

Creating Economies on Indian Reservations

Professor Robert J. Miller (*Eastern Shawnee*)

Sandra Day O'Connor College of Law, Arizona State University

Robert.j.miller@asu.edu

Interim Chief Justice, Pascua Yaqui Tribe

Navajo Nation Council of Economic Advisors

Faculty Director, Rosette LLP, American Indian Economic Development Program

Creating Economies on Indian Reservations

By Prof. Robert J. Miller (*Eastern Shawnee*)
Sandra Day O'Connor College of Law, Arizona State University
Navajo Nation Council of Economic Advisors
Faculty Director, Rosette LLP, American Indian Economic Development Program

Very few of the 300 Indian reservations in the United States have functioning economies in which reservation residents can be employed, spend their money on reservation, and find adequate housing. In contrast, almost all reservation residents have to travel to distant cities to find banks, businesses where they can engage in necessary and discretionary spending, higher education, livable wage jobs, and quality housing.¹ This situation benefits state economies but helps impoverish reservations. In 1994, for example, a tribal official estimated that \$0.80 of every dollar Navajos received left the reservation immediately; and studies demonstrate the same problem occurs on other reservations.² This situation is a disaster for building reservation economies and community stability. It is also a major factor in creating the extreme poverty, unemployment, and the accompanying social issues that most Indian nations face. Tribal governments and tribal communities need to find solutions to these problems. In my opinion, increasing the number of privately and tribally owned small businesses on reservations is a strategy that can help create functioning economies in Indian country, to the maximum extent possible, and that can help to dramatically improve economic conditions on reservations and to sustain tribal communities.³

Keeping dollars on reservations

Reservations rapidly lose the money that residents receive because of the absence of a variety of tribally and privately owned businesses where people can spend their money on goods and services. This leads to the loss of an enormous amount of economic activity and employment that could occur in Indian country. Economists use the word “leakage” to define this situation; where money leaves a local community and economy sooner than is considered optimal.⁴ Ideally, money should circulate 5-7 times within a community, city, county, or state before it “leaks”

¹ ROBERT J. MILLER, RESERVATION “CAPITALISM:” ECONOMIC DEVELOPMENT IN INDIAN COUNTRY 2-3, 135-37 (2012); Robert J. Miller, *Economic Development in Indian Country: Will Capitalism or Socialism Succeed?*, 80 OR. L. REV. 757, 829-30 (2001).

² RESERVATION “CAPITALISM”, *supra* note 1, at 136-37.

³ *Id.* at 4, 155-56.

⁴ *Id.* at 4, 136-37.

away.⁵ The only solution to this problem seems to be for tribal governments and communities to assist in establishing a substantial number of privately-owned and tribally-owned businesses within their communities to help create economies that can capture the benefits of the consumerism of reservation residents and visitors.

The importance of having an economy and a critical mass of small businesses on reservations is demonstrated by other economic principles. First, every reservation resident has a certain level of disposable income.⁶ Even the poorest person has some money to spend. Obviously, if reservation residents would spend most of their income at businesses located on reservations that would help create even more reservation based businesses and jobs, and that would be an enormous benefit to the reservation economy.

The second relevant principle of economics is called the “multiplier effect.” This phrase defines the situation where every dollar that is spent by one person ends up as profit and salary in the hands of another person, whether it is the business owner or an employee or supplier for that business.⁷ This new person will then also spend that one dollar and pass it on to another person who will also spend it, etc., etc. In this circular fashion, one dollar echoes, or multiplies, throughout an economy and becomes pay, profit, and spending money for a greater number of people as long as that dollar stays within the local economy. The only way for reservation communities to benefit from the multiplier effect and to keep dollars circulating within their economies is to create opportunities for reservation residents and visitors to purchase goods and services at reservation-based businesses. In that way, the entire reservation economy can benefit and grow because of the re-spending of money and the multiplier effect.

