Rincon Band of Luiseño Indians

1 West Tribal Road, Valley Center, CA 92082 ♦ (760) 749-1051 ♦ Fax: (760) 749-8901



VIA EMAIL ONLY consultation@bia.gov

August 29, 2017

Attn: Revise Indian Trader Rule
Office of Regulatory Affairs & Collaborative Action
Office of the Assistant Secretary, Indian Affairs
Department of Interior184 C Street NW, MS 4660-MIB
Washington, DC 20240

RE: COMMENTS ON THE NEED TO UPDATE THE INDIAN TRADER REGULATIONS, 25 C.F.R. PART 140

Dear Dr. Clarkson:

Per your letter dated July 28, 2017, the Rincon Band of Luiseño Indians (Rincon) would like to provide additional information in support of the proposal to revise the Indian Trader Regulation at 25 C.F.R. Part 140. Namely, Rincon supports proposals to revise the Indian Trader Regulation to address the issue of dual taxation. To that end, Rincon provides the following responses to Question No. 2 of your letter with regard to "any economic impact studies on the benefits of Indian country economic development to surrounding communities."

Rincon conducted an economic study in 2013 that shows how its business enterprises, including gaming and retail, have impacted the local economy. In 2013, Rincon's Casino & Resort contributed \$254.1 Million to the local and state economies, including \$4.7 Million in tax payments and \$77.5 Million in expenditures for goods and services. Rincon's business enterprises created more than 1500 jobs and wages near \$100 Million for workers in the San Diego area. Rincon expanded its business enterprises with a \$150 Million capital investment in 2014, which has resulted in an increase of its reported 2013 economic output and job creation by multiples. Our empirical study shows that Rincon's tribal economy contributes positively to its neighboring communities. A similar study was conducted by the California Nations Indian Gaming Association in 2016 which highlights the social and fiscal impact that tribal gaming and non-gaming business has had on the economy of California. Tribal business enterprises added tens of thousands of jobs and billions of dollars to the economic output of California. State and local governments in California received almost \$480 Million in tax revenue from tribal businesses. We have attached these two studies for your information and consideration.

Revenue generated from Rincon's tribal enterprises goes to supporting, promoting and restoring our culture, community and citizenry. In addition, Rincon prioritizes the use of its business revenue to building infrastructure on and off the reservation, buying local goods and services, and employing local labor in order to support the economies of its neighboring, non-Indian communities. These twin goals can be harmonized. Yet it remains that state and local governments undermine these goals by extracting tax revenues from the economic activity on Rincon's lands and utilizing the revenue outside of Rincon's reservation and zone of economic impact. Every \$1 Million spent by Rincon businesses creates 42 jobs. Conversely, for every \$1 Million of tax revenue extracted by state and local governments on Rincon's economic activity, essentially \$0 has been expended on or for the Rincon community. This is untenable.

Rincon has adopted its own tax code, but its jurisdiction to tax economic activity within its borders is circumscribed by concurrent state jurisdiction. Where it does have exclusive jurisdiction (namely, hotel and occupancy tax) Rincon apportions the tax over roads, sewer, water, housing, fire, law enforcement, tribal court, elder care, child care, large equipment replacement and its general operating budget. These are the essential functions and purposes of a sovereign government. However, it is clear that these functions cannot be fulfilled when state and local governments have concurrent or pre-emptive taxing jurisdiction. Rincon loses more than \$10 Million per year in tax revenue to California and San Diego County; this is a significant lost opportunity to invest in essential government services now and for the future.

It is important to underscore that more than a century of economic deprivation suffered by our tribe cannot be entirely reconciled with the business profits from the tribe's relatively recent economic successes. The ability to generate a reliable, comprehensive and diverse tax revenue base for the next generation remains important to the tribe's long-term viability and well-being. Therefore, Rincon supports all efforts by the Department to address the harm of dual taxation through regulatory reform. Thank you for your time and consideration.

Sincerely,

RINCON BAND OF LUISENO INDIANS

Bo Mazzetti

Tribal Chairman

Enclosures:

2013 Rincon Economic Report

2016 Tribal Government Gaming Impact Study by CNIGA

¹ 2013 Rincon Economic Impact Report, footnote 1.



2013 ECONOMIC REPORT





TRIBAL COUNCIL

The elected 2013 - 2015 Rincon Tribal Council consists of Chairman **Bo Mazzetti**, Vice Chairwoman **Stephanie Spencer**, and Council Members **Steve Stallings**, **Laurie E. Gonzalez** and **Frank Mazzetti III**.

