They state that as a result of Oneida activities, real estate values in the City of Sherrill and surrounding counties are rising. One Oneida County real estate broker noted that "[t]he prices are on the rise as homes are harder to find." *Oneida Economic Impact Study* at JA273. Similarly, an Oneida and Madison County realtor commented that "[t]he Oneida Nation has flourished and that has helped bring other businesses. They find Central New York good for business. I am very positive about the future here." *Id*. at JA275.

Oneida's positive impact on the real estate market is not unusual. In Connecticut, for instance, the Mashantucket Pequot Tribe's successful tribal operations "in New London County dampened the recession in employment and housing prices in the early 1990s and contributed substantially to the economic rebound of the region through the decade. This included a positive return to housing investment." Univ. of Conn. Center for Economic Analysis, *The Economic Impact of the Mashantucket Pequot Tribal Nation Operations on Connecticut* at 24 (Nov. 28, 2000), *available at* http://ccea.uconn.edu/studies/Mashantucket%20Final%20Report.PDF.

A report commissioned by the State of Wisconsin concluded that if the Wisconsin Oneida Casino were closed "[r]esidents of the region would face an increase of over $9.5 million in property taxes to replace funds no longer provided by the Oneida." Michael K. Evans, Evans, Carroll & Assocs., *The Economic Impact of Indian Casino Gaming in Brown and Outagamie Counties* at 24 (Feb. 2003).

B. Indian Purchases Of Goods And Services Add Substantially To The Local Economy And Local Tax Collection.

Although tribally-owned enterprises are mainly located on Indian lands, they usually purchase most of their supplies and services off the reservation. Most reservations simply do not have the suppliers of goods and services needed to run a tribal enterprise. As a result, tribes and tribal members spend millions of dollars every year on goods and services obtained from local communities. This helps create strong local economies.

In FY 1998 "residents of Indian reservations . . . ma[de] approximately $3.1 billion in annual personal consumption expenditures off the reservation . . . [t]ribal governments . . . $1.2 billion in annual expenditures off their reservations for goods and services . . . [and] reservation-based businesses

(e.g., mining companies, energy producers, and tourist, gaming and fine arts enterprises) . . . approximately $4.4 billion." Robinson at 129. These expenditures add greatly to the economy of the surrounding communities, and directly or indirectly add to the local tax base.

This effect is well documented in Tiller and Chase, a study commissioned jointly by the State of Washington and its tribes. In Washington, tribes own and operate a variety of enterprises, including: traditional natural resource production, construction, wholesale and retail trade, finance, insurance and real estate, gaming and government. App. A, *infra* p. 12a. Many tribes in Washington purchase most if not all of the goods and services needed to run these businesses off the reservation. *Id*. at 16a. In aggregate, tribally-owned enterprises in the State spent an estimated $1.003 billion on business expenses in 1997. *Id*. at 22a. Of this amount, approximately $865.8 million was spent statewide for supplies, equipment and services. *Id*.

Similarly, the New Mexico Study found that there are eleven Indian reservation-based gaming enterprises, all of which are located near large and small communities throughout the State. App. B, *infra* p. 38a. Together, the State of New Mexico gained $64.7 million in state tax revenues directly or indirectly in 1998 from the goods and services purchased by tribal gaming enterprises in the State. *Id*. at 40a.

Individual Indian residents of reservations also make significant contributions to local communities because of their need to shop at off-reservation establishments for day to day living necessities. Tiller and Chase found that "[m]ost retail sales and services in Washington are conducted off reservations at non-Indian establishments, including border towns that largely owe their livelihoods to Indian patronage." App. A, *infra* p. 16a. Moreover, tourists and patrons of tribal businesses also end up spending money in local communities in addition to monies spent on tribal lands. Tourism in New

Mexico during 1998 generated $2.14 billion, with 13.4% of that being attributable to visitors motivated by Indian culture. App. B, *infra* p. 45a. Aside from the local businesses that benefit from Indian driven tourism, New Mexico gained $33.8 million in state sales tax. *Id*. at 45a-46a.[8]

The Oneida Indian Nation of New York, in a similar fashion, contributes enormously to the local economies and thus directly or indirectly to state and local revenues. In 2000, the Nation spent over $120 million on goods and services. *Oneida Economic Impact Study* at JA250-51. More than 47% of the Tribe's purchases were obtained from businesses located in the State of New York. *Id*. at JA251. Given the significant amount of money tribes spend on various goods and services, and the multiplier effect of these purchases on the economy as a whole, it is clear that states and local businesses and communities are financially benefiting from Oneida-owned enterprises.

C. Indian Tribes Have Become Major Employers, Generating Taxes For The State And Jobs And Taxes For Local Communities.

Sherrill's claim of economic disaster is further refuted by the enormous employment the Oneida Nation has brought to a formerly depressed area. As discussed above, Indian purchases contribute to the revenue levels of local and state economies as do increased land values, thus increasing tax collections. The same is true of employment.

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[8] The New Mexico Study recognized "[t]ourism is not a single industry, but rather a collection of trade and service sectors . . . . Lodging, eating and drinking establishments, certain recreational services, transportation, and various retail trade sectors comprise the 'tourism' industry in New Mexico." App. B, *infra* p. 44a. So, even though tourists' desire to visit a place may be driven by the presence of Indian tribes, a significant portion of the money spent by tourists will benefit local off-reservation business and states via sales taxes.

The New York Oneida Nation Enterprises directly employed 2,857 workers during the 2000 fiscal year and with capital outlays factored in, 3,401 jobs were directly related to the economic activities of Oneida Nation Enterprises. *Oneida Economic Impact Study* at JA238. Eighty-six percent were held by non-Native Americans. *Id*. at JA243

> In 2000, Madison, Oneida, and Onondaga counties received approximately $264,849, $1.9 million and $324,813 respectively, in tax revenues due to employment at the Oneida Nation Enterprises. In addition, the three counties will share $1.7 million in revenues resulting from indirect job creation through the multiplier and capital outlays.

Id. at JA254.

Amicus, the Southern Ute Indian Tribe runs a waste water treatment plant and commercial gravel operations, and engages in energy development (coal bed methane). The Tribe and its associated enterprises employ over 1000 people in southwest Colorado. Memorandum from Sam W. Maynes and Monte Mills, attorneys, Maynes, Bradford, Shipps & Sheftel, LLP, to Harry R. Sachse 4 (Sept. 2, 2004). Almost 500 of these employees are in La Plata County alone (the location of the tribal headquarters), with an annual payroll of over $20 million. *Id*. Moreover, 69% of these employees are non-tribal members. *Id*.

Similarly, during 1997, in Washington State, tribally-owned enterprises employed 14,375 workers with labor earnings of approximately $270 million. App. A, *infra* p. 18a. The total payroll of $270 million supports an annual contribution of approximately $5.3 million in state employment/payroll related taxes and $5.4 million to the state unemployment insurance fund. *Id*. at 24a, 20a. In Washington, "approximately 4 out of every 10 workers employed by tribal-owned enterprises are non-Indian." *Id*. at 18a.

The Mississippi Band of Choctaw Indians (hereafter MBCI) owns and operates a diverse range of businesses.[9] Among some of the Tribe's businesses are an American Greeting Card Factory, an Electronics Enterprise (Choctaw Electronics), a commercial printer (First American Printing & Direct Mail), two automotive and non-automotive wiring companies (Choctaw Manufacturing & Chata Enterprise) and a plastic molding company (First American Plastic Mold ing Enterprise). MBCI website, http://www.choctaw.org/ economics/tribal_business_overview.htm (last visited Sept. 28, 2004). Significantly, the MBCI's businesses "provide[ ] more than 8,000 permanent, full time jobs for tribal members and others (more than 65 percent of its workforce is non-Indian)." *Id*. The Tribe's annual payroll exceeds $123.7 million. *Id*.

Tribal enterprises not only generate state and local tax revenue, but more importantly, improve jobs and help sustain healthy Indian and non-Indian economies. According to Tiller and Chase "tribal enterprises have been major contributors to the alleviation of severe unemployment, both *on and off* reservation." App. A, *infra* p. 25a. (emphasis added). The Mississippi Choctaw discussed above, are the largest employers in their county (Neshoba County), and among the ten largest employers in Mississippi. MBCI Website, *supra*. Given the tribal business success, State political leaders have urged the Tribe *to buy more lands*. "[F]ormer Senator John C. Stennis requested that the Choctaws place one of [their] manufacturing plants in Kemper County to spur local employment opportunities. The development of another one of [the Choctaws'] plants was the direct

[9] The Mississippi Choctaw Tribe, like the Oneida, has land interspersed with non-Indian owned land. Mississippi opposed recognition of Choctaw land as a reservation raising issues remarkably like those raised by Sherrill and its *amici* here. *See Amicus* Brief of the State of Mississippi at 9, 20-44, *United States v. John*, 437 U.S. 634 (1978) (Nos. 77-575, 77-836). This Court rejected those arguments. *John*, 437 U.S. at 648-50.

result of an inquiry from Senate Majority Leader Trent Lott to see if the Tribe might acquire a direct mail operation that was in bankruptcy in his home county." Economic Development: S. Hrg. 105-572 Before the Sen. Comm. on Indian Affairs, 105th Cong. 55 (April 9, 1998) (Prepared statement of Chief Philip Martin, Chief of the Mississippi Band of Choctaw Indians), *available at* http://indian.senate.gov/1998hrgs/0409_pm.htm.

D. States And Local Governments Have Gained Significant Revenues From Possessory Interest Taxes On Indian Lands.

Although Indian lands are tax exempt, income from leases of such land to non-Indians is often subject to state taxation. Thus non-Indian lessees of tribal minerals or other natural resources pay substantial severance taxes to state and local governments. *Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163, 175 (1989).

California imposes a possessory interest tax on leases held by non-Indians—such as hotel corporations—on tax exempt Indian property. The Agua Caliente Tribe challenged this tax, but the Ninth Circuit upheld it and this court denied review. *Agua Caliente Band of Mission Indians v. County of Riverside*, 442 F.2d 1184 (9th Cir. 1971), *cert. denied*, 405 U.S. 933 (1972). While we believe this tax remains subject to challenge, Agua Caliente lessees in 2003 paid almost $24 million in possessory interest taxes to three cities and the county for leases on tax exempt real property. Keith A. Shibou, C.P.A., Accountancy Corporation, *Agua Caliente Band of Cahuilla Indians, Property Taxes Paid to County of Riverside For the Fiscal Year Ended June 30, 2003*, Schedule B.

E. Gaming Compacts Provide Revenues For State And Local Governments.

Indian people as a whole are still among the poorest in the nation with inadequate housing and medical care and high unemployment. *A Quiet Crisis*, *Federal Funding and Unmet Needs in Indian Country*, U.S. Comm'n on Civil Rights, July 2003, at ix-xii. But Indian tribes began to pull themselves out of poverty in the 1980s by asserting their right to self-government and by operating bingo and later casino gambling on their reservations. If states could have lotteries, or authorize casinos to raise money, why could tribes not do the same? In *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), this Court upheld the right of tribes to run gaming establishments under their own laws in states that do not outlaw gambling.

The next year Congress passed the Indian Gaming Regulatory Act (IGRA), providing comprehensive regulation of Indian gaming. 25 U.S.C. §§ 2701-2721. Under IGRA, a tribe can operate a casino (Class III gaming) only if it has entered into a compact with the state setting out the terms on which the gambling can take place. IGRA specifically requires such compacts, and provides that they may include among other things "(ii) the allocation of criminal and civil jurisdiction," "(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity," and "(vii) any other subjects that are directly related to the operation of gaming activities." 25 U.S.C. § 2710(d)(3)(C). These compacts usually provide where the gaming can take place, the games that can be played, the number of gaming machines allowed, and the payment to be made to defray state and local expenses.

