No. 25-382

IN THE

Supreme Court of the United States

ALICIA STROBLE, *Petitioner*,

v.

OKLAHOMA TAX COMMISSION, *Respondent*.

On Petition for a Writ of Certiorari to the Supreme Court of Oklahoma

AMICUS CURIAE BRIEF BY THE CHEROKEE NATION, CHICKASAW NATION, AND CHOCTAW NATION OF OKLAHOMA IN SUPPORT OF PETITIONER

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INTEREST OF AMICI[1]

Amici Cherokee Nation, Chickasaw Nation, and Choctaw Nation of Oklahoma (collectively, "*Amici* Nations" or "Nations"), are federally-recognized Indian tribes, 89 Fed. Reg. 99,899, 99, 901 (Dec. 11, 2024), each governing a Reservation set aside by Treaty. The Cherokee Nation Reservation was established by the Treaty of New Echota, Dec. 29, 1835, 7 Stat. 478 ("1835 Treaty"), its boundaries were modified by the Treaty with the Cherokee, July 19, 1866, 14 Stat. 799 ("1866 Cherokee Treaty"),[2] and by the Act of March 3, 1893, and the Cherokee Nation Reservation continues to exist. *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 632-34 (2022) (citing *State ex rel. Matloff v. Wallace*, 2021 OK CR 21, ¶ 15, 497 P.3d 686, 689); *Spears v. State*, 2021 OK CR 7, ¶ 8, 14-15, 485 P.3d 873, 875-77; *Hogner v. State*, 2021 OK CR 4, ¶¶ 9-11, 17-18, 500 P.3d 629, 631-35. The Choctaw Reservation was established by the Treaty of Dancing Rabbit Creek, art. 2, Sep. 27, 1830, 7 Stat. 333, ("1830 Treaty"), and the Chickasaw Reservation was established by the 1837 Treaty of Doaksville, art. 1, Jan. 17, 1837, 11 Stat. 573 ("1837

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[1] Pursuant to Rule 37.6, *Amici* Nations certify that no counsel for a party authored this brief in whole or in part, and no one other than the *Amici* Nations made a monetary contribution to fund preparation or submission of this brief. Pursuant to Rule 37.2(a), counsel of record for the parties received notice of the *Amici* Nations' intention of filing this brief more than ten days before the date for filing.

[2] The 1866 Cherokee Treaty authorized the United States to "settle friendly Indians in any part of the Cherokee country west of 96 [degrees]" (these are the lands referred to as the "perpetual outlet west" in Article 2 of the 1835 Treaty, and are known as the Cherokee Outlet). Art. 16. The cession of the Cherokee Outlet lands was finalized in the Act of March 3, 1893, ch. 209, § 10, 27 Stat. 612, 640-43.

Treaty"), which also secured to the Chickasaw Nation "all the rights and privileges" of the Choctaw Nation under the 1830 Treaty, *id.*; *Okla. Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 465 n.15 (1995) (recognizing that Article 1 of the 1837 Treaty applied the 1830 Treaty to the Chickasaw Nation). The boundaries of the Choctaw and Chickasaw Reservations were modified by the 1855 Treaty with the Choctaw and Chickasaw, arts. 1-3, June 22, 1855, 11 Stat. 611, and the lands they held in common west of 98 degrees longitude were ceded by the 1866 Treaty with the Choctaw and Chickasaw, art. 3, Apr. 28, 1866, 14 Stat. 769. Both the Chickasaw and Choctaw Reservations continue to exist. *Castro-Huerta*, 597 U.S. at 632-34 (citing *Matloff*, 2021 OK CR 21, ¶ 15, 497 P.3d at 689); *Bosse v. State*, 2021 OK CR 30, ¶¶ 7-9, 12, 499 P.3d 771, 774 (Chickasaw); *Sizemore v. State*, 2021 OK CR 6, ¶¶ 8, 14-15, 485 P.3d 867, 869-71 (Choctaw). Under federal law, all land within the boundaries of the Cherokee, Chickasaw, and Choctaw Nations' Reservations is Indian country, 18 U.S.C. § 1151(a) (defining Indian country to include "all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation").