Tribal council members are elected by the membership, serving two-year-staggered terms.

In addition to serving as the executive, legislative, and judicial branches of the government, the tribal council is the board of directors for tribal enterprises, including Harrah's Rincon, one of the premier resorts and casinos in Southern California.

In 2013, the tribal-owned Harrah's Rincon Resort and Casino employed 1,520 employees with a payroll, including wages and benefits, of \$62 million. The ripple

> effect of revenues generated by Rincon's enterprise extended beyond jobs to local businesses. In 2013, Harrah's Rincon played a significant role in underwriting the growth of local businesses, purchasing \$77.5 million in goods and services.

Built in 2012-2013, the \$3.3 million Travel Plaza, adjacent to the resort and casino, offers a Shell-brand gas station, an extremely successful 7-Eleven franchise, and Subway Restaurant. The Harrah's Rincon Travel Plaza has a payroll of \$353,456, with operational expenditures of \$530,600.



Bo Mazzetti Chairman



Stephanie Spencer Vice Chairwoman



Steve Stallings
Council Member



Laurie E. Gonzalez
Council Member



Frank Mazzetti III Council Member





INTRODUCTION

The Rincon Band of Luiseño Indians occupies a 6,000acre reservation in Valley Center, CA, and has a tribal population of 500 plus enrolled members. Established in 1875, the Rincon Band is a sovereign government recognized by the U.S. Constitution, the United States Congress, court precedent, and federal policy.

Democratically elected by a majority vote of tribal members, the Rincon council has the executive, legislative, and legal authority and responsibility to protect and promote the welfare of the tribal members and jurisdiction over the

> reservation land. The tribe is not a subdivision of the county or state, but is a federally recognized sovereign government. a city, county, or state.

like state governments, is responsible for enforcing all applicable federal laws from environmental to taxation on the reservation.

The Rincon Band owns Harrah's Resort Southern California (formerly known as Harrah's Rincon Resort and Casino) uses profits from this and other commercial enterprises to provide government services such as police and environmental enforcement, health, youth, seniors, recreation and culture programs, economic development, and a tribal court. The government also funds a highly respected and well-equipped tribal fire department, ambulance and paramedic unit, and contracts with the San Diego Sheriff, delivering increased patrols on the Rincon Reservation, and in the Valley Center community. At no cost to taxpayers, Rincon's public safety operations respond to emergencies in the neighboring communities, with a majority of calls generated outside the reservation.

Rincon's tribal enterprises are significant contributors to the North San Diego County economy through job creation, the purchase of local products and services, and tax generation. In the interest of sharing and being good

> neighbors, the tribal council and Rincon Community Contributions Committee award hundreds of thousands of dollars annually to regional non-profits and public agencies that support quality of life programs in the region.

> The tribe also invests in boot strapping struggling tribal governments through quarterly contributions. Seventy-one tribal

nations, unable to generate meaningful revenue by engaging in gaming, received \$955,000 each from the Rincon Band, which has made a total investment of \$25.3 million over a 12 year-period.



1875 TO 2002: STRUGGLING TO SURVIVE

For years, the Rincon community struggled to find sources of commercial income to fund the tribal government. Surrounded by rocky hillsides with limited land for agriculture, the tribe also had to contend with the diversion of the San Luis Rey River water, the source of irrigation for the tribe, to neighboring urban areas. As a result, the tribe was fighting a losing battle to survive as a culture and community. The reservation experienced an economic

depression lasting for more than 100 years, resulting in high rates of poverty and underemployment.

Without a reliable funding source, the tribal government could not meet the infrastructure needs of the community, from building and repairing wells for clean water and waste disposal systems, to roads and housing. Neither tribal individuals nor the tribal government could get loans to

(Continued)

2013 ECONOMIC REPORT



buy cattle, or start a business. Before opening the tribe's Harrah's-brand casino, there were no funds for a fire department -- one that could have protected the reservation from the numerous wildfires that devastated homes and land. There was no tax base. The tribal government had no way to impose law and order on the reservation, pay police for crime prevention, or prosecute lawbreakers. The tribal council wrote sound policies and ordinances, but lacked the money or means to enforce them. No paying jobs existed on the reservation. Doctors, dentists, and medical treatment were luxuries until the **Indian Health Care** clinic opened in 1973.