Under IGRA as written, if a tribe did not think a state was bargaining fairly, it could bring the state into federal court and have the court decide between the compact terms proposed by the tribe and those proposed by the state.

§ 2710(d)(7). In that time period, compacts tended to cover very specific expenses of the state and local communities. But this Court held that the IGRA federal court review provision violated the immunity of the states under the 11th Amendment. *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996). Following *Seminole*, without judicial protection, compact terms are arrived at through more expansive government to government negotiations. Most states want Indian gaming, because it is a major source of employment and state and local governmental funding. Tribes negotiate with the states as to the terms of the compacts in that context, but also against the background of an unreviewable state veto. States thus have enormous bargaining power as to the conditions imposed by gaming compacts.

The State of New York apparently did not negotiate with the Oneida Tribe for a compact provision covering costs to itself or the local community. Oneida, however, has voluntarily made substantial payments to local communities. Between 1996 and August 2000 the Oneida Nation donated over $1,236,564 to the Vernon-Verona-Sherrill School District alone. *Oneida Nation sends more aid to school dists.*, Rome Daily Sentinel, Aug. 3, 2000, at JA218. In subsequent negotiations with other tribes, New York has insisted on revenue sharing provisions and is currently negotiating with a number of tribes to allow them to run casinos as part of land settlements that will take considerable areas of land out of the local tax bases.[10] New York and the local communities fully

[10] Compacts in other states have various provisions on reimbursements or payments to state and local governments. In Washington State, tribes pay up to 2% of the casino net to local governments to reimburse them for impacts that the casino causes to the local governments' services and budgets; and the revenue from a certain number of tables or machines is paid to local charities.

Wisconsin compacts vary from tribe to tribe. Recently, however, the owner of a dog race track sought to have all the compacts declared illegal. Wisconsin and the Tribes have equally opposed this effort. *See* Briefs of

understand that it is to their advantage and the advantage of the State to enter into such transactions because of the economic growth that will be provided by the casinos. *See* James C. McKinley Jr., *Groundwork Laid for a Casino in the Catskills*, N.Y. Times, May 13, 2003. Another article refers to developers and tribes that "have been drawn by Gov. George E. Pataki's ambitious plan to dot the state with casinos as a way to generate state income." Iver Peterson, *Midwest Tribes See Big Payoffs in the East*, N.Y. Times, March 24, 2003.

Given the huge economic growth and tax revenues through payroll and sales taxes that the Oneida Casino has contributed to the City of Sherrill and the State of New York, and New York's eagerness to have additional casinos even at the cost of land going out of tax status, the "destruction of the cities" and unfairness to local community arguments advanced by Sherrill and its *amici* in our view cannot even pass the "straight face" test.

In sum, states under legislation enacted by Congress have enormous power over gaming by Indian tribes, and in recent years have used those powers to more than compensate themselves and local communities for any loss of revenue created by Indian lands being held or returned to non-taxable status.

State of Wisconsin and *Amici Curiae* St. Croix Chippewa Indians of Wisconsin *et al*. (both filed Jan. 13, 2003), *Dairyland Greyhound Park v. Doyle*, No. 01-CV-2906, Cir. Ct. Branch 6, State of Wisconsin. As part of its opposition, Wisconsin provided the court with an economic report entitled *Revenue Loss to the State of Wisconsin if Casino Gaming Facilities Were Closed*. (prepared by Michael K. Evans, Evans, Carroll & Assocs.) (Jan. 2003) (Ex. 2 in that proceeding). The report concludes that if the casinos were closed, Wisconsin in 2002, would have lost $24 million in direct revenue sharing payments under the compacts, as well as a total tax loss based on payroll and sales taxes of just under $100 million. *Id.* at 15.

F. Tribes Contribute To A Variety Of Community Efforts.

We have emphasized the increased economic growth and tax revenue to state and local governments from tribal activities—increased real estate values, off-reservation purchases, employment of Indians and non-Indians—revenues that greatly surpass any lost property taxes. This obviously contributes to the economic well-being of the entire community – Indian and non-Indian alike.

Apart from these direct economic benefits, tribes assist local economies in other ways. The Puyallup Tribe "has donated half a million dollars to a local hospital to help with a new children's health center [and] about a quarter of a million dollars to one of the small local fire districts to purchase a new fire truck." Puyallup Indian Tribe, Survey Information Response at 3.

Amicus the Southern Ute Indian Tribe is the primary sponsor of a public radio station, KSUT, which serves the surrounding community. Memorandum from Sam W. Maynes and Monte Mills to Harry R. Sachse, *supra* p. 14, at 4. In early 2004, the Tribe donated 35 acres to the regional hospital in the Durango/Four Corners area. *Id*. at 5. Additionally, the Tribe and regional hospital have agreed that the Tribe will contribute approximately $2 million for the establishment of a dialysis department in the new hospital. *Id*. The New York Oneida make similar generous contributions. *See* the donations to school districts listed *supra* p. 18.

III. THE ARGUMENTS OF THE CITY OF SHERRILL AND ITS *AMICI* ON "ADMINISTRATIVE CHAOS" ARE WITHOUT MERIT; NEW YORK HAS LONG HAD CRIMINAL AND CIVIL JURISDICTION WITHIN INDIAN COUNTRY AND NATIONALLY THERE ARE HUNDREDS OF COOPERATIVE AGREEMENTS BETWEEN TRIBES, STATES AND LOCAL GOVERNMENTS.

Far from the chaos and uncertainty which Petitioner and its supporting *amici* predict, Indian tribes have in fact become partners with state and local governments to resolve issues of jurisdictional authority and to work together to address concerns impacting funding for public services. This Court has recognized that "there are a host of cooperative agreements between tribes and state authorities to share control over tribal lands, to manage public services, and to provide law enforcement." *Nevada v. Hicks,* 533 U.S. 353, 393 (2001) (O'Connor, J., concurring). These cooperative agreements evidence the ability of tribal, federal, state and local governments to work hand in hand—in an atmosphere of mutual respect—to foster a high level of stability and certainty for their mutual benefit.

Although Petitioner and its supporting *amici* dismiss the relevance of cooperative agreements, *see* Town of Lennox *Amicus* Br. at 2 and n.4, this Court has previously recognized that such agreements are a preferred method and at times the only method—to effectively balance the interests of both the states and the tribes. *See Okla. Tax Comm'n v. Citizen Band Potawatomi Indian Tribe,* 498 U.S. 505, 514 (1991) (although tribal sovereignty precludes states from suing tribes to collect certain taxes, states may "enter into agreements with the tribes to adopt a mutually satisfactory regime for the collection" of the tax). As a result at least in part of this Court's admonitions, states and tribes have addressed issues of

mutual concern through the negotiation of hundreds of cooperative agreements, covering a broad range of topics, during the past decade. *See States and Tribes, Building New Traditions*, National Conference of State Legislatures (James B. Reed and Judy A. Zelio eds., Nov. 1995); David H. Getches, *et al.*, *Federal Indian Law* 619-620 (4th ed. 1998). These cooperative agreements, in addition to taxation, address, often in a very detailed and sophisticated manner, issues relating to criminal and civil regulatory authority, environmental compliance, zoning, land use planning, education and transportation.[11]

A. The Orderly And Uniform Application Of Law By The State And Local Governments Is Not Jeopardized By The Presence Of Indian Country In The State Of New York.

1. State criminal and civil jurisdiction generally.

Amicus State of New York makes the disingenuous argument that the Second Circuit's decision creates a "patchwork of tribal and state civil jurisdiction that jeopardizes the orderly and uniform application of law." New York *Amicus* Br. at 2. The State fails to provide any examples to support this claim, and cannot. States have long had jurisdiction over crimes between non-Indians on Indian reservations. *United States v. McBratney*, 104 U.S. 621 (1882). In 1948, as we have discussed above, Congress

[11] *See*, *e.g.*, Memorandum of Understanding between the Sitka Tribe of Alaska and the City and Borough of Sitka (Tribe and City meet twice a year to further develop their cooperative relationship and to discuss issues such as taxes, zoning, economic development and protection of cultural and historic preservation); and the Cooperative Plan Process, Town of Hobart and the Oneida Tribe of Indians of Wisconsin at Introduction (a long-term comprehensive plan for the development of transportation, housing, land use, etc. "with a blueprint for cost-effective future growth and development" that is viewed "as another step in cooperative efforts by the town and tribe to meet the future needs of its citizens").

granted the State of New York jurisdiction over "offenses committed by or against Indians on Indian reservations within the State of New York. *See* Act of July 2, 1948, Pub. L. No. 80-881, ch. 809, 62 Stat. 1224 (codified as amended at 25 U.S.C. § 232). In 1950 Congress granted New York jurisdiction in civil actions "between Indians or between one or more Indians and any other person" regardless of where the action arose.[12]

Thus, the status of the lands at issue in this case as "Indian country" has no impact on the ability of the State of New York to exercise criminal and civil jurisdiction over disputes arising on these lands in the same manner as it has over other Indian country for over 50 years.

2. Planning and Land Use.

The State of New York and other Sherrill *Amici* suggest that the jurisdiction created as a result of the Second Circuit's decision will undermine the ability of local governments to effectively implement community planning and control and will de-stabilize local self-government.[13] But this Court has greatly limited the authority of an Indian tribe to zone non-Indian land in areas that are mostly populated by non-Indians. *Brendale v. Confederated Tribes and Bands of the Yakima Indian Nation*, 492 U.S. 408 (1989). On Indian land tribes generally work out agreements with local governments on

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[12] As we have noted, *supra* pp. 6-7, in doing so Congress specifically withheld state and local power of taxation over "lands within any Indian reservation in the State of New York" and state jurisdiction over ownership of Indian land relating to transactions before September 13, 1952. These acts were the model for Pub. L. No. 83-280, ch. 505, 67 Stat. 588 (1953) (now codified as amended at 25 U.S.C. § 1321), which granted similar powers to a number of other states.

[13] *See, e.g.*, New York *Amicus* Br. at 1-2.

zoning and land use. These are issues successfully dealt with across the nation.

A prime example is the situation of the Agua Caliente Indian Reservation in California, located in a nearly perfect checkerboard due to historic factors.[14] Today, the lands of the Agua Caliente Indian Reservation include large parts of the cities of Palm Springs and Cathedral City, and a small part of the city of Rancho Mirage and a portion of the unincorporated part of Riverside County. The local governments and the Tribe recognized that in order to make planning and land use control work efficiently and effectively, intergovernmental cooperative agreements would be required. As a result, the Tribe has entered into a series of land use contracts with Palm Springs, Cathedral City, Rancho Mirage and Riverside County.[15] The essential features of these land use contracts include: (1) the Tribe adopts and applies city's land use controls (*e.g.,* zoning, building code, variances, etc.) to tribal lands; (2) the Tribe designates the city to act as its agent in enforcing compliance and the city collects and keeps all fees; (3) any final action of the city regarding development of tribal lands may be appealed to the Tribal Council.

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[14] In 1873, Congress wanted the Southern Pacific Railroad to build a rail line from Yuma, AZ to Los Angeles, CA with its route going through the Coachella Valley. The railroad did so and was rewarded by the grant of all odd-numbered section of land within 10 miles of the rail line, with certain exceptions. When Presidents Grant and Hayes wanted to establish a reservation for the Agua Caliente Band of Cahuilla Indians in 1876-77, the only available lands were the unreserved and unappropriated even-numbered sections—a true checkerboard.

[15] *See* Land Use Contract Between City of Palm Springs and the Agua Caliente Band of Cahuilla Indians (original contract 1977, with Supplements 1-5); Land Use Regulation Agreement By and Between the City of Cathedral City and the Agua Caliente Band of Cahuilla Indians (1984, revised 1997); Rancho Mirage/Agua Caliente Band of Cahuilla Indians Land Use Contract (1998); Riverside County/Agua Caliente Band of Cahuilla Indians Land Use Contract (1989).

