

## **Acknowledgments**

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## **CHAPTER I**

### **Introduction**

Economic conditions are changing for many of Washington's 29 federally recognized Indian tribes. In Washington State and across the United States Indian tribal economies are improving as tribes develop innovative and self-supporting business structures that allow them to become financially self-sustaining. As the tribal wealth grows, clearly understanding their contributions to Washington State's economy acquires greater importance and urgency.

The Governor's Office on Indian Affairs, under the direction of Governor Gary Locke, recently hosted a conference on state/tribal relations. During that statewide summit, a number of issues were explored through a series of structured interviews with state and tribal leaders. In a report on the proceedings, Prothro (1999) relayed a suggestion that grew out of discussions pertaining to evolving economic development:

Improve understanding of the economic realities affecting Tribes. For example, consider ways to estimate the total taxes paid by Tribal members to the State and localities and the total revenues from the State and localities that are returned to the Tribes (p. 22).

One interviewee asked, "Do State and Tribal government leaders have a good understanding of the role of Tribes in the State economy? If not, how can this understanding be improved?" (Appendix C.).

This applications project intends to illuminate one small aspect of what we a much larger question, by generating reasonable estimates of the role of Native Americans in the Washington State economy, particularly in terms of gauging the tax revenue resulting from the Native American presence in the state. By describing and measuring these tax contributions, it is our hope that our work will help strengthen the relationship between the tribes and the state by helping legislators and state tax payers understand and value the tribes as partners in economic development. We see great potential for the use of this study in informing policy deliberations in such issues as: state and tribal economic

development strategies, taxation and revenue sharing, gaming, public education and safety, and other issues of critical importance to all Washington citizens.

#### A. The Importance of Measuring Tribal/Native American Tax Revenue

This work constitutes what we believe to be the first attempt to estimate the tribally related tax revenue accruing to Washington State government. State government in Washington depends heavily on state-wide sales and use taxes, and because historically state taxation on reservations is limited, Indian tribes have been considered by some to be a financial drain on Washington's economy. However, because few businesses exist on reservations, most purchases of goods and services made by Native Americans are made off-reservation, and hence are taxed. Thus Native Americans, spending their wage earnings, ultimately represents an important source of revenue dollars. Clearly, strong tribal economies produce tax dollars that serve to strengthen the overall Washington State economy.

The potential for effective, revenue producing economic partnerships with tribal governments comes at a time when Washington's tax base has been, or may be, eroded by several economic factors. Citizen initiatives such as Initiative 695 which dramatically ended a tax on vehicles, e-commerce with its great potential for out-of-state and thus untaxed purchases, and a potentially "softening" economy may all be factors in eroding the tax base (Washington Research Council [WRC] 2000). At the same time, state and tribal economic development partnerships represent an opportunity for new relationships where both sides can benefit. Both tribal and state governments share many of the same goals. As tribal leaders put it, their intent is, "to assure safe and healthy communities..." and "to assure sustainability of their economic enterprises through good relations with their neighbors..." (Prothro, 1999, p 20-21).

It is important to note that tribes often refer to gaming as the "new buffalo." In Washington State, about half of all tribal economic activity is related to gaming. Yet, as our review of the literature in Chapter II indicates, many government officials and citizens criticize tribal gaming for a number of reasons.

However, within the broad context of history, it is vital to recognize that colonial policies destroyed the “buffalo,” and that often American Indian tribes were “relocated,” far from their original homelands, causing a disruption of hunting and agricultural practices that sustained their societies. Perhaps if the “new buffalo” has arrived, we should, this time, support tribal efforts to become self-sustaining. Our research indicates that state and tribal governments will benefit if they work together to create new economic opportunities that benefit all of Washington’s citizens.