City and county services ended at the reservation boundaries. The distance from commercial corridors of population and the rural location of the Rincon reservation made it impossible to undertake viable retail and manufacturing businesses. Hope for a better future on the Rincon homeland was scarce as well. Tribal members had to find work and education elsewhere.

However, in the late 1980's and early 1990's things began to look up for tribal governments. Tribes began experimenting with various forms of gaming, and an era of prosperity for many was born. With the changes and possibilities arising

from gaming as a means of economic development, a vision of independence was born. A hunger for self-sufficiency, freedom from poverty, and the vision of independency from unreliable and humiliating federal taxpayer-supported programs motivated many tribes to enter into the risky new business of gaming. For the Rincon people, gaming would mean the realization and return of self-government.



It was not until 2000 that the Rincon Band, like many other tribes in California, won the right to engage in gaming as the result of a voterapproved change to the State

Constitution. With that change, the tribe, after hundreds of years of failed experiments in economic development, began the process of becoming self-sufficient and investing in a functioning, modern government.

The fact that in California, Las Vegas-style gambling is only legal on federally recognized tribal lands gives tribes the necessary competitive edge to market to individuals willing to come to reservations to play. This, in turn, allows tribes to generate revenues from gaming-related commercial enterprises. In 2002, Rincon contracted with Harrah's-brand gaming operations, HCAL., LLC, to build and manage the tribe's casino. With the opening of the then-named Harrah's Rincon came the opportunity for the tribe to bring jobs to the reservation; move into the future as a government; and offer

thousands of underemployed residents of the local rural communities, well paying employment with health and other benefits.

Since that first entry into the California casino industry, Rincon and Harrah's have built a successful partnership, a loyal customer base, and consistent profitability, leading to the opening of a newly expanded \$160 million destination resort property in 2014.

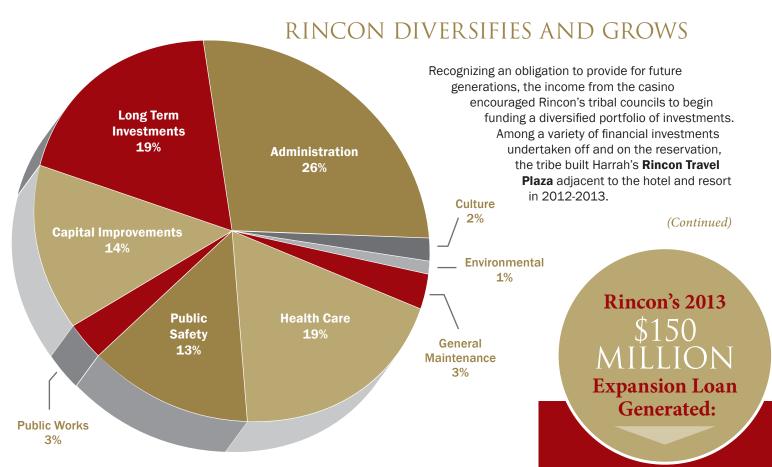




2013 FINANCIAL FACTS

Harrah's Grows into a Major Player in the North County Economy

In 2013, the tribal-owned Harrah's Rincon Resort and Casino employed 1,520 employees with a payroll, including wages and benefits, of \$62 million. The ripple effect of revenues generated by Rincon's enterprise extended beyond jobs to local businesses. In 2013, Harrah's Rincon played a significant role in underwriting the growth of local businesses, purchasing \$77.5 million in goods and services. **Total expenditures flowing into the local and state economy from Harrah's Rincon in 2013 were \$254.1 million, with taxes of \$4.7 million.**



Tribal Government 2013 Expenditures

Footnotes to Tribal Expenditure Chart

- 1. The U.S. Department of Commerce Research estimates that 42 jobs are created for every \$1 million expended by a business.
- 2. The Rincon tribal government has a policy of supporting the local economy by purchasing goods and services from San Diego County vendors.
- 3. Tribal governments have primary regulatory authority over casino gambling, just as states have authority over games of chance within their borders. However, tribal regulators work in accord and compliance with policies and audits regarding security, types of machines and games, as well as expenditures of gaming revenues as defined by the National Indian Gaming Commission (NIGC). Rincon also pays for a certain level of joint regulation by the State of California.