Oneida has addressed these issues by adopting the National Building Code as its building code, Oneida Indian Nation Ordinance O-94-01B at 2-3, July 8, 1998, and zoning and land use ordinances much like those found in any municipality. Oneida Indian Nation Land Regulation Ordinance O-96-01, Sept. 3, 1996; Oneida Indian Nation Environmental Protection Ordinance O-98-07, Nov. 24, 1998.

3. Utility Services.

Most utilities are owned and operated by private companies, not local governments, and Indian tribes and Indian people must and do make payments directly to those companies. Sometimes, however, utilities are owned and operated by an Indian tribe which provides services to homes and businesses both on and off its reservation. A good example is *amicus* Southern Ute Indian Tribe which provides both water and waste water treatment to its own people and those of the surrounding community. In 1999, the Tribe financed and constructed a $6 million wastewater treatment facility that jointly serves the Tribes and users in the Town of Ignacio through the Ignacio Sanitation District. Memorandum from Sam W. Maynes and Monte Mills to Harry R. Sachse, *supra* p. 14, at 2. Then in 2001, the Tribe financed the construction of an $11 million water treatment facility that provides water not only to the Tribe's headquarters, but also to the Town of Ignacio and local residents. *Id.*[16] Where utility services are

[16] In the State of Washington, the Squaxin Island Tribe also provides such services. It owns and operates the Kamilche Water system which supplies water to the tribal government, and to homes and business both on and off the Squaxin Island Reservation. Squaxin Island Tribal Response Points to Harry R. Sachse 1. Users are charged a fee for the service. *Id.* The Tribe is in the process of substantially updating and expanding the sewage treatment facilities at no expense to the local government. *Id.*

offered by a local non-Indian government, Indian tribes and individual Indians commonly pay for those services.[17]

Garbage pick-up and solid waste disposal are also often arranged in a mutually beneficial manner. A good example is the Intergovernmental Cooperative Agreement for Landfill Disposal Services between the Brown County Solid Waste Board and the Oneida Tribe of Indians of Wisconsin (1999). The purpose of the Agreement is "to establish a fixed disposal rate (and subsequent increases) at the Board's landfill for all waste generated by the Tribe and to guarantee the County a minimum volume of waste for disposal." Agreement ¶ 1(D). The Agreement assures the Tribe of a safe and reliable site for waste disposal, while ensuring the continued viability of the landfill.

Fire and emergency services are no different. Tribes routinely enter into agreements with local fire districts in a cooperative effort to protect lives and property.[18] And, as we

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[17] Again, in the State of Washington, the Tulalip Tribes and the City of Marysville entered into an agreement to wheel water from the City's water system to the Tribes. *See* Tulalip Tribes and City of Marysville "Wheeling Agreement." The Tribes agreed to pay a lump sum of $1,407,999 as a wheeling charge and for the construction of a dedicated tribal line to the reservation. *Id.*

[18] *See, e.g.,* Memorandum of Understanding Between Squaxin Island Tribe and Mason County Fire Dist. #4 at 1 (Oct. 4, 2002) (agree to "design, develop, construct and maintain a fire station on tribally owned lands . . ."); Agreement Between the Bishop Rural Fire Prot. Dist. and Bishop Paiute Tribe for the Provision of Fire Prot. and Suppression Servs. on the Bishop Paiute Reservation (Oct. 16, 2002); Fire and Emergency Med. Servs. Agreement By and Between the Tulalip Tribes of Wash. and the Marysville Fire Dist. (Oct. 2, 1999); Automatic Aid Agreement By and Between the County of Riverside and the Cabazon Band of Mission Indians (May 5, 1998); and Agreement Between the City of Snoqualmie and the Snoqualmie Tribe for the Provision of Police, Fire, and Emergency Med. Servs. to the Snoqualmie Hills Project and Sewer Utility Serv. to the Tribe's Initial Reservation (April 26, 2004).

have noted, *amicus*, the Puyallup Tribe recently contributed about $250,000 to purchase a fire engine for a local non-Indian fire district. *See supra* p. 20.

B. Federal And Tribal Programs Have Been Specifically Designed And Implemented To Offset The Impact Of Tax Exempt Trust And Restricted Fee Lands On The Tax Base Of State And Local Governments.

1. Education Programs.

Local communities do not lose monies for essential programs such as schools as a result of being located near Indian lands. Both federal programs and tribal funds are used to subsidize local schools. Indian education programs, for example, benefit schools attended by Indian children whether run by the tribe or a local community. Among these federal education programs are: the Indian Education Act (Title VII of the No Child Left Behind Act of 2001), Pub. L. No. 107-110, 115 Stat. 1425 (hereafter NCLBA of 2001), *codified as amended at* 20 U.S.C. §§ 7401-7546; Federal Impact Aid (Title VIII of the NCLBA of 2001), *codified as amended at* 20 U.S.C. §§ 7701-7713a; and the Johnson O'Malley Act (Title X of the NCLBA of 2001), *codified as amended at* 25 U.S.C. §§ 452-457.

Amicus Southern Ute, similar to the New York Oneida Indian Nation, is situated in and around non-Indian towns, for the Utes the town of Ignacio. Many Indian children from the Southern Ute Indian Tribe attend schools run and funded by Ignacio, and thus the local public schools and school districts receive federal funding under the Indian education programs mentioned. For example, Ignacio School District is due to receive $644,880.02 in federal Impact Aid funds this year. Memorandum from Arnold Santistevan to Sam Maynes, attorney, Maynes, Bradford, Shipps & Sheftel, LLP 1 (Aug. 31, 2004). The local school district also received

$75,000, pursuant to Title VII of the Indian Education Act, 20 U.S.C. §§ 7401-7546, to support a reading teacher and counselor who both worked primarily with the district's many Indian children. *Id*.

Moreover, aside from these federal funds, many Indian tribes, including the Southern Ute Tribe and Oneida Indian Nation, have their own school funding programs. These programs have had a significant impact on public schools located in districts surrounding Indian lands. The Southern Ute Tribe contributed over $1.5 million in tribal monies (exclusive of federal and state grants), to assist forty-one programs that will benefit Indians and non-Indians in the local communities during 2002-2004. Southern Ute Tribe, *Tribal Economic Contributions Chart for 2002-2004 (Exclusive of Federal and State Grants)*. Of these programs, the Tribe contributed $51,000 to a Head Start Program for families in Ignacio and over $30,000 of tribal funds to Ignacio Schools and School District. *Id*.

Similarly, the Oneida's Silver Covenant Chain Grants for Local Governments Program provides funding to "[e]ach Municipality and county within the Nation's reservation boundaries, as defined by the 1794 Treaty of Canandaigua . . . . " *Onedia Indian Nation Silver Covenant Chain Grants Fact Sheet* at JA216-17. The grants are conditioned only upon the local governments removing repurchased lands from their tax rolls and maintaining a government to government relationship with the Nation. *Id*. Grant payments are given to school districts directly and are intended to offset any lost taxes by virtue of the Nation's presence. *Id*. at JA217. Since 1996, the Oneidas have given over two million dollars to eight different school districts. *Oneida Economic Impact Study* at JA265. The "[g]rant money is used by most districts to help fund academic programs, provide instructional materials and supplies and also helps to pay teachers' salaries and lower taxes." *Oneida Nation sends more aid to school dists.*,

Rome Daily Sentinel, Aug. 3, 2000, at JA219. So, while it may seem at first glance that a loss of a taxable land base will negatively impact schools in an area, quite the opposite is true. Federal funds available to districts where Indian children attend, combined with contributions made by Tribes to those districts, have a positive impact on educational programs.

2. Transportation and Roads.

Tribes participate in the Indian Reservation Roads Program, which is part of the Federal Lands Highway Program. *See* Transp. Equity Act for the 21st Century, Pub. L. No. 105-178, 112 Stat. 107 (1998). The program authorized $1.6 billion for the IRR Program for fiscal years 1998-2003. A renewal at a higher figure is currently before Congress. The purpose of the program is stated as:

> to provide safe and adequate transportation and public road access to and within Indian reservations, Indian lands, and communities for Indians and Alaska Natives, visitors, recreational users, resource users, and others, while contributing to economic development, self-determination, and employment of Indians and Alaska Natives.

Indian Reservation Roads Program, 69 Fed. Reg. 43090 (July 19, 2004) (codified at 25 C.F.R. pt. 170).

A good example of a cooperative agreement on transportation is the agreement reached between *amicus* the Pueblo of Acoma and the New Mexico Department of Transportation. *See* Memorandum of Understanding between Pueblo of Acoma and New Mexico Department of Transportation (Feb. 2004). It became clear that the State Highway Department was fully extended in its bonding capacity and could not commit any significant monies to highway repair and improved access at Acoma. The Pueblo of Acoma Tribal Council agreed to provide the monies for a

feasibility study, the necessary first step in the highway redesign process, and set aside an additional $7 million to be one-half of the cost of the needed work on the Interstate Highway. *Id.*

The Pueblo and the State of New Mexico Highway Department have taken on the feasibility study as a joint project and invited the neighboring non-Pueblo communities to take an active role in the process. The construction that ultimately takes place will be a joint project between the State of New Mexico and the Pueblo of Acoma.

CONCLUSION

This Court was asked to review the decisions below with protestations from Sherrill, the State of New York and other *amici* that the decisions below would bankrupt towns in New York and create impossible jurisdictional conflicts. This is not at all the case. The decisions below should be affirmed, or the petition denied as improvidently granted.

Dated: September 30, 2004.

Respectfully submitted,

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APPENDIX A

Economic Contributions of Indian Tribes to the Economy of Washington State[1]

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Executive Summary

In the fall of 1997, Washington Governor Gary Locke and tribal leadership issued a call for facts to shed light on the relationships between the state and the 27 federally recognized Indian tribes within its borders. The ensuing dialogue, conducted through the Governor's Office of Indian Affairs, resulted in the formation of six working subcommittees composed of tribal representatives to investigate several economic areas. The Economic Study Group developed this report on the tribes' contribution to the state's economy. It is believed to be the first report of its kind in the country, with tribes and a state cooperatively developing a common factual framework. From this foundation, the tribes and the state can better address the many economic issues of importance facing Indian Country in Washington State.

The authors of this report based their conclusions primarily on official data from the 23 participating tribes and the state. These sources included the state's Office of Financial Management-Forecasting Division, and the Employment Security Department. Equally important were the tribes' own official

[1] All figures and photographs have been omitted due to space and formatting limitations.

books and records, including tax returns and reports filed with the Internal Revenue Service and with the state. Never before has such detailed information been released by the tribes. It is presented here in aggregate form to protect tribal privacy. The authors also drew upon supplemental information for all 27 tribes from federal agencies such as the Bureau of Indian Affairs, the Indian Health Service, the U.S. Department of Education, and the U.S. Bureau of the Census.

Because many tribes were reluctant to share confidential and proprietary information with the state, they and the state agreed upon a third-party contractor to review tribal data and to present it only in aggregate form. Tiller Research, Inc., fulfilled this role, with assistance from Chase Economics. The contractors signed strict confidentiality agreements with the tribes and with the state concerning the use of data for this report.

These findings are significant both in their scope and their implications. This report dispels the common misperception that Washington's Indian reservations are an economic "drag" on the state. Far from it. Consider the following:

> Washington has 27 federally recognized Indian tribes with a combined population of about 91,000.
>
> Washington tribes contribute $1 billion annually to the state's overall economy.
>
> Tribal enterprises in 1997 spent $865.8 million for supplies, equipment and services.
>
> In 1997, the tribal governments paid an estimated $51.3 million in federal employment/payroll-related taxes.
>
> The tribes paid an estimated $5.3 million in state employment/payroll-related taxes in 1997.
>
> Tribal enterprises currently employ 14,375 Washington citizens full time, including non-tribal employees.
>
> More than half of these jobs are in the services sector.