Logically, the only way to keep dollars on reservations and circulating in the local economy is if there are a sufficient number of privately and publicly owned businesses offering a variety of goods and services. This situation would help to keep money circulating on a reservation and rotating between businesses, employees, and consumers. The primary answer, then, to building real reservation economies appears to be for tribal governments and Indian communities to create their own businesses and to work to attract private parties to develop and operate businesses to provide a wide variety of goods and services on reservations.⁸

⁵ Ron Selden, *Economic Development Attitudes Must Change*, INDIAN COUNTRY TODAY, June 13, 2001, at A1; Cathy Siegner, *Making and Keeping Dollars on Montana Reservations*, AM. INDIAN REP., Feb. 1999, at 18.

⁶ PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, ECONOMICS 439-42, 477 (14th ed. 1992).

⁷ *Id.*

⁸ RESERVATION “CAPITALISM”, *supra* note 1, at 135-39, 155-56; *What Tribes Can Do: An Interview with Joseph P. Kalt*, AM. INDIAN REP., Mar. 1999, at 16 (stating that there is an explosion of development waiting to happen in the private sector on reservations).

Developing entrepreneurial businesses on reservation

Governments play a crucial role in developing a private, free market economic system. They protect the public interest, ensure fair competition, maintain law and order, and create laws and judicial systems that help enforce contracts and property rights. Governments create and enforce the rules that ensure a fair system that attracts investors to risk their time and money in a particular location. The stability provided by government encourages people to work to acquire economic rights and to risk their investments within the jurisdictions of those governments. Tribal governments must play this important role for reservation economies. It is important to note, however, that many tribal governments have not yet enacted the kinds of business codes and commercial codes that businesses and banks need before they can operate on reservations. Tribal governments can encourage businesses to locate on reservations by adopting these kinds of laws and creating stable and fair court systems and bureaucracies. In addition, tribes can use taxation and regulatory strategies to attract private investments and new businesses to reservations.

Tribal policy makers could also consider lobbying Congress for a stronger federal “Buy Indian” act. The 1910 Buy Indian Act,⁹ leaves it totally up to the discretion of the Secretary of Interior whether to spend federal funds on “Indian labor” and Indian made products. If the Secretaries of Interior and of Health and Human Services were legally required to spend a set amount of the BIA and IHS budgets on Indian labor and products it would create an enormous incentive for tribal and Indian owned businesses to provide these goods and services and it would assist in creating many more Indian owned and reservation based businesses.

Tribal governments should also enact their own “Buy Indian” acts and should purchase as many goods and services as possible from tribal, reservation-based, and Indian owned businesses.¹⁰ This is a common sense, self-preservation idea, because it keeps “Indian money” in the “Indian community” and helps to grow tribal economies. In 1985, the Navajo Nation enacted just such a law.¹¹ Tribal governments could even mandate the expenditure of a certain percentage of annual

⁹ 25 U.S.C. § 47.

¹⁰ RESERVATION “CAPITALISM”, *supra* note 1, at 129-30, 144-46.

¹¹ The Navajo Nation Business Opportunity Act, 5 Navajo Nation Code § 201 (2009), states in subsection C & E: “The purpose of this act is to: 1. Promote the economic self-sufficiency of the Navajo Nation by granting ‘first opportunity’ and/or preference in contracting to Navajo and/or Indian owned and operated businesses . . . E. It is the intent of this Act to grant first opportunity and contracting preference to qualified Navajo-owned or Indian-owned businesses for all contracts, subcontracts, grants and subgrants issued by public and private entities within the Navajo Nation.” In the Findings section of this act, the Legislature stated one reason for the law: “Although the Navajo Nation has a population that is approximately 90% Navajo, approximately 76% of the contracts by the Navajo Nation between the years 1994 and 2003 were awarded to non-Navajos”

tribal revenues, or casino revenues for example, on private businesses owned by tribal citizens or other Indians. These kinds of statutory mandates and actions would certainly go a long way towards encouraging and supporting the creation, and operation and expansion, of more privately owned businesses on reservations and assisting in creating real reservation economies.