- 1,534 jobs
- \$99.9 million in new income for San Diego workers
- \$108.4 in purchases
- \$11.5 million in new state and local taxes

2013 ECONOMIC REPORT



The Rincon government has expanded its employee base to meet the needs of a government servicing a thriving community of 1200 residents. The net result, as with Harrah's, was new career opportunities and income generated on the reservation, flowing into the neighboring communities and local government tax coffers.

In 2013, The Rincon Band infused a substantial amount of new capital into the San Diego economy with \$150 million invested in expansion of Harrah's Resort and Casino. This created 1,534 jobs, with an estimated \$99.9 million in new income for San Diego workers, \$108.4 in purchases, and \$11.5 million in new state and local taxes. The expansion will also add 200 new permanent employees.



The \$150 million expansion, opening in 2014, comes with a name change to Harrah's Resort Southern California. Rincon's casino, the tribe's entrance into economic development begun in 2002, will expand from a top-notch gaming facility into an outstanding 1.2 million square-foot-casinos and resort. Construction includes numerous remodels and additions to the existing facility. A new 403-

room tower grows the room count to 1,065-- the fourth largest in the county. Innovative water features, pool areas, and nine dining venues offer a variety of recreational fun and tasting adventures.

The actual capital expenditures on the Harrah's Resort expansion came to \$166 million in 2013; these included the tribe's \$150 million new construction loan and \$16 million in renovations from the Harrah's capital program account.

The tribal government's 2013 budget of \$14.6 million funded 136 employees with a payroll of \$7.8 million, including \$560,000 in payroll taxes. Major expenditures include health coverage for tribal members and employees, of \$5.5 million and \$637,000 respectively; \$2.9 million for staffing and operating the Rincon Tribal Fire Department; and \$1.7 million for the Rincon Gaming Commission. The tribe's 2013 capital program, which included improvements to the water and road systems, sports park improvements, and the Travel Plaza was funded at \$4.3 million.

The property now boasts a 53,221 square foot, non-smoking, convention and entertainment venue, seating up to 2,200 in concert-style seating, or 1,200 in banquet-style. The 2014 expansion and makeover, combined with Harrah's Total Rewards, the first and best multi-branded program in the gaming industry, which currently allows guests to earn and redeem rewards in nearly 40 resorts, and casinos around the world, will allow Rincon's resort and casino to integrate quality resort amenities, while cross marketing to visitors who play in different locations.

THE FUTURE

2014 Rincon's Enterprise, Harrah's Resort Southern California adds a Convention and Entertainment Center, expands amenities into a Worldwide Resort Destination, brings new careers, more visitors, and an exciting hospitality attraction to San Diego's North County.





HOW GAMING AND GOVERNMENT WORK

Rincon Gaming Is Regulated and Restricts Use of Gaming Proceeds

The tribe's independent Gaming Commission has the important role of protecting the tribe's revenues and consumers. Working cooperatively with the California Indian Gaming Commission (CIGC), and the National Indian Gaming Commission (NIGC), the Rincon Commission has primary regulatory authority over the tribe's gaming operations.

Federal law, the Indian Gaming Regulatory Act, (IGRA) of 1988 and NIGC regulate casino gaming on reservations. With support from the Justice Department, Internal Revenue Service, Bureau of Indian Affairs, and other federal agencies the national gaming commission is charged with working with tribal commissions to regulate gaming and protect the tribes and consumers from fraud and criminal infiltration.

Congress clearly views gaming on Indian lands as an important, and necessary form of economic development for tribal governments, and legislated this sentiment in the Indian Gaming Regulatory Act (IGRA). The IGRA followed the United States Supreme Court's 1988 landmark Cabazon decision, affirming that tribes have the same right as states to engage in betting and games of chance to fund tribal governments. With this Act, gaming as an economic opportunity became a reality for tribes, just as it has for state governments that allow or engage in lotteries and other forms of betting. The High Court also reiterated a position of equity for tribes with states on the issue of regulating gaming, stating that tribes had the primary oversight for gaming on Indian lands.

Federal law is also unequivocal in its intent to protect gaming revenues for tribal governments by limiting attempts by states to take undue financial advantage or erode aspects of tribal sovereignty through the tribal-state compacting process provided for in IGRA, and to prevent overcharges by management companies or operators.