Average annual wages for tribal employment amounted to $18,800. This is about 40 percent lower than the statewide average of $32,400.

Finally, readers should note that this report reflects the conclusions of the authors. It should not be construed as representing the official position of the State of Washington or of any federally recognized Indian tribe located within the state's borders.

Introduction

Background of Study

Finding specific information about the economic contribution of Washington's 27 federally recognized Indian tribes to the state's economy has been frustratingly difficult for years. As state-level policy makers and tribal leaders regularly interact on a variety of social and economic issues, this lack of data has hampered sound decision making. In response to this situation, Washington State Governor Gary Locke and tribal leaders undertook an initiative in 1997 to determine the role played by tribal entities and reservation lands in the economy of Washington. Consequently, the Governor's Office of Indian Affairs began collaborating with tribal representatives to provide a clearer picture of the reservation economies in the state and to illuminate the relationship of those reservations to the larger state economy. Two overall goals framed the discussion. The first was to begin a dialogue between tribal leadership and the state on a government-to-government basis to address economic vitality in Indian Country to develop solutions to economic problems. The second goal was to provide the state with a greater understanding about the obstacles and unique challenges tribes face in developing their limited resources to promote economic well being.

After a series of initial meetings, the state and tribes jointly adopted the *Tribal Economic Vitality Initiative* (*TEVI*). It

identified six issues: (1) Economic Study Plan, (2) Financing, (3) Gaming, (4) Taxation, (5) Tribal Employment Rights Organization, and (6) Tourism as areas of critical importance to the Indian tribes. The participants also established six subcommittees, one for each issue.

With the Governor's support, the Governor's Office of Indian Affairs recognized the need for taking meaningful action to maintain the trust and confidence of the tribal governments. In response, the Economic Study Planning Group recognized the critical importance of providing the tribes with an accurate portrait of their collective economic contributions to the state's economy. This information would reverse the longstanding misconception that Indian tribes contributed very little—in terms of employment, earnings, and tax revenues—to the state's economy. The tribes had always contended otherwise. Unfortunately, for years they could only point to piecemeal anecdotal evidence with little documentation of their economic impact.

To dispel this false image and clarify once and for all their economic role in Washington State, the tribes embraced this research project, even though it meant sharing information long held in the strictest confidence within the respective tribes. They recognized that this report would finally give them the accurate statistical data they needed to substantiate their claims.

Since the effort to develop this report began, a national trend has emerged among Indian tribes recognizing the need to determine their economic impacts on state, regional, and national economies using proven methods and studies. By working cooperatively on this study, Washington tribes and the Governor's Office have broken new ground in this area, taking the lead on an issue of national importance. The results will benefit all citizens of Washington State.

Historical Considerations

Though peripheral to the scope of this study, a historical perspective on government policy toward Indian tribes should frame any consideration of their impact on the State of Washington's economy. In particular, all the state's tribes made enormous; though involuntary, initial capital contributions through the land cessions of the Nineteenth Century. (*See* Appendix I) Furthermore, more than a century of failed and now thoroughly repudiated federal Indian policies has dramatically changed the landscape of many treaty and executive order reservations. As a result, the present-day Indian reservations in Washington are often a vastly different territory than the tracts originally "reserved" by the treaty-making tribes throughout the state.

In the late Nineteenth and much of the early Twentieth Century, only tribal landowners were subjected to unilateral and forced takings of lands. The federal government deemed those lands to be surplus to the tribes' needs. Through the Dawes Act of 1887, which opened up large portions of the tribes' reservations to homesteading and ownership by non-Indians without tribal consent, the federal government simply took the prime productive land of many reservations out of Indian ownership altogether.

This same policy fostered fractionated land ownership, diluting the value of tribal lands as successive generations inherited Indian "allotments" of their own land. The details of ownership often became too complex to sort out. Even today, prime agricultural land in the Yakima Valley sometimes lies fallow or is farmed in trespass because the local Indian agency cannot maintain ownership and leasing records. In other cases, they cannot locate a sufficient number of the Indian owners to execute a valid lease.

Despite the Congressional repudiation of the allotment policy in the 1930's, government policy continued to inhibit the tribes' contribution to the state economy. Federal reclamation

projects diverted precious water to neighboring, non-tribal lands. In other cases, the massive hydroelectric power facilities constructed during the Great Depression inundated hundreds of thousands of acres of reservation lands and off-reservation treaty fishing sites. Finally, during the post-war years, the federal policy of "relocation" transplanted many Indian families virtually by force from their reservation homelands to the state's inner cities. Meanwhile, three major industries—fishing, forestry, and agriculture—helped drive Washington's economy by economic activity generated by those lands the tribes have retained for their own use—that is, the present-day Indian reservations in the State of Washington.

Although these historical factors have directly shaped the present economic status of Indian reservations in Washington, this report makes no attempt to quantify or assign monetary value to these huge and often-overlooked contributions of land and resources to the state's economic engine. Nor does this report analyze the costs or effects of these failed policies. Instead, it provides a snapshot of the economic role Indian reservations play at the end of the Twentieth Century. The timeframe is significant. In great measure, the efforts of tribal leaders within the last twenty years have driven the economic indicators that characterize Washington's Indian reservations today. Thus, the following pages focus on assessing the economic and fiscal contribution of Indian tribes to Washington State's economy.

Approach of Analysis

To assess the economic and fiscal contribution of Indian tribes to the State of Washington, researchers asked such questions as, how important is Indian Country to the state's economy? What are the extent and level of economic activities engaged in by Washington Indian tribes? How diversified is the Indian country economy compared with Washington State?

Researchers collected the information for assessing the economic and fiscal contribution of the tribes from a number of tribal and governmental sources. The governmental sources pertained to all 27 tribes collectively; they included several Washington State agencies (*e.g.*, Employment Security Department, Department of Revenue, Department of Fish and Wildlife, Department of Natural Resources) and various federal agencies.

Researchers gathered, from 23 of the 27 participating Washington tribes, (*see* Appendix II) information about revenues and expenditures of tribal governments and enterprises owned and managed by tribes, employment and wages, and taxes paid for the most recent calendar year of 1997. Note that this analysis considered only that economic activity conducted by the tribes themselves. It excluded businesses owned and operated by Indian tribal members. Most of the tribal-owned enterprises operate on reservation land, with a few exceptions, particularly some commercial and casino establishments. Furthermore, tribal governments and enterprises do not employ exclusively Native Americans—a significant share of tribal employment is non-Indian.

Table 2

Population by Race and Hispanic Origin in Washington State, Actual and Projected

Race/ Ethnic	1990	1994	1997	2005
White	4,225,313	4,517,668	4,679,094	5,115,347
Black	146,350	168,519	183,306	190,484
Indian	76,478	85,956	90,857	103,125
Asian	203,981	273,553	313,564	410,372
Hispanic	214,570	288,703	339,978	438,415
Total	4,866,692	5,334,399	5,606,799	6,257,743

Race/ Ethnic	2015	2025	Annual Percent Change 1990-97	2005-25
White	5,569,727	5,940,106	1.5%	0.8%
Black	217,453	243,912	3.6%	1.4%
Indian	120,320	136,720	2.7%	1.6%
Asian	544,480	688,859	7.7%	3.4%
Hispanic	606,181	798,104	8.3%	4.1%
Total	7,058,161	7,807,701	2.2%	1.2%

Sources: Washington State, Office of Financial Management, Forecasting Division.; U.S. Department of Commerce, Bureau of the Census.

Indian Tribes in Washington State

Demographics

In 1997, Washington State ranked fifth among all states in American Indian population. The number of American Indians in Washington is growing at a faster rate than the national Indian population. (Table 3). Within Washington State, over half of the American Indians live in the urbanized Puget Sound region (Tables 4 and 5). However, as a percentage of total regional population, American Indians are relatively more concentrated in the Eastern and Western Washington regions, which are predominantly rural. Thus Ferry, Okanogan, Yakima, and Stevens counties of Eastern Washington have the greatest share of American Indians as a percentage of the overall population. More than 5 percent of these counties' combined total 1998 population is American Indian. In contrast, King County has the most American Indian residents in the state (18,000), yet they represent just 1.1 percent of the overall county population.

The American Indian population in Washington State has been growing rapidly. According to the 1997 state estimates, the American Indian population increased to 90,857 people, 16% more than the 1990 population census. Some of this increase can be attributed to more people identifying themselves as Indians on the census; nevertheless, natural population increase accounts for much of the growth. Based on this rapid rate of growth, the Census Bureau estimates that the American Indian population residing in Washington State will reach 136,720 people representing 1.6 percent of the total state population by the year 2025 (Table 2).

Table 3. Leading States in American Indian Population, 1990 and 1997

State	1990	1997	% Change Population	Share of '97 Total Indian	State Rank of Am. Indian Share
CA	285,270	306,690	7.5%	1.0%	16
OK	257,794	260,029	0.9%	7.8%	4
AZ	214,433	255,463	19.1%	5.6%	6
NM	137,625	158,036	14.8%	9.1%	2
WA	87,259	100,309	15.0%	1.8%	9
AK	86,252	97,098	12.6%	15.9%	1
NC	80,825	95,398	18.0%	1.3%	14
TX	72,343	93,343	29.0%	0.5%	25
NY	66,337	74,483	12.3%	0.4%	28
MI	57,654	59,678	3.5%	0.6%	21
U.S. Total	3,944,974	4,421,401	12.4%	0.9%	NA

Note: Ranking based on number of American Indians in 1997. Source: U.S. Department of Commerce, Bureau of the Census

Table 4. Resident Indian Population on Washington State Reservations for 1995 and Tribal Enrollment figures for 1997-1998

Reservation	BIA Total/ 1995	Tribal Enrollment/1997-98
Western Washington Region		
Chehalis Confederated Tribes	871	525
Hoh Tribe *	97	147
Jamestown S'Klallam Tribe	641	230
Lower Elwha Klallam Tribe	1,149	750
Makah Tribe	1,753	2,300
Quileute Tribe	785	706
Quinault Nation	2,975	2,217
Shoalwater Bay Tribe	743	150
Skokomish Tribe	1,333	820
Squaxin Island Tribe	515	643
Western Washington Total	10,862	8,488
Puget Sound Region		
Lummi Nation	4,648	3,519
Muckleshoot Tribe	3,521	1,170
Nisqually Tribe	2,905	500
Nooksack Tribe	820	1,341
Port Gamble S'Klallam Tribe	753	837
Puyallup Tribe	14,282	2,219
Samish Nation *	NA	NA
Sauk-Suiattle Tribe	120	237
Stillaguamish Tribe	1,476	176
Suquamish Tribe	1,032	665
Swinomish Tribe	959	753
The Tulalip Tribes	4,549	2,934
Upper Skagit Tribe *	610	504
Puget Sound Total	35,675	14,855

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Reservation	BIA Total/ 1995	Tribal Enrollment/1997-98
Eastern Washington Region		
Colville Confederated Tribes	4,929	8,404
Kalispel Tribe	170	258
Spokane Tribe *	1,416	2,153
Yakama Nation	15,968	8,870
Eastern Washington Total	22,483	19,685
Washington State Total	69,020	43,028

Source: USDI, Bureau of Indian Affairs, 1995. Resident pop. figures usually include non-tribal members and tribal enroll-ments include all tribal members irrespective of their legal residence. Many tribal enrolled members live off the reservations and out of the state. Tribal enrollment figures are based on 1997-98 data from individual Indian tribes and the Indian Health Service, except for tribes marked with an asterik (non-participating tribes); those figures are from the BIA, 1995.