### B. Organization of this Paper

There are, of course, significant legal, socioeconomic, cultural, and political qualifiers that impact how any measure of tribal tax revenue may be viewed. As we examine issues of economic development and revenue generation, we must ask ourselves whether current state and federal governmental policies support Native American efforts toward economic recovery and self-sufficiency. In order to broadly address the spectrum of such concerns, Chapter II and III of this report provide the reader with a contextual backdrop for considering current revenue issues between states and tribes. Relationships between Washington State and the Indian nations within its borders are complex. These relationships developed within the context of colonialism with its concomitant racial strife and cultural clashes. This unfortunate legacy must be reckoned in any consideration of contemporary taxation questions.

In Chapter II, we examine a broad array of literature that is directly or indirectly linked to measurement of tribal tax revenue contributions, national and local debates related to tribal taxation and economic development, the legal foundations of tribal sovereignty, self-determination and the federal “trust” relationship, and tribal and state relationships.

In Chapter III of this report we examine the framework of colonialism. This framework can be seen even today within the structure of state and federal laws and governmental policy-making. We make the argument that the sheer

force of colonialism and the politics of “discovery” forever disrupted the self-sustaining societal structures of the native peoples of America. Economic development and revenue contributions made by Native Americans can be most accurately viewed within the context of a history of loss. Washington’s Native Americans have lost land, lost resources (game, fishing, and agricultural land), and have even been pressed to lose their identities as American Indians. At the same time this history of loss is qualified by the tribes’ strong will to protect, sustain, and pass on to new generations tribal culture and values. We close Chapter III by discussing the perils of repeating a history of “irrational” policy-making. We suggest ways in which we may learn from history, and in so doing be spared the pain of repeating it.

Chapter IV details, one after another, three specific methodologies used in the revenue calculations of this report. Each of these methodologies is used to develop parallel projections, and thus provide three similar estimates of tribal/Native American tax revenue accruing to both Washington State and local, (non tribal) governments.

In Chapter V we conclude with a discussion of the use of multipliers, and then the application of such multipliers to the data set generated in the earlier chapters. This chapter also includes a discussion of the potential sources of error in our calculations, briefly reviews contemporary disputes over Washington State taxation of tribes, and then notes the potential for tax compacting between the state and the tribes to resolve the current conflicts over taxation.

### C. Methodology

The purpose of our study was to estimate the contribution of Native Americans to the revenue stream of Washington State. This research question was easy to formulate but more difficult to answer. Not only were facts and figures hard to distill and sometimes distorted by the lens of history, but also a number of key concepts need to be clarified. For purposes of this report, we calculated the revenue contributions (a) from tribal economic activity and the wages earned by enrolled tribal members, and (b) revenue contributions of Native

Americans residing in Washington State who are neither enrolled tribal members nor employees of tribal economic enterprises. Thus our calculations are an aggregate of all who may be identified as Native American living in Washington State.

A principal concern in our research was finding relevant economic data needed to formulate an estimate of tribal tax revenue. We found an appropriate source in the work of Tiller and Chase (1999). Their report contributed groundbreaking evidence of the vital and growing tribal economies in Washington State. It provided an overview of tribal economic activity that reflects a billion dollars worth of annual production. It summarized financial information provided by 23 of the (then) 27 federally recognized Washington Indian tribes, and several state and federal agencies. The authors emphasized that tribes are not a drain on the state's economy, but rather contribute to the state and federal tax-base and invigorate local economies.

Our research, including discussions with representatives from both Washington State's Office of Financial Management (OFM) and the Washington State Department of Revenue (DOR), revealed that Tiller and Chase's report provided the most up-to-date information available in regards to tribal economic activity. Additional information on the state Native American population, and their income earnings, was found in the concurrent survey work of the Office of Financial management (OFM 1997). Our estimate of overall tribal tax revenue was therefore based both on the OFM survey, and on the Tiller and Chase report. The OFM report surveyed individuals representing the broad Native American population in Washington State, whereas the Tiller and Chase report focused on data concerning enrolled tribal members.