The federal Indian Gaming Regulatory Act requires that profits from casino gaming and related amenities, such as hotels, are used to fund government-type services. All funds earned by Harrah's after prize payouts, management, and operations costs are deducted belong to the Rincon people. As assets of the Rincon Band, the funds are placed in the tribal government treasury. The tribal council represents the people in managing the tribal income and acts as board of directors of Harrah's Resort Southern California, and other tribal enterprises.

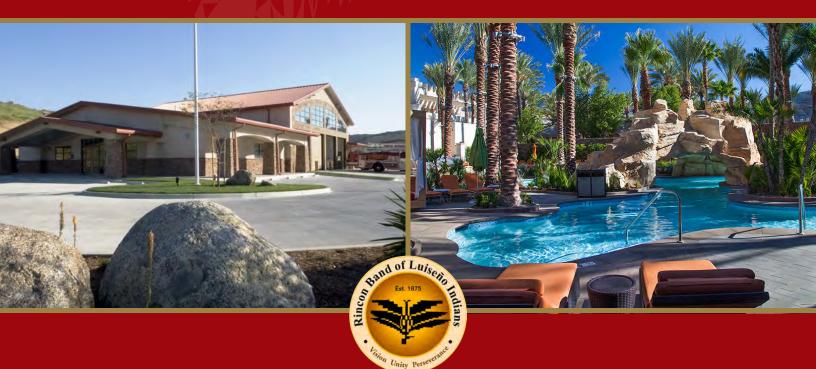
RINCON BAND OF LUISENO INDIANS 2013 COMMUNITY CONTRIBUTIONS

Agua Hedionda Lagoon Foundation All Tribes Charter School **American Cancer Society** American Indian Recruitment American Indian Veterans Association Angel's Depot Boys & Girls Clubs of Greater San Diego Cal State San Marcos California Indian Heritage Center Foundation California Rural Indian Health Board California Trial College Carols By Candlelight City of Chula Vista Little League Champions Welcome Colon Cancer Alliance Connected Through Kids Escondido Community Child Development Center Escondido East Rotary Club **Escondido Library Foundation Escondido Veterans Services** Fallbrook Film Factory Fireworks for Valley Center Food for the Faithful Friends of Cardiff/Carlsbad State Beaches Friends of the Valley Center Library Hamilton Bobcat Country Booster Club **IIPAY Nation of Santa Ysabel** Indian Health Council, Inc. Inter Tribal Long Term Recovery Foundation Inter Tribal Sports Intertribal Court of Southern California Kids Korps USA KRPI-FM Cash for Kids Holiday Programs La Jolla Band of Luiseno Indians Matthew LaChappa Athletic Foundation MCRD Museum Historical Society Mesa Grande Band of Mission Indians

Moonlight Cultural Foundation

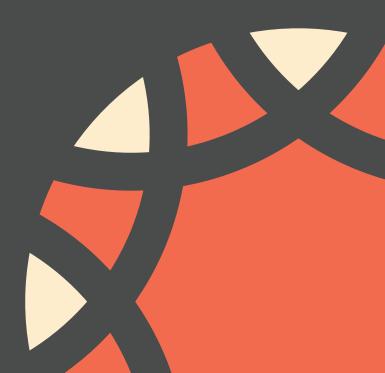
Music Boosters Valley Center/Pauma North County Serenity House Oceanside Chamber of Commerce Orange Glen High School Athletic Booster Orange Glen High School Golf Boosters Orange Glen High School Music Booster Orange Glen High School PTSO Grad Nite Palomar Health CAP & START Programs Palomar Heath Foundation Palomar Mountain Volunteer Fire Department Pechanga Band of Luiseno Indians Ramona High School ROP Rowdy Creek Fish Hatchery San Diego Brain Injury Foundation San Diego Padres San Marcos High School San Pasqual High School Southern California Tribal Chairman's Association Sherman Indian High School Soboba Foundation Southern CA American Indian Resource Center Strong Hearted Native Women's Coalition SVP 650 Volunteers The Fund for Animals Wildlife Center UC Regents Fundraising event Valley Center Community Theater Valley Center Girls Softball Valley Center High School Valley center High School Foundation Valley Center Pageant Association Valley Center Pop Warner Valley Center Primary School Valley Center Stampede Rodeo Valley Center Vaqueros Equine Education Walking Shield, Inc. Warner Unified School District

Whispering Winds Catholic Camp & Conference



2016 California Tribal Government Gaming Impact Study

ECONOMIC FISCAL SOCIAL





Major Impact of Tribal Government Gaming

IN 2014, CALIFORNIA TRIBAL GAMING:

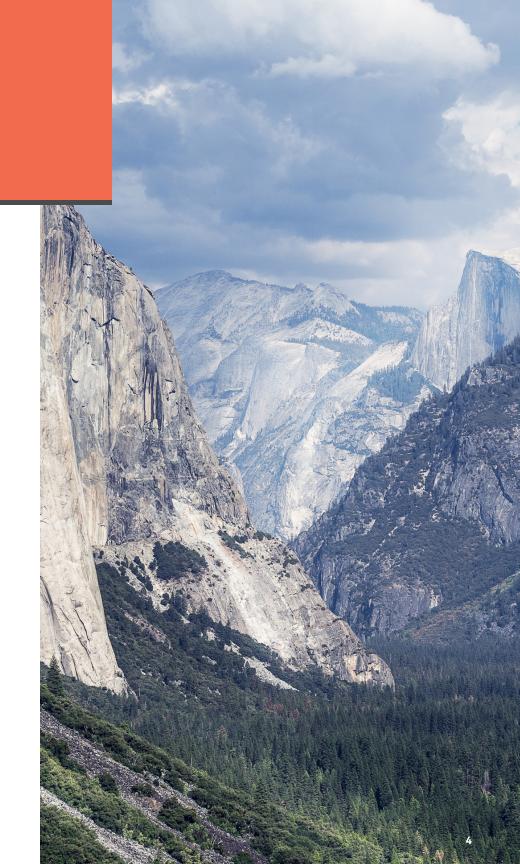
- Generated a record \$7.8 billion in economic output
- 2 Added **\$5 billion in value** to the California economy
- 3 Supported **63,000 jobs** statewide
- 4 Provided \$3.3 billion in worker earnings
- 5 Produced nearly \$400 million in state & local tax revenue



Major Impact Beyond Tribal Gaming

IN 2014, CALIFORNIA TRIBAL NON-GAMING OPERATIONS:

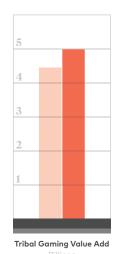
- 1 Generated \$3.3 billion in economic output
- Supported 21,000 jobs, a nearly50% increase in just 2 years
- 3 Produced more than \$80 million in state & local tax revenue

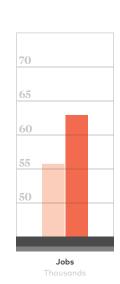


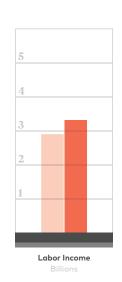


Growing Impact for California

CHARTS REFLECT POSITIVE
PERCENTAGE INCREASE BETWEEN
2012 AND 2014 FOR:







Tribal Gaming Value Add

\$4.5B to 5B: **11% increase**

Jobs

56K to 63K: **13% increase**

Labor Income

\$2.9B to 3.3B: 13% increase



Economic Impact

California tribal gaming operations generated **\$7.8 billion in output statewide** in 2014.

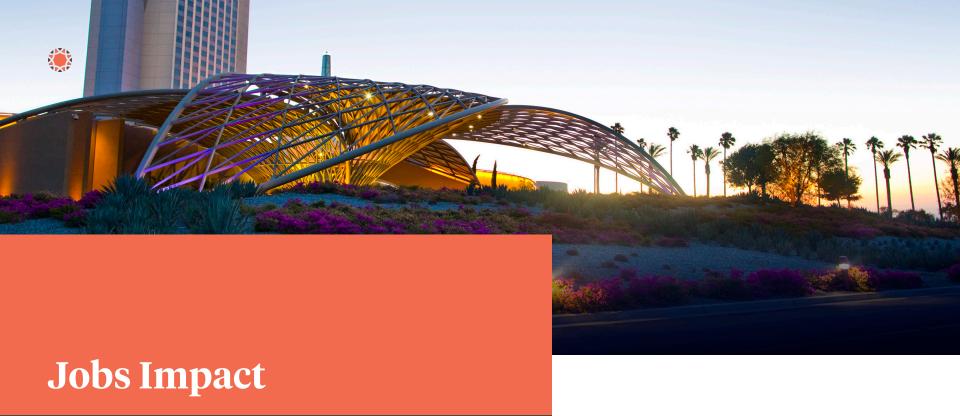
Of this total, \$4.0 billion represents direct spending by the casinos for goods and services, while \$3.8 billion represents secondary spending by firms that supplied those casinos, individuals who received an increase in income as a result of casino expenditures and firms that received an increase in revenues as a result of the increase in income.