Table 5
American Indian Population in Washington State

Region	1990	1992	1994	1997	% Change	Share of Total 1997 Population
Eastern Washington	23,667	24,947	26,254	27,440	15.9%	2.2%
Western Washington	11,694	13,030	13,793	15,117	29.3%	2.1%
PugetSound	41,117	44,051	45,909	48,300	17.5%	1.3%
Washington State, Total	76,478	82,028	85,956	90,857	18.8%	1.6%

Sources: Washington State Office of Financial Management, Forecasting Division Notes: Ranking based on number of American Indians in 1997. U.S. Bureau of Census includes American Indians, non-Hispanic and Hispanic in their definition. Other state population tables include only American Indian, non-Hispanic.

These economically diverse tribal-owned enterprises fall into the following categories:

- traditional natural resource production;
- construction;
- wholesale and retail trade;
- finance, insurance, & real estate;
- services;
- gaming; and
- government.

Each is discussed in detail on the following pages.

Economic Activities

Historically, the nation has viewed Indian reservations as a burden on the national treasury and on the economies of the states where they are located. This view overlooks the enormous "capital contributions" these tribes made to state economies through the land cessions of the last century. Such a perception also reflects the outdated belief that reservations are "pockets of poverty" and a blight on the economic landscape. While that picture might have been accurate through much of the Twentieth Century, nothing could be further from the truth today, as this report demonstrates. In fact, tribes' collective annual contribution of nearly $1 billion to the Washington economy suggests a radical new image for the economic vitality of Indians tribes.

Although Indian tribes are considered sovereign nations, they are intricately connected to the Washington State economy. Indian tribes in Washington engage in various commercial, industrial, and natural resource activities that create jobs and personal income for Indians and non-Indians alike throughout the state.

Natural Resources

Historically, natural resources have been a mainstay of the state's economy. Agriculture production and food processing, logging and processing forest products, and fishing and processing of fish and shellfish have been among the state's leading industries. In 1997, these natural resource-related industries altogether employed 243,000 workers with total labor earnings of $6.2 billion. Combined, these industries account for a 7 percent share of total employment in Washington State.

Among Washington Indian tribes, of course, fishing and hunting and gathering of natural resources have been central activities for thousands of years. They remain important to tribes for subsistence, as well as economic and ceremonial purposes. The tribes have traded fish and shellfish with the non-Indian population since the first white settlers arrived in the region 150 years ago.

The importance of fishing continues. Over the last few decades, U.S. federal court decisions have settled state-tribal disputes over the rights to the steelhead and salmon harvested in Washington waters (*e.g.*, major rivers, Puget Sound and ocean waters immediately off the coast). Consequently, the tribes have federally assured treaty rights, older than the state itself, to approximately half of the annual salmon harvest. The tribes won similar allotments for other species, including Pacific whiting, sablefish, rockfish, albacore, halibut, and sea urchin. A recent court ruling has resulted in a similar allocation of shellfish for Indian tribes in Washington.

Today, fish and shellfish harvested by Washington's Indian tribes are in great demand, in both domestic and foreign markets. Logs harvested from tribal lands have become an important economic cornerstone for a number of Washington Indian tribes. Timber harvest and salmon fishing by tribes, for instance, have been valued at $71.2 million and $6.8 million,

respectively for 1997 (Figures 1 and 2). These activities provide employment and earnings for a significant number of Indians in Washington.

Although fish and timber are among the tribes' most valuable resources for economic development, tribal governments have made relatively few ventures into value-added processing of timber and fish. Most of the logs and fish harvested by Indians are marketed unprocessed to outside buyers, includeing foreign customers. Moreover, tribal-owned logging and fishing enterprises export a significant share of their raw logs and fresh and frozen fish to customers outside the state and nation.

The lack of investment in value-added, resource-based industries highlights many of the significant barriers to economic development in Indian Country. Several prerequisites to development and the long-term sustainability of economic activities must be set in place.

They include:

- policies that clearly delineate the roles and responsibilities of the public and private sectors;
- access to capital financing on appropriate terms and conditions;
- adequate social and physical infrastructure to support activities; and
- a legal system that both facilitates investment and protects the interests of all parties engaged in financial or commercial transactions.

The Washington fishing industry is diverse in both user groups and range of species. User groups, for instance, include both commercial fishermen and sport/recreational anglers. Commercial groups are further divided into tribal and non-treaty groups. Each of these groups is allocated allowable catch limits for each species by fishery management councils

(*e.g.*, Pacific Fishery Management Council, Northwest Indian Fisheries Commission, Washington Department of Fish & Wildlife).

With all of the federally recognized Indian tribes living on either major rivers or coastal waters of Washington, fisheries remain critically important to tribal economies. Tribes are major players within the state of Washington fishing industry, where total commercial landings were valued at $139.6 million in 1997. They are also heavily involved in fisheries management. As sovereign governments, each tribe regulates and coordinates its own fisheries management program surrounding six species of salmon, halibut, shellfish, and other marine species. Tribal fisheries management includes harvest management, enhancement, habitat protection, and enforcement. For instance, many Puget Sound and costal tribes have enhancement programs; in 1997, tribal hatcheries released more than 39 million salmon, benefiting Indian and non-Indian, commercial and sport fishermen in the state.

Besides salmon, important Indian fisheries include halibut, sablefish, dungeness crabs, sea cucumbers, urchins, shrimp, clams, geoduck, mussels, and oysters. Unfortunately, an alarming decline in many Washington's fish stocks, particularly salmon, has hurt some tribal economies. To compensate for this loss, a number of tribes have turn to harvesting shellfish as a major economic resource (Figure 3). In recent years, the value of tribal shellfish harvest has outpaced that of salmon.

Construction

Residential and non-residential construction activity in Indian Country is directly related to increased population and new economic activity. By and large, most tribes do not have residential construction enterprises; the few tribal-owned construction enterprises are primarily engaged in residential construction and repair funded by the U.S. Department of

Housing and Urban Development. Unfortunately, information is unavailable on the number and value housing starts completed on Washington tribal lands.

Wholesale and retail trade

Wholesale and retail trade sectors comprise two of the nation's largest industries—one of every five employed people works in these trade industries. Demographic and economic factors, including population growth, household formation, and consumer spending drive retail trade sales.

Washington tribes own a number of retail trade enterprises, but they lack the broad array of retail offerings found in many comparable non-Indian communities. Tribal-owned enterprises like smoke shops, service stations, and trading posts primarily sell convenience goods to tribal members and non-Indians. Most retail sales and services in Washington are conducted off reservations at non-Indian establishments, including border towns that largely owe their livelihoods to Indian patronage.

Finance, insurance, and real estate

The nation's financial services group includes banks and savings and loans (depository institutions); credit agencies, mortgage bankers and brokers (nondepository institutions); security and commodity brokers; insurance carriers, agents, and brokers; real estate developers and agents; and holding and other investment offices. In Washington, most tribal-owned finance, insurance, and real estate enterprises provide housing assistance and administer housing programs funded by the U.S. Department of Housing and Urban Development.

Gaming

In 1988, the U.S. Congress passed the Indian Gaming Regulatory Act (IGRA) which, in effect, authorized casino gaming on Indian reservations and provided a regulatory

framework and oversight body for the industry in the form of the National Indian Gaming Commission (NIGC). In addition, the act was intended to promote a viable economic base for tribal government programs and operations, as well as tribal economic development, self-sufficiency, and strong tribal governments. Indian gaming was divided into three classes for purposes of licensing and regulation: Class I covers charitable and social gaming for nominal prizes; Class II includes bingo, punch-boards, and pull-tabs; and Class III facilities include casinos, high-stakes bingo, slot machines, and all other commercial forms of gambling. As of 1998, twelve of the 27 federally recognized tribes in Washington operate gaming facilities on and off reservation. The off reservation sites are on Indian trust lands.

In a relatively few years, gaming has changed the economic landscape for some of these Indian tribes. Since 1988, this reservation-based industry has experienced explosive growth. Across Indian country in Washington, gaming has become the leading employer. A number of tribal-owned casinos have, in fact, become the largest employers within their respective communities.

Services

The extensive services sector is very heterogeneous. Most service industries are classified into two groups: producer services and consumer services. Producer services are generally provided to other service and manufacturing firms, as opposed to consumer services (*e.g.*, personal services, auto repair), which typically serve consumers directly.

Additionally, these producer services are generally driven by external demand—that is, so-called "export sales."

In Washington's Indian Country, tribal-owned enterprises are largely engaged in providing consumer services such as hotels and lodging, health clinics, schools, social services, and amusement and recreation. The latter category, notably

gaming activities like bingo halls and casinos, has been the principal growth engine for many Indian tribes.

Government

Tribal governments are significant economic factors within Indian country. In addition to carrying out their respective governmental administrative functions, tribes own and manage enterprises across the wide spectrum of economic activity.

Employment & Wages

Employment

In 1997, tribal-owned enterprises employed 14,375 workers with labor earnings of $270 million. In addition, quasi-government and private organizations whose principal clientele are Washington Indian tribes employ another 360 people with labor earnings of $9 million.

Combined, tribal and related employment represents about one-half of one percent of Washington's 1997 employment of 2.5 million wage and salaried workers.

Most of the workers in tribal-owned enterprises are full-time employees (Figure 4). Although comparative information is unavailable at the state level, this share of full-time versus part-time workers is consistent with national workforce statistics. Figure 4 also illustrates that a significant share of tribal-owned enterprise employees are non-Indian. In aggregate, approximately 4 out of every 10 workers employed by tribal-owned enterprises are non-Indian. Although the percentages vary considerably from one tribe to another, the highest share of non-Indians is employed within the casino and other gaming sector. In contrast, tribal government employs the highest share of tribal members and other Indians.

Employment in tribal-owned enterprises is concentrated in total services (52 percent), which is dominated by casino and other gaming, and health services (Figure 5). Other sectors where tribes' economic activity is concentrated are government (29 percent of total employment) and natural resources (8 percent). Compared with the state, tribal employment is less concentrated in manufacturing (6 percent); retail and wholesale trade (2 percent); construction (0.3 percent); transportation, communications, and utilities (1 percent); and other services (8 percent).

With respect to employment in specific regions, over half of the tribes' total is concentrated in the urbanized Puget Sound area (Figure 6). The share of full-time compared with part-time employees varies between regions as does the shares of tribal members, other Indians, and non-Indian employees (Figure 7).

Industry concentrations of tribal-owned enterprise employment vary by region (Figure 8). Not surprising, the more populous Puget Sound has greater employment concentrations of casino and other gaming, tribal government, health services, retail trade, and construction workers. Employment in natural resource-oriented sectors (both production and processing) is more concentrated in the Eastern and Western Washington regions.

Wages

In 1997, labor earnings of tribal-owned enterprise workers totaled $270 million. Average 1997 wages per worker amounted to $18,800, approximately 40 percent lower than the statewide average of $32,400. Funding sources for these wages come primarily from tribal government revenues, followed by federal government allocations, and a small portion from state government grants.

For those employed by tribal-owned enterprises, average wages vary by both sector and region (Table 6). In general,

tribal-owned enterprise workers earn less than their counterpart statewide workers. There are, of course, exceptions, particularly in gaming.

This total payroll of $270 million supports an annual contribution of $5.4 million to the state unemployment insurance fund. In addition, these wages and salaries generate some $51 million in federal income and social security taxes. Besides the salaries and wages paid by the tribes themselves, the federal Bureau of Indian.

Table 6. Average Wages by Sector and Region for Tribal Owned Enterprises-1997.