Our methodology examined 1) wages earned by tribal members employed by tribal-owned enterprises, 2) business expenditures of tribally owned economic enterprises, 3) wages earned by tribal members not employed by tribal-owned businesses, and 4) wages earned by Native Americans who are Washington State residents, but not necessarily members of tribes. It is important to note that tribal members are exempt from state sales tax when purchasing items on-reservation.

Tribal economic enterprises do not pay business and occupation taxes, and tribal trust property is exempt from taxation.<sup>1</sup> Tribal members *do* pay federal income tax. The National Congress of American Indians (NCAI) points out, “Individual American Indians and Alaska Natives and their businesses pay federal income tax just like every other American. The one exception is when an Indian person receives income directly from a treaty trust resource such as fish or timber, that income is not federally taxed” (NCAI, 1999, p.1). Tribal members also pay the state and local sales taxes when they purchase goods and services outside the reservation. However, because the number of businesses on reservations is extremely limited, it is estimated that at least 60 percent of gross tribal wages are spent on consumables off-reservation, and of that, 85 percent of those sales are taxable (Sheane, Morrissy, Wineland, Kaplan and Behringer, 1995, p. 55).

The basis of our estimated contributions of Native Americans to Washington’s revenues were estimates of the percentage of the wages earned that go to sales taxes, as well as the estimated state payroll taxes paid on those earnings. We found appropriate models for accomplishing this task in the writings of Prairie Research Associates (PRA, 1996), the Arizona Legislative Council (Sheane et al., 1995), the Oneida Indian Nation (Coopers & Lybrand, 1995), and the Michigan Indian Gaming Enterprises/University Associates (UA/MIT), 1993).

We have chosen to concentrate our work (for the most part) on tax revenue generated by wage-related spending of tribal enrollees and other Native Americans, and the subsequent sales taxes paid on wage expenditures. We also performed some measurement of revenue generated by tribal-owned business expenditures. Overall we chose to focus on wages, not operations, maintenance and capital expenditures for the following reasons: (a) disaggregated data were less available in the areas of capital expenditure, and (b) we had strong, verifiable wage data. In addition, in Chapter V of this paper we suggest possible multiplier effects generated by the overall tribal presence in Washington State.

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<sup>1</sup> See WAC 458-20-192 INDIANS –INDIAN RESERVATIONS and DRAFT RULE 192 (Proposed Lanugage) for WAC 458-20-192 (1) –(23) INDIANS—INDIAN COUNTRY

Our general research approach was influenced by Prairie Research Associates. Noting the need for smaller communities to gauge economic impacts of proposed projects, they suggest the use of simple models that rely on project-related income figures as their base. They argue that wage earnings have the greater local impact, and are therefore more valuable to consider:

Expenditures on wages and salaries tend to have a high local impact. Expenditures on equipment tend to be more diffused, especially if the machines and materials are purchased from outside the region, or are manufactured elsewhere. Typically, the economic leakage associated with capital expenditures is quite high which means that local impacts are low. (PRA, 1996, p. 2)

When we first discussed the idea of estimating the revenue contributions of Washington Indian Tribes to the state economy, the objective was deceptively easy to formulate: Estimate tax revenue generated by the Native Americans in Washington State. This statement, it became increasingly clear, was a significant oversimplification of the problem. There are at least three significant terms that must be defined prior to any kind of calculation. Those terms include the following: revenue, population, and income.