The decision below denies effect to the fundamental rule that "a State [i]s without jurisdiction to subject a tribal member living on the reservation, and whose income derived from reservation sources, to a state income tax absent an express authorization from Congress," *Okla. Tax Comm'n v. Sac & Fox Nation*, 508 U.S. 114, 123 (1993). It does so by refusing to recognize the continuing existence of the Creek Reservation, notwithstanding this Court's ruling in *McGirt v. Oklahoma*, 591 U.S. 894 (2020), doing just that.

Petitioner is a member of the Muscogee (Creek) Nation, works for her tribe on the Creek Reservation, lives on fee land within the Creek Reservation, and relied on *McGirt* to assert that "all land within the boundaries of the Creek Reservation, including private fee lands, are 'Indian country.'" *Stroble v. Okla. Tax Comm'n* (*In re Stroble*), 2025 OK 48, ¶ 8 (per curiam). But the court below denied her claim of tax immunity, ruling that this Court "expressly limited *McGirt* to the narrow issue of criminal jurisdiction under the Major Crimes Act." *Id.* ¶ 10; *id.* ("While *McGirt* expanded the popular understanding of the extent of 'Indian country' in Oklahoma under the Major Crimes Act, it stopped there.") (citing *In re Guardianship of K.D.B.*, 2025 OK 10, ¶ 14, 564 P.3d 83, 90). Indeed, the court went even further, holding that "we cannot" "extend *McGirt* to … find the State is without jurisdiction to tax the income of a tribal member living and working on the tribe's reservation." *Id.* ¶ 9. This was error, twice over.

McGirt held that under the Treaty with Creeks and Seminoles, Arts. IV, XV, Aug. 7, 1856, 11 Stat. 700, "the Creek were promised not only a 'permanent home' that would be 'forever set apart'; they were also assured a right to self-government on lands that would lie outside both the legal jurisdiction and geographic boundaries of any State," and that "[u]nder any definition, this was a reservation," *McGirt*, 591 U.S. at 902. The Court also made clear that 18 U.S.C. § 1151(a) "expressly contemplates private land ownership within reservation boundaries." *McGirt*, 591 U.S. at 906. By construing *McGirt*'s holding on these issues to only apply to a single statute, the decision below deprives the Nations—and potentially Tribal nations through the United States—of their ability to rely on this Court's decisions to guide their pursuit of self-government on their

Reservations and to protect the Nations' and their members' immunity from state taxation. And that serves no one's interests, as the Nations' pursuit of self-government and self-sufficiency presently provides substantial economic benefits to the State. In addition, the Nations' across-the-board expansion of the capabilities of their criminal justice systems after their Reservations were held to continue to exist protects public safety for all Oklahomans. *See infra* at 9-13, 15-16. In sum, the petition for a writ of certiorari should be granted because the decision below threatens core principles of federal law relied on by Indian tribes nationwide, unsettles the Nations' sovereignty, and puts their productive relationship with the State at risk.

SUMMARY OF ARGUMENT

Review of the decision below is necessary to reaffirm, once again, that the *per se* rule barring state taxation of Indians who live and work on their own reservation applies in Oklahoma. That rule is important nationwide because if States had the power to tax Indians living and working on their own reservations, it would negate an essential element of Indian Tribes' right of self-government, namely their right to pursue self-determination and to develop the reservation economy by making their own decisions, free from state interference. Review of the decision below is also critically important because that decision ignores the *per se* rule by denying effect to this Court's decision in *McGirt* upholding the continuing existence of the Creek Reservation. That makes review especially important in Oklahoma, in which the *McGirt* decision has provided the rule of law under which the continuing existence of the *Amici* Nations' Reservations have been upheld. Finally, review is necessary because Indian tribes in Oklahoma will otherwise be denied

the protection of federal law for rights they hold under federal law. That is already occurring, as the State now claims the right—relying on the decision below—to apply its fish and wildlife laws to Indians hunting and fishing on Indian reservations.

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW VIRTUALLY IGNORES DECISIONS OF THIS COURT THAT DECIDED THE QUESTION PRESENTED