Tribal-owned Enterprises

Sector	W. WA	Puget Sound	E. WA	State-wide Tribal-owned	State-wide
Total	$20,317	$20,445	$14,815	$18,783	$31,073
Agriculture & farming	NA	NA	$17,215	$17,215	$16,058
Forestry	$4,197	$9,531	$24,300	$16,107	$20,091
Fishing	$12,284	$8,129	$23,748	$13,007	$50,759
Construction	$24,650	$32,776	NA	$31,124	$33,513
Manufacturing	NA	NA	NA	$6,031	$41,128
Transport, corn. & util.	$18,310	$17,495	$20,704	$18,810	$39,499
Retail trade	$13,210	$13,761	$11,357	$13,043	$17,588
Finance, insurance & real estate	$26,279	$29,634	$18,326	$21,665	$37,884
Other services	$12,574	$17,244	$15,991	$16,420	$31,623
Health services	$65,368	$37,098	$17,941	$31,016	$32,378
Casino & other gaming	$19,185	$20,896	$20,438	$20,558	$15,858
Government	$29,217	$19,699	$12,300	$19,214	$30,674

Notes: Statewide refers to average wages per wage & salary worker in Washington State; NA refers to not available.

Sources: Washington State Employment Security Department, U.S. Bureau of Economic Analysis, Individual Tribes.

Affairs and the Indian Health Service spend some $140 million annually in the State of Washington as a direct result of the presence of these federally recognized Indian tribes. These two agencies employ another 100 workers in the state. Related quasi-government agencies (*e.g.*, South Puget Sound Inter-tribal Housing Authority, Northwest Indian Fisheries Commission) employ another 360 workers with wages of $9 million.

Business Income and Expenditures

Tribal-owned enterprises also contribute to the growth of income and jobs within the statewide economy because of their substantial expenditures for supplies, materials, utilities, goods and services. In 1997, business income for all tribal enterprises in Washington amounted to an estimated $1.003 billion (Figure 10). Although a significant share of total tribal-owned enterprise revenues come from gaming operations, a majority of revenues come from non-gaming operations (*e.g.*, natural resources, tribal government, other services) (Figure 11).

Tribal-owned enterprises spent an estimated $865.8 million statewide for supplies, equipment and services. Given that most reservation economies are underdeveloped (*e.g.*, not offering the full complement of necessary goods and services in support of operating a tribal enterprise), a considerable portion of these expenditures are made off the reservation. Hence, these expenditures support additional in-state activity (in the form of added employment and income) and, in particular, surrounding non-Indian communities.

While the authors of this report have not performed a detailed multiplier analysis, the total contribution of tribal-owned enterprises of the overall state economy is signifycantly greater than the sum of their expenditures for wages, goods, and services. Multiplier effects essentially measure the full economic impact of tribal-owned enterprises on the local

and state economy by assessing how much of each dollar spent at the tribal-owned enterprise is re-spent in the surrounding economy. For instance, the economic impact of an enterprise on the state is much greater if it purchases capital goods (*e.g.*, construction materials, computers), supplies, and services from in-state vendors, than if it imports materials from outside the state. Therefore, multiplier effects take the dollars counted as revenues of tribal-owned enterprises and measure how much additional in-state economic activity (in the form of sales, employment, and wages and salaries) is generated by these expenditures.

In sum, tribal-owned enterprises are the source of substantial employment and income opportunities for both Indian and non-Indian residents of Washington State.

Federal Government-Tribal Government Transactions

Nearly all federal government departments in Washington State have specific programs, activities, or staff functions established to deal with Indian tribal governments. Five departments spend large portions of their budgets on transactions with Indian tribes. These are the Department of the Interior (Bureau of Indian Affairs), the Department of Housing and Urban Development (Office of Indian Programs), the Department of Health and Human Services (Indian Health Service), the Department of Labor, and the Department of Education (Office of Indian Education). Total statewide expenditures by each department are shown in Table 7. Expenditures by each department are shown for personnel directly related to Indian tribal government transactions.

Fiscal Contribution of Indian
Tribal Governments in Washington

As owners of economic enterprises and employers, tribal governments pay federal, state and local taxes. Estimated Federal employment/payroll-related taxes (social security,

medical; unemployment) paid by tribal governments in 1997 were $51.3 million. In addition, state employment/payroll-related taxes paid by tribes in 1997 were estimated at $5.3 million.

Table 7. Federal Government-Tribal Government Transactions in Washington State for 1997

	DOI/BIA	HHS/IHS	DOE/OIE	Total
Total Expenditures	$118,561,000	$30,100,000	$11,730,000	$160,391,000
Salary & wages	$39,759,000	$22,990,000	NA	$62,749,000
Other payments	$78,802,000	$7,110,000	NA	$85,912,000

Sources: U.S. Department of Commerce, Bureau of Census. *Federal Expenditures by State for Fiscal Year 1997;* Individual Tribes

Level of diversification of Indian country economy

Until recently, the emergence of viable self-sustaining reservation economies has been only a remote possibility. Dependent upon natural resources, most tribal economies had stabilized with significant levels of unemployment, limited investment, and shortages of tribal government revenues. The recent explosion in Indian gaming has been a boon for Indian country in creating family-wage jobs, increasing non-natural resource economic activity, and generating revenues both on and off the reservation.

Given the requirements of the Indian Gaming Regulatory Act, all revenues from tribal gaming operations are to be used solely for governmental or charitable purposes. Similar to state governments and the use of funds from state lotteries, profits from Indian tribal gaming operations are being spent locally to build houses, schools, roads and sewer and water systems; to underwrite the costs of health care and education for their people; and to further develop a strong,

diverse economic base on tribal lands. The Tulalip and Muckleshoot Tribes, for instance, are using gaming revenues to fund long-term economic development projects that will further enhance their economic health, and that will, in turn, generate sustainable jobs and revenues within the state.

In Washington State, as elsewhere, casino gaming enterprises have resulted in a number of tribes—for instance, the Colville, Muckleshoot, Quinault, Spokane, Tulalip, and Yakama Tribes—becoming the leading employers in their respective areas. In fact, many gaming enterprises have become an important source of employment for non-Indians residing in surrounding communities. In other words, these tribal enterprises have been major contributors to the alleviation of severe unemployment, both on and off reservation. With substantial numbers of Indians becoming employed in these enterprises, there has been a net reduction on reliance on governmentally-provided services. In particular, tribal-owned gaming enterprises have successfully reduced their economic reliance on non-tribal governments for social assistance.

Washington Tribal Economies in Perspective—The Gaming Sector

In recent years a new myth has arisen to replace in many quarters the old myth that Indian tribes and their reservations are simply economic black holes that vacuum scarce public resources into their orbit, and never change. The new myth is that gaming has transformed all Indian tribes into immensely wealthy baronies somehow outside the reach of law, immune to the basic laws of economics, and no longer entitled to either federal programs that are available to all American citizens, or even to those programs serving federally recognized Indians because of their status as Indians. This new myth is as fundamentally misplaced as the old shibboleths.

In the State of Washington, 19 of the 27 tribes have gaming compacts with the state. Of those 19, twelve operate casinos. It is true that these Indian tribes in Washington have turned, like governments everywhere throughout the world, to gaming as a source of revenue for badly needed programs to serve their people. It is also true that gaming has fueled an economic boom for some tribes, primarily those fortunate enough to be located close to major metropolitan areas and transportation corridors. Today, gaming generates some 46% of all tribal revenues in the State, and provides employment for more than one-half of the more than 14,000 tribal employees in the state.

It is emphatically not true, however, that all the tribes in the state have shared in this relatively new form of prosperity. Eight of these tribes have no gaming enterprise at all, and at least one tribal gaming operation has resulted in significant losses to the sponsoring tribe. It is becoming increasingly clear that Indian gaming operations are, in fact, subject to certain immutable principles of economics. These enterprises have not flourished where there is simply not a sufficient market for the services offered, and there is a limit to the level of gaming that the state's citizens and visitors can sustain by their participation. Federal legislation and recent decisions by the electorate also make it clear that Indian gaming is by no means beyond the reach of the political processes of the federal and state governments.

Finally it is also becoming clear that, while Indian gaming has been a significant catalyst in the long-deferred development of some reservation economies and infra-structure, this activity certainly does not insulate tribes from the need for continuing governmental assistance programs—any more than state lotteries eliminate the need for continued federal assistance to the states for education, road construction, etc.

At this point in the history of this quite new tribal enterprise, it appears that gaming has provided some fortunate

tribes with opportunities never before available to address long-standing needs of their communities, and to provide employment for far more of their neighbors than for their own members. This phenomenon appears to be vindicating the old wisdom that a rising tide, indeed, lifts all boats.

It is worth repeating that before Indian gaming, the economic profile across Washington's Indian Country was summarized by a set of well-known statistics: reservations had the highest unemployment rates, highest poverty rates, lowest per capita income, and so on.

Indian tribal governments have sought to develop their tribal economies. Yet they still face a lack of access to capital, markets, skilled labor forces, and management capabilities, to name but a few of the barriers. While this report is not intended to provide a detailed analysis of the impact of gaming on Washington's Indian economies, the data show it has made a positive contribution. Standing against this gaming-supported growth trend is the daunting amount of "catch-up" Indian tribes face. They must overcome high unemployment rates, lack of infrastructure, poor housing, and low levels of educational attainment in comparison to national averages. So, while the picture shows progress, the tribes continue to lag behind the rest of Washington's citizens.

Summary and Conclusions

This report represents a successful first-time effort to describe the nature of economic activity on the 27 federally recognized Indian reservations in the State of Washington and to quantify their contribution to the overall state economy. Far from depicting a monolithic Indian Country economy, the information in this study underscores differences among tribal enterprises in the three defined regions of the state and between the rural and urban areas.

Whether the measurement is in direct employment of both Indians and non-Indians, wages, expenditures, or state and federal tax payments, tribal enterprises clearly have made their mark on Washington's economy. Despite the ascending economic value of gaming, tribal enterprises are a diverse group, with interests spanning several industries and market sectors and with varying impact on the communities around them.

Although gaming contributes less than half the gross revenues earned by Washington's tribal enterprises, nonetheless, it has made a tremendous impact on both the tribes and the state at large. With $440 million in annual revenues, gaming is by far the largest single industry in Washington's Indian Country. Yet, gaming alone has not—perhaps cannot—solve every economic ill on the state's reservations. In fact, this report emphasizes the need to continue diversifying tribal businesses, to eliminate the wage discrepancy between Indians and non-Indians, and to eliminate the barriers that inhibit economic development on the reservations. As the population trends indicate, the number of Indians in Washington is climbing steadily, a fact that guarantees the issues related to Indian economic development will continue to have statewide impact.

The authors of this report hope it will help frame future discussion about Indian economies among the tribes and between them and the state at large. These conversations might center on topics such as how to develop new enterprises for the value-added processing of timber and fish, for example, or how to bring new, more diversified economic activities to the remote, rural reservations in Washington. Only with reliable information and clearly established benchmarks can the tribes develop valid economic forecasts, analyses of trends, and projections of workforce needs. Future studies such as this will help ensure the tribes have the

data they need to compete in the state's—and the nation's, and the world's—information-driven economy.

This is an historic report beyond the specific usefulness of its findings. For the first time in the nation's history, Indian tribes and a state have cooperated using primary fiscal data to determine the economic contributions made by tribal governments and their enterprises. Tribes can now abandon anecdotal and piecemeal information in favor of valid figures in support of their long held assertions of economic importance to the state. This report should demonstrate to the tribes the value of tracking their economies, measuring how their economies contribute to the overall health of the state, and conducting studies annually to continuously affirm their economic contribution. For the state, this study can be considered an educational blueprint for a cooperative working partnership with Washington's Indian tribes, and should serve as an empirical basis for refuting the "myths" that have historically affected the relationship between the State of Washington and the Indian tribes within its borders.