## 1. Defining Revenue

In the State of Washington, tax revenue may mean many things, as there are a number of mechanisms by which the state collects taxes. The Office of the Forecast Council (OFC) projects the “total General Fund State Revenue” for the 1999-01 biennium as \$20.842.9 billion (OFC, 2000, p.36). This revenue comes to the state as taxes on retail sales, use taxes, a business and occupation (B&O) tax, utility taxes, “sin taxes,” employment security (payroll taxes), and taxes paid to Washington State under the terms of a contractual agreement between tribal and state governments, agreements referred to herein as “tax compacts.”<sup>2</sup> The various

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<sup>2</sup> Tax compacts are agreements between the individual tribes and the state whereby a disputed tax is collected by the tribal government and reported to the state. In many cases, the agreement leaves the revenue in the hands of the tribal governments to be applied to reservation infrastructure and the needs of the tribal population.

categories of Washington State revenue collections projected for the current biennium are summarized in the following table:

**Table 1. Washington State General Fund Revenue by Source**

<u>Tax Type</u>	<u>Revenue (in Millions)</u>
Sales	\$10,805.3M
Use	\$709.2M
Business and Occupation	\$3,760.2M
Property Tax (Schools)	\$2,635.3M
Liquor taxes	\$167.5M
Public utilities	\$432.7M
Cigarette	\$132.6M
Real Estate Excise	\$791.2M
Timber Excise	\$25.2M
Timber Excise	\$573.6M
Insurance Premiums	\$335.4M
Motor Vehicle Excise Tax	\$0M
Liquor Excess Funds	\$53.9M
Lottery Revenue	\$222.1M
All other Revenue and Transfers	\$24.6M
Interest Income	\$131.9M
<b>General Fund, Total</b>	<b>\$20,842.9M</b>

**(Source: Office of the Forecast Council, February 2000, p. 36)**

Note that Washington State does not have a personal or corporate income tax. The revenue report states: “Three taxes: sales and use, business and occupation, and the property tax (state school levy), comprise the majority of Washington’s total General Fund-State revenue. These three taxes accounted for more than 83 percent of the \$19.6 billion total General Fund-State cash receipts in the 1997-99 biennium. This percentage rises to 85.9 percent in the 1999-01 biennium and to 86.0 percent in the 2001-03 biennium” (p. 37).

The sales, property and business and occupation taxes are applied to all Washington State residents, with few exceptions. Notable amongst those exceptions is the limited state authority to collect sales taxes from Native Americans purchasing goods and services on reservation, property taxes on tribal trust lands, and business and occupation taxes on tribally owned enterprises operating on tribal lands. While the legal issues surrounding these jurisdictional questions are complex, we have chosen to somewhat simplify the issues through a series of assumptions regarding the taxable portion of Native American economic activity. Primarily, our taxation estimates are based on state payroll taxes, sales tax collections related to personal incomes, and tribal business expenditures subject to the sales tax. That methodology is discussed in greater detail in Chapter IV.

## 2. Defining Native American Populations

Official terms used in Washington State to describe Native American minority populations include Washington State Indian population, American Indian population in Washington, Washington State Tribal enrollee population, and Resident Indian population on Washington State Reservations. (Alaska Natives and Aleut peoples are generally counted as American Indians.) These categories and others were used in the work of Tiller and Chase (1998). Ultimately, part of our exercise in revenue calculation included an attempt to define and separate these groups so that we could analyze contributions from these populations correctly. As a result, we found that there were a wide range of numbers ascribed to the Washington State's Native American population. In some cases that is probably the result of numeric discrepancies (rounding errors). In other cases, inconsistencies in population counts were the result of competing methodologies for estimating population. However, the widest and most significant variations resulted from differences in terminology used to define membership in a particular population group.

Thus the recent development of new protocols for the collection of ethnic origin data, currently being used to conduct the U. S. Census, both complicated and enriched our data set. Washington State's Office of Financial Management (OFM) directed in-state counting to conform to federal guidelines and subsequently provided detailed race data tables, following the federal guidelines (Zhao, 1999, p.1). In 1998, the Washington State Population Survey asked respondents their races twice; once using questions consistent with the 1977 standard that classifies race into four categories, and allowed only one category to be indicated. The second time the survey used the 1997 standard, which expanded race into five categories and allowed selection of multiple categories if applicable.<sup>3</sup>