Greatest Impacts Are Local

Casinos and connected operations are service-heavy with large staffs.

Many resources and materials are locally sourced.

These operations deliver a substantial impact to a local economy, which then reverberates throughout the economies of the region and out to the entire State of California.



Tribal gaming and non-gaming operations combined directly support an estimated **51,300 jobs**.

Statewide, the tribes employ nearly as many workers as the entire cut and sew apparel manufacturing industry (52,400) and more workers than the pharmaceutical and medical manufacturing industry (50,800) and the commercial aviation industry (45,100) in California.

The more than 51,000 direct hires, as well as over 30,000 jobs supported through secondary effects, demonstrate the **vital impact** that tribal gaming and non-gaming operations have on our state's economy.

Casinos in Northern California

Support an estimated **25,000 jobs**.

Casinos in Southern California

Support an estimated 37,200 jobs.



Tax Revenue Impact

Tribal gaming and non-gaming operations combined generated **\$472 million** in state and local tax revenue.

Additionally, over 90% of the tribal casino workforce is composed of non-tribal employees, who pay state taxes in addition to payroll taxes and sales and use taxes for purchases. Overall, tribal gaming operations contribute significantly to state and local tax bases through their gaming/compact fees as well as through the indirect taxes generated by their spending at businesses throughout the state.

The direct and indirect tax payments tribal gaming establishments make contribute an enormous amount of revenue to state and local governments.





Sharing Success

This is a key aspect of tribal gaming in California – the benefits of tribal casinos are not limited to just the tribe operating the casino, but have a positive impact across all the tribes in the state.

Revenue Sharing Trust Fund

Gaming tribes have contributed over \$600 Million to assist California's non-gaming tribal governments.

The contribution to each non-gaming tribe in the State of California is \$1.1 million annually.

Non-gaming tribes have used these payments to develop their own economic ventures including markets, gas stations and other entities and initiatives.

THE RESULT

In 2014 alone, non-gaming tribes generated \$137.9 million in economic output for California and supported 828 jobs statewide.

CHARITABLE CONTRIBUTIONS

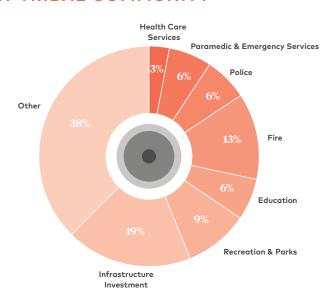
In 2014, **charitable contributions** from gaming tribes and their casinos totaled **\$57.9** million, generated an estimated **\$94.6** million in economic output, and supported an estimated **542** jobs statewide.

An even larger amount of charitable support is provided in the form of volunteer work and community service.



Recognized Value

WAYS TRIBES SERVE NON-TRIBAL COMMUNITY



- 1 Nearly all (92%) of community leaders indicated they consider tribal objectives to be in line with the objectives of local community organizations.
- 2 60% of leaders who live in a community with tribal gaming operations believe gaming has been positive for the local community.



Making a Difference

Year after year, tribal government gaming and non-gaming activities **generate an increasingly positive impact** on

California's labor markets and economy.

The economic and labor impacts are felt in the local communities that surround tribal government gaming facilities. Across the State, 90% of those employed by tribal governments are non-tribal employees. Most of these facilities are in very remote and economically depressed areas and the Casinos are some of the biggest employers in their regions. The salaries and benefits provided by our members and their facilities exceed market wages for the same labor pool in the State."

Steve Stallings, Chairman of CNIGA

power that tribes bring to their regions as money generated in their communities significantly benefits the communities around them. A majority of employees at tribal facilities come from the immediate area. Tribal gaming operations are working tirelessly to provide new

We continue to be impressed by the economic

Susan Jensen, Executive Director of CNIGA

services and experiences for their patrons that

benefits for their tribal governments and their

will continue to generate positive economic

local communities."



Protecting the sovereign right of California tribal governments to operate gaming on their lands.

Copy of the full report can be found at

CNIGA.com

For more information contact:

Carlos Valdez, Deputy Director of Public Affairs
2150 River Plaza Drive, Suite 120

Sacramento, CA 95833

cvaldez@cniga.com
916.448.8706