Appendix I—List of Historic and Current Reservation Acreages of Washington Indian Tribes

Tribal Lands and Reservations in Washington

Abbreviated Tribal Name	Size of Tribal Land	Treaty or Reservation Instrument
Chehalis	4,215 acres	Executive Order, 1886
Colville	1.4 million acres	Executive Order, 1872
Elwha Klallam	443 acres	Indian Reorganization Act, 1934
Hoh	443 acres	Executive Order, 1893; based on Treaty of Quinault, 1855
Jamestown Klallam	210 acres	Trust land, purchased 1874
Kalispel	4,600 acres	Executive Order, 1914
Lummi	13,500 acres	Executive Order, 1855
Makah	44 square miles	Makah Treaty, 1855; after 1974 includes administration of Ozette Reservation (one acre)
Moses Columbia	Terminated	Executive Order, 1879; terminated 1886
Muckleshoot	3,600 acres	Executive Order, 1874, based on Treaty of Point Elliot, 1855
Nisqually	5,000 acres	Executive Order, 1857
Nooksack	2,062acres	Federally recognized, 1973
PortGambleKlallam	1,301 acres	Federal land trust, 1935
Puyallup	18,061.5 acres	Treaty of Medicine Creek, 1855
Quileute	one square mile	Execuitve Order, 1889
Quinault	196,645 acres	Executive Order, 1873, based on Quinault Treaty, 1855

Samish	00 acres	Treaty of Point-No-Point, 1855
Sauk Suiattle	23 acres	Purchase, 1982
Shoalwater Bay	one sq. mile + tidelands	Executive Order, 1886
Skokomish	4,987 acres	Treaty of Point-No-Point, 1855
Spokane	155,000 acres	Executive Order, 1881
Squaxin Island	2,175 acres	Treaty of Medicine Creek, 1854
Stillaquamish	60 acres	Actual acreage of "reserved" status is pending
Suquamish	7,800 acres	Treaty of Point Elliott, 1855; enlarged by Executive Order, 1864
Swinomish	10 square miles	Treaty of Point Elliott, 1855
Tulalip	22,000 acres	Treaty of Point Elliott, 1855
Upper Skagit	130 acres	Executive Order, 1974
Yakama	1.4 million acres	Yakama Treaty, 1855

Appendix II—Federally Recognized Tribes of Washington

Chehalis Confederated Tribes	Lummi Nation	Puyallup Tribe
Honorable David Youckton, Chr. Chehalis Business Council PO Box 536 Oakville, WA 98568 (360) 273-5911 FAX 273-5914	Honorable Henry Cagey, Chair Lummi Business Council 2616 Kwina Road Bellingham, WA 98226-9298 (360) 384-1489 FAX 380-1850	Honorable Lawrence W. LaPointe, Chair Puyallup Tribal Council 2002 East 28th Street Tacoma, WA 98404 (253) 573-7800 FAX 573-7929
Colville Confederated Tribes	Makah Tribe	Quileute Tribe
Honorable Joe Pakootas, Chair Colville Business	Honorable Ben Johnson, Jr., Chair	Honorable Christian Penn, Jr., Acting Chair

Council
PO Box 150
Nespelem, WA 99155
(509) 634-4711
FAX 634-4116

Makah Tribal Council
PO Box 115
Neah Bay, WA 98357
(360) 645-2201
FAX 645-2788

Quileute Tribal Council
PO Box 279
La Push, WA 98350
(360) 374-6163
FAX 374-6311

* Hoh Tribe

Honorable Rick Horejsi, Chair
Hoh Tribal Business Committee
2464 Lower Hoh Road
Forks, WA 98331
(360) 374-6582
FAX 374-6549

Muckleshoot Tribe

Honorable John Daniels, Jr., Chair
Muckleshoot Tribal Council
39015 172nd Avenue SE
Auburn, WA 98092
(253) 939-3311
FAX 939-5311

Quinault Nation

Hon. Pearl Capoeman-Baller, Chair
Quinault Business Committee
PO Box 189
Taholah, WA 98587
(360) 276-8211
FAX 276-4191

Jamestown S'Klallam Tribe

Honorable W. Ron Allen, Chair
Jamestown S'Klallam Indian Tribe
1033 Old Blyn Highway
Sequim, WA 98382
(360) 683-1109
FAX 681-4643

Nisqually Tribe

Honorable Stephanie Scott, Chair
Nisqually Indian Tribe
4820 She-Nah-Num Drive SE
Olympia, WA 98513
(360) 456-5221
FAX 407-0125

* Samish Nation

Honorable Kenneth Hansen, Chair
Samish Tribe of Indians
PO Box 217
Anacortes, WA 98221
(360) 293-6404
FAX 299-0790

Kalispel Tribe

Honorable Glen Nerlema, Chair
Kalispel Business Committee
PO Box 39
Usk, WA 99180
(509) 445-1147
FAX 445-1705

Nooksack Tribe

Honorable Art George, Chair
Nooksack Indian Tribal Council
PO Box 157
Deming, WA 98244
(360) 592-5176
FAX 592-5721

Sauk-Suiattle Tribe

Honorable Jason L. Joseph, Chair
Sauk-Suiattle Indian Tribe
5318 Chief Brown Lane
Darrington, WA 98241
(360) 436-0131
FAX 436-1511

Lower Elwha Klallam Tribe

Honorable Russ Hepfer, Chair
Elwha Klallam Business Council
2851 Lower Elwha Road
Port Angeles, WA 98363
(360) 452-8471 FAX 452-3428

Port Gamble S'Klallam Tribe

Honorable Gerald Jones, Chair
Port Gamble Business Committee
31912 Little Boston Road NE
Kingston, WA 98346
(360) 297-2646 FAX 297-7097

Shoalwater Bay Tribal Council

Honorable Herb Whitish, Chair
PO Box 130
Tokeland, WA 98590
(360) 267-6766
FAX 267-6778

Swinomish Tribe

Honorable Brian Cladoosby, Chair
Swinomish Indian Senate
PO Box 817
LaConner, WA 98257
(360) 466-3163 FAX 466-5309

Skokomish Tribe

Honorable Gordon James, Chair
Skokomish Tribal Council
N. 80 Tribal Center Road
Shelton, WA 98584
(360) 426-4232 FAX 877-5943

Tulalip Tribes

Honorable Stan Jones, Sr., Chair
Tulalip Board of Directors
6700 Totem Beach Road
Marysville, WA 98270-9694
(360) 651-4000 FAX 651-4032

* Spokane Tribe

Honorable Bruce Wynne, Chair
Spokane Tribal Business Council
PO Box 100
Wellpinit, WA 99040
(509) 258-4581 FAX 258-9243

* Upper Skagit Tribe

Honorable Floyd Williams, Chair
Upper Skagit Tribal Council
25944 Community Plaza
Sedro Woolley, WA 98284
(360) 856-5501 FAX 856-3175

Squaxin Island Tribe

Honorable David Whitener, Sr., Chair
Squaxin Island Tribal Council
SE 70 Squaxin Lane
Shelton, WA 98584
(360) 426-9781 FAX 426-6577

Yakama Nation

Honorable William Yallup, Sr., Chair
Yakama Tribal Council
PO Box 151
Toppenish, WA 98948
(509) 865-5121 FAX 865-5528

Stillaguamish Tribe

Honorable Priscilla Shipley, Chair
Stillaguamish Board of Directors

Suquamish Tribe

Honorable Bennie J. Armstrong, Chair

3439 Stoluckquamish Lane
Arlington, WA 98223
(360) 652-7362 FAX 435-7689

Suquamish Tribal Council
PO Box 498
Suquamish, WA 98392
(360) 598-3311 FAX 598-6295

Revised: 12/98 Governor's Office of
Indian Affairs PH: (360) 753-2411
FAX: (360) 586-3653

* Tribes not participating in this study

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APPENDIX B

New Mexico Indian Reservation Economic Study Group

Indian Reservations and the New Mexico Economy: Monograph 1:Reservation-Based Gaming Enterprises[1]

The New Mexico Indian Reservation Economic Study Group (the Study Group) is a consortium of business, academic, journalist, and public and private research organizations. Participants in the study, "Indian Reservations and the New Mexico Economy", include: the University of New Mexico, Institute for Public Policy; Stanford Research Institute International; National Economic Research Associates; The Center for Applied Research; Progress Publishing; Michael Hughes, Consultant on Indian Affairs; Daystar Associates; Wells Fargo Bank and Wells Fargo Foundation; Bank of America; and various scholars and analysts knowledgeable about public finance and federal Indian policy.

The purpose of this study is to analyze the economic and fiscal relationship that exists between Indian reservations in New Mexico and the State economy and revenue system. The research findings of the Study Group reveal a complex interplay between economic activity on Indian reservations and economic activity in the State as a whole, and they provide a factual basis from which State policy makers, tribal governments, and citizens of New Mexico can evaluate

[1] This document was created by combining two monographs summarizing the New Mexico Indian Reservation Economic Study Group's findings from Sandia Pueblo's website. The individual links are available at http://www.sandiapueblo.nsn.us/gaming/community_benefits.html.

existing laws and policy affecting tribal/State relations and evaluate new policies that may strengthen those relations.

The focus of this study is not on the American Indian population of New Mexico as an ethnic group, or only on what happens within reservation boundaries; the study adopts instead, an integrated view of Indian reservation-based economic activity, analyzing economic activity stimulated within reservation borders and also within the State economy surrounding reservations.

The Study Group's Approach:

The Study Group analyzed the Indian reservation-based economy in terms of five specific, measurable dimensions of economic activity, effectively covering the range of economic effects that characterize the interaction between New Mexico Indian reservations and the New Mexico economy as a whole. The five dimensions of reservation-based economic activity used to structure the research are:

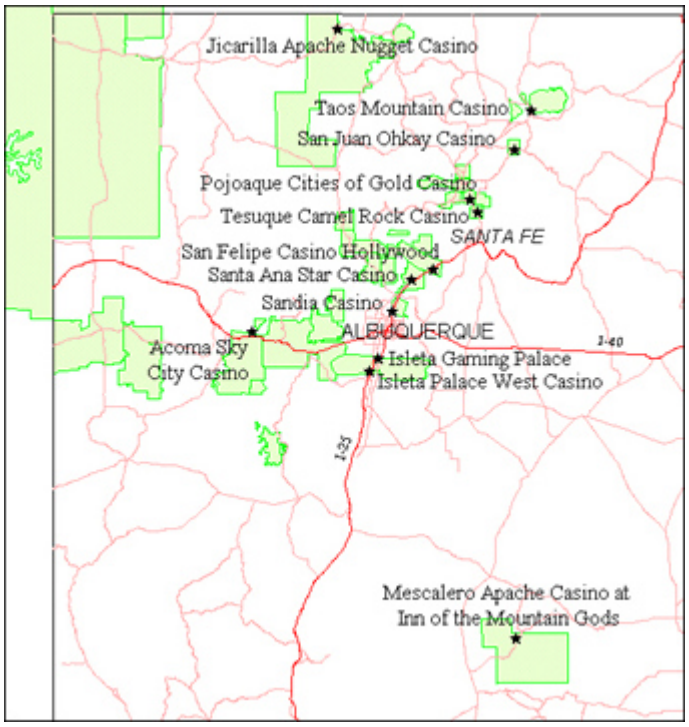
- Indian reservation-based gaming enterprises
- Tourism in New Mexico attributable to Indian reservation
- The presence of the BIA and the IHS in New Mexico
- Indian tribal governments
- Indian reservation-based enterprises

Reservation-Based Gaming Enterprises

This monograph, the first in a series of five, summarizes the Study Group's research findings regarding the influence of Indian reservation-based gaming enterprises in the New Mexico State economy. Eleven tribes in New Mexico operate casinos on their reservations. These tribes are:

- Pueblo of Isleta
- Pueblo of Sandia
- Pueblo of Acoma
- Pueblo of San Felipe

- Pueblo of Santa Ana
- Pueblo of Tesuque
- Pueblo of Taos
- Jicarilla Apache Tribe
- Pueblo of Pojoaque
- Pueblo of San Juan
- Mescalero Apache Tribe



The Study Group found that New Mexico's tribal gaming enterprises are employers of both Indians and non-Indians:

- 20% of all employees at New Mexico's tribal gaming enterprises are tribal members;
- The majority, 65%, are non-Indians;
- 22% of tribal gaming enterprise employees live on reservations where enterprises are located;
- The majority, 78%, live off the reservation in other New Mexico communities.