OFM analyst, Yi Zhao, produced a report which greatly aided our study (Zhao, 1999). Her report stressed that the OFM's race re-classification impacted race distributions. The most dramatic impact noted was the 4.1 percent decrease shown in the "other" category and the 2.6 percent decrease shown in the "white" category. These changes were postulated to be the result of giving individuals the option of selecting two or more races. Consequently, in the 1998 Survey, "nearly 4 percent of the population was represented in the sample as multiracial. This percentage is much larger than the national average of 2 percent. Further research is needed to determine if this larger percent is the reality or is due to the expanded sample of the minority population" (Zhao, 1999, p. 2).

There was also a decrease in the percentage of people identified as only American Indian, Eskimo & Aleut (AIEA), from 1.00 percent of the total population down to 0.70 percent of the population (a 0.3 percent reduction in the category AIEA). This group is now re-labeled American Indian, or Alaska Native

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<sup>3</sup> The OFM report includes the following disclaimer: "The Washington State Population Survey was conducted in the spring of 1998 to provide social, demographic, and economic information about Washington. Responses were obtained from telephone interviews of 7,279 household that represented the state as a whole. The survey was designed by the Office of Financial Management (OFM) and conducted by the Washington State University Social and Economic Sciences Research Center. Data are subject to sampling variability and other sources of error" (Zhao, 1999, p. 1).

(AIAN). However, more individuals were identified as multiracial with a Native American ancestry as one of their ethnic constituents. Zhao (1999, p. 3) wrote,

One out of every five American Indians considers him/herself as multiracial. When the respondents have only one choice, more than 99 percent of them marked a certain single race (Other race is included). However, when multiple choices are permitted, some people change their mind. About 22 percent who previously considered themselves as American Indians have marked two or more races when answering the second set of questions.

One of the ways that OMB suggested tabulating the multiracial population was to use the category *All Inclusive*, which groups multiracial populations with one leading race, and all the other races which are marked. In that manner, twenty-four (combinatoric:  $n^2 - 1$ ;  $n = 5$ ) discreet categories of multiracial description can be quantified (Zhao, 1999, p. 4). “In Washington State, people who marked White plus one or more other races form the largest multiracial group followed by those who chose *American Indian & Alaska Native* and some other races” (p. 3, emphasis added). By combining the AIAN (single choice) percent with AIAN and some other races (multiracial choice), the OFM concluded that total AIAN in Washington State was 1.92 percent of the total population (Zhao, 1999, p. 3). That is the number we used in our subsequent calculations.

### 3. Defining Income Calculations

Like the terms “tax” and “population” we discussed above, the term “income” is similarly subject to qualification. Income discussions are informed by definitional qualifiers such as “per capita”, “household”, and “adjusted.” Household income data are often collected in conjunction with population survey information. While the national census is conducted once per decade, OFM conducted a survey in the spring of 1998 to profile Washington State residents between decennial censuses. OFM collected data by telephone interview with 7,279 households on income, employment, work experience, health insurance, commute modes, computer and Internet usage, as well as basic demographic information. This survey was done through telephone interviews, so it did not

account for the estimated 4 percent of Washington households without phones, and an expanded sampling of minority groups was done to improve inferences about the characteristics of such groups. While we were interested in household income figures for Washington's Native American population, race related income figures were not presented in OFM publications (Office of Financial Management, March 8, 2000). We, therefore, conducted our own analysis of the OFM data set. Tiller and Chase reported that for employees of Tribal Enterprises, average wages were \$18,783 versus the statewide average wage of \$31,073, suggesting tribal employees earn about 60 percent of the state average wage. Because we were looking at OFM numbers as opposed to numbers supplied by the tribes, we were unable to exactly duplicate the income numbers presented in the Tiller and Chase report. We ultimately decided we would estimate, based on our reading of the OFM data, that Native Americans in Washington State earn seventy percent of the statewide wage average, with an average household income of \$32,803.