Tribal governments can also greatly assist the development of Indian-owned businesses by creating an environment that assists reservation residents to start businesses.¹² Tribal nations can work to remedy some of the reasons for the abysmal rate of private business ownership among Indians. For example, the vast majority of privately-owned businesses in the United States are started using family savings, bank loans, or by borrowing money against home equity.¹³ But most American Indians lack access to these avenues due to historic poverty and unemployment rates, and rarely have home equity due to a nearly non-existent private housing market on most reservations. Consequently, seed money provided by tribal, private, state, and federal loan funds is crucial to alleviate this funding problem.¹⁴ Several Indian nations are well aware of this situation and offer tribal citizens business start-up loans.¹⁵

Reservations also rarely have role models of successful business owners from which others can learn, and on-reservation businesses where young people can get their first jobs and learn about work and business management. Tribal economic development departments can help address this situation by operating mentoring and training programs to develop entrepreneurs and to help them start businesses. A few organizations already provide this training for individual Indians. In 1992, for example, four tribes created the Oregon Native American Business and Entrepreneurial Network (Onaben) to train individual Indians to draft business plans, acquire financing, and to operate their own business.¹⁶ In 2000, the Four Bands Community Fund, a Native community development financial institution (CDFI) that focuses on entrepreneurship and financial literacy, was created on the Cheyenne River Sioux Indian Reservation and has had a significant beneficial

¹² WHAT CAN TRIBES DO? STRATEGIES AND INSTITUTIONS IN AMERICAN INDIAN ECONOMIC DEVELOPMENT 28-30, 227, 235, 237 (Stephen Cornell & Joseph P. Kalt eds., 1992); THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT, THE STATE OF THE NATIVE NATIONS 121-23, 125-30 (2008); David D. Haddock & Robert J. Miller, *Can a Sovereign Protect Investors From Itself: Tribal Institutions to Spur Reservation Investment*, 8 J. SMALL & EMERGING BUS. L. 173, 201-11 (2004); Miller, *Economic Development*, *supra* note 1, at 842-48; SAMUELSON & NORDHAUS, *supra* note 6, at 699, 704 (a key task of development is fostering “an entrepreneurial spirit.”).

¹³ Miller, *Economic Development*, *supra* note 1, at 841.

¹⁴ *Id.* at 841-42, 848-52.

¹⁵ *Id.* at 842.

¹⁶ <http://onaben.org>; RESERVATION “CAPITALISM”, *supra* note 1, at 128-29, 151-54.

impact on that reservation.¹⁷ And the Lakota Funds was created as the first native CDFI in 1986 on the Pine Ridge Reservation and has played a major role in assisting economic development on that reservation.¹⁸

As mentioned above, tribal governments also need to provide the laws, regulations, and independent court systems that will assist and protect business and property rights. No one will locate a business and risk their time and money on a reservation where the odds against being successful are too great. Indian nations must make reservations fair and reasonable locations for businesses to locate if they expect to attract private investment and build economies.

In conclusion, American Indian governments must do everything they can to develop the entrepreneurial spirit in reservation residents and to ensure that more businesses are located in Indian country. Such businesses will provide jobs and economic activity that will stimulate the development of even more businesses, more jobs, and more economic activity. Then, when there are a sufficient number of tribally and privately-owned businesses operating on a reservation, a functioning economy will develop from the effects of money circulating and re-circulating between reservation consumers and businesses and employees. This is a laudable goal because a functioning economy will make native communities and reservations more sustainable, healthy, and viable when Indian families are able to acquire living wage jobs, adequate housing, and the necessary infrastructure of life on their own reservations.

¹⁷ <http://fourbands.org/about.htm>.

¹⁸ <http://lakotafunds.org/> (Lakota Funds has disbursed over 900 loans since then, \$7.2 million, that helped create 1,415 jobs and nearly 500 businesses on or near the reservation, and provided training to over 1,600 artists and over 4,300 aspiring entrepreneurs).