The 11 tribal gaming enterprises mke [sic] substantial annual expenditures in the course of their business operations. Employee wages and salaries represent 51% of all New Mexico tribal gaming expenditures on an annual basis.

Expenditures for goods and services represent about 29% of total expenditures. Other significant expenditures are made for construction (about 6%) and debt service (about 8%). The reservations themselves capture little of the annual expenditures made by tribal gaming enterprises—about 6%. However, 69% of all tribal gaming enterprise expenditures made for goods, 54% of expenditures made for services, and 14% of expenditures made for construction occur within New Mexico.

The customer base of New Mexico's tribal gaming enterprises is varied. Overall, 10.3% of gross gaming revenues of tribal gaming enterprises are attributable to New Mexico residents. The remainder (89.7%) is attributable to out-of-state patrons of New Mexico's tribal gaming enterprises.

The Study Group's research findings show that Indian gaming has significant economic and fiscal effects in the New Mexico State economy; in 1998 Indian gaming was the source of 11,265 jobs and $226 million in wage and salary income. The spending for goods and services attributable to Indian reservation casinos in the State generated $64.7 million in State tax revenue in 1998. Table 1, Summary of the Economic and Revenue Effects of Reservation-Based Gaming Enterprises, summarizes the economic and revenue effects of Indian gaming in the State.

Table 1. Summary of the Economic and Revenue Effects of Reservation-Based GamingEnterprises (Source: The New Mexico Indian Reservation Economic Study Group, 1999; IMPLANPro Economic Model, 1999.)

Economic Variables	Direct Impact	Secondary Impact	Total Impact
Employment	4671	6594	11,265
Wage/Salary Income ($ millions)	$84.2	$142.1	$226.3
Total Personal Income ($ millions)	$91.2	$244.3	$335.5
Fiscal Variables	Direct Impact	Secondary Impact	Total Impact
State General Fund Revenues ($ millions)	$30.3	$34.4	$64.7

Summary of The Economic and Revenue Effects of Indian Reservations in New Mexico

As noted above, Indian gaming is one of the five dimensions of reservation-based economic activity analyzed by the Study Group. The revenue impacts of Indian gaming enterprises (and the revenue impacts of the other four dimensions of reservation-based economic activity) have been compared to expenditures incurred by New Mexico State government due to the presence of Indian reservations in the State. The Indian reservation population uses State services, though in a far less intensive way, and so the State incurs costs on the population's behalf. The Study Group undertook an extensive analysis of fiscal year 1998 New Mexico State general fund spending to determine the share of general fund outlays that can be attributed to the Indian reservations in the State. The measure of New Mexico general fund outlays used for this analysis is the actual fiscal year 1998 general fund amount budgeted to each State agency, as reported in the Governor's budget (State of New Mexico Executive Budget, Gary E.

Johnson, Governor, Fiscal Year 2000). The overall finding is that State general fund expenditures attributable to the residents of Indian reservations in the State totaled $90.88 million in fiscal year 1998.

Table 2, Summary of the Economic and Revenue Effects of Indian Reservations in the New Mexico Economy, summarizes all of the impacts of Indian reservation-based economic activity on the New Mexico economy, including those associated with reservation-based enterprises, described above. Table 2 indicates that, in 1998, economic activity attributable to Indian reservations in New Mexico accounted for a total of 41,174 jobs State-wide and generated $898.8 million in wage and salary income and $1.5 billion in personal income. Perhaps most significantly, Indian reservation-based economic activity resulted in a total of $168.5 million in State general fund revenue.

Table 2. Summary of the Economic and Revenue Effects of Indian Reservations in the New Mexico Economy and Revenue System (Source: The New Mexico Indian Reservation Economic Study Group, 1999.)

Economic Variables	Direct Impact	Secondary Impact	Total Impact
Employment	22,592	18,582	41,174
Wage/Salary Income ($ millions)	$510.9	$387.9	$898.8
Total Personal Income ($ millions)	$789.1	$686.3	$1,475.4
State General Fund Revenues ($ millions)	$77.9	$90.6	$168.5

As can be seen in Table 3, Net Fiscal Effects, the total 1998 State general fund tax revenue attributable to Indian reservations in New Mexico, ($168.5 million), compares to $90.88 million in 1998 State general fund spending for public services utilized by reservation-based Indian and non-Indian residents.

Table 3. Net Fiscal Effects (Source: The New Mexico Indian Reservation Economic Study Group, 1999.)

Fiscal Impacts	
Total New Mexico General Fund Expenditures Attributable to Indian Reservation Population ($ millions)	$90.88
Total New Mexico General Fund Tax Revenues Attributable to Indian Reservation-Based Economic Activity ($ millions)	$168.5
Net Fiscal Effect ($ millions):	$77.6

New Mexico Indian Reservation Economic Study Group

Indian Reservations and the New Mexico Economy: Monograph 2: Tourism

Tourism Attributable to Indian Reservations

This monograph summarizes the Study Group's research findings regarding tourism associated with the presence of Indian reservations in New Mexico. Tourism is not a single industry, but rather a collection of trade and service sectors that are typically and logically grouped together for analytical purposes. Lodging, eating and drinking establishments, certain recreational services, transportation, and various retail trade sectors comprise the "tourism" industry in New Mexico.

The importance of Indian culture to the overall tourism industry in New Mexico (and the importance of reservations in sustaining Indian culture) is evident from the omnipresence of American Indian themes which find expression in virtually every aspect of the State's tourism "portfolio": recreation sites, fine arts, food, museums, intellectual history, historical monuments, fashions, literature, as well as the unique beauty and allure of a preserved land base (i.e., the Pueblos and reservations). The Study Group formulated a model of attribution and then identified and assembled relevant data that resulted in a specific estimate that is credible as a measure of this relationship and its effects.

A Model for Indian-Motivated Tourism Spending: The concept of Indian-motivated tourism spending may be expressed as, *"Spending attributable to New Mexico visitors attracted to the state by Indian culture, the attributes of which are embodied in and emanate from the Indian reservations of New Mexico."*

In the field of economics, this approach to quantifying consumer demand using information about different consumer choices is called "revealed preference theory". Revealed preference theory seems to best describe the total drawing power of Indian culture and the Indian Reservation presence in New Mexico because it captures both off-reservation and on-reservation spending by Indian-motivated visitors.

The model that quantifies the concept of Indian-motivated tourism spending defines Indian tourism spending in New Mexico as the product of two factors:

1. Total Visitor Spending: $2.14 billion;
2. Percent of Spending Attributable to Visitors Motivated by "Indian Culture": 13.4%

Multiplying the total spending estimate of approximately $2.14 billion by 13.4%–the relative importance of Indian culture and visitor motivation revealed in the study–yields $286.2 million, the total spending attributable to Indian motivated visitors.

The level of Indian-motivated visitor spending demonstrated by these estimates is evidence of an important linkage between the Indian reservations of New Mexico and the vitality of tourism in the State. The allure of Indian culture attracts New Mexico tourists and generates significant visitor spending, establishing Indian Reservations as substantial contributors of economic and fiscal benefits to the State.

The Study Group's research findings show that Indian reservation-attributable tourism is a source of significant positive economic and fiscal effects in the New Mexico State economy; in 1998 Indian reservation related tourism was the source of 10,539 jobs and $149 million in wage and salary income. The spending for goods and services associated with tourism attributable to Indian reservations resulted in $33.8

million in State tax revenue in 1998. Table 1, Summary of the Economic and Revenue Effects of Tourism Attributable to Indian Reservations, summarizes the economic and revenue effects of tourism related to Indian culture in the State.

Table 1. Summary of the Economic and Revenue Effects of Tourism Attributable to Indian Reservations (Source: The New Mexico Indian Reservation Economic Study Group, 1999; IMPLANPro Economic Model, 1999.)

Economic Variables	Direct Impact	Secondary Impact	Total Impact
Employment	7,620	2,919	10,539
Wage/Salary Income ($ millions)	$92.4	$56.6	$149.0
Total Personal Income ($ millions)	$137.9	$104.7	$242.6
Fiscal Variables	Direct Impact	Secondary Impact	Total Impact
State General Fund Revenues ($ millions)	$20.8	$13.0	$33.8

Summary of The Economic and Revenue Effects of Indian Reservations in New Mexico

As noted above, tourism attributable to Indian reservations is one of the five dimensions of reservation-based economic activity analyzed by the Study Group. The revenue impacts of tourism attributable to Indian reservations (and the revenue impacts of the other four dimensions of reservation-based economic activity) have been compared to expenditures incurred by New Mexico State government due to the presence of Indian reservations in the State. The Indian reservation population uses State services, though in a far less intensive way, and so the State incurs costs on the population's behalf. The Study Group undertook an extensive analysis of fiscal year 1998 New Mexico State general fund spending to determine the share of general fund outlays that

can be attributed to the Indian reservations in the State. The measure of New Mexico general fund outlays used for this analysis is the actual fiscal year 1998 general fund amount budgeted to each State agency, as reported in the Governor's budget (State of New Mexico Executive Budget, Gary E. Johnson, Governor, Fiscal Year 2000). The overall finding is that State general fund expenditures attributable to residents of Indian reservations in the State totaled $90.88 million in fiscal year 1998.

Table 2, Summary of the Economic and Revenue Effects of Indian Reservations in the New Mexico Economy, summarizes all of the impacts of Indian reservation-based economic activity on the New Mexico economy, including those associated with tourism, described above. Table 2 indicates that, in 1998, economic activity attributable to Indian reservations in New Mexico accounted for a total of 41,174 jobs State-wide and generated $898.8 million in wage and salary income and $1.5 billion in personal income. Perhaps most significantly, Indian reservation-based economic activity resulted in a total of $168.5 million in State general fund revenue.

Table 2. Summary of the Economic and Revenue Effects of Indian Reservations in the New Mexico Economy and Revenue System (Source: The New Mexico Indian Reservation Economic Study Group, 1999.)

Economic Variables	Direct Impact	Secondary Impact	Total Impact
Employment	22,592	18,582	41,174
Wage/Salary Income ($ millions)	$510.9	$387.9	$898.8
Total Personal Income ($ millions)	$789.1	$686.3	$1,475.4
State General Fund Revenues ($ millions)	$77.9	$90.6	$168.5

As can be seen in Table 3, Net Fiscal Effects, the total 1998 State general fund tax revenue attributable to Indian reservations in New Mexico, ($168.5 million), compares to $90.88 million in 1998 State general fund spending for public services utilized by reservation-based Indian and non-Indian residents.

Table 3. Net Fiscal Effects (Source: The New Mexico Indian Reservation Economic Study Group, 1999.)

Fiscal Impacts	
Total New Mexico General Fund Expenditures Attributable to Indian Reservation Population ($ millions)	$90.88
Total New Mexico General Fund Tax Revenues Attributable to Indian Reservation-Based Economic Activity ($ millions)	$168.5
Net Fiscal Effect ($ millions):	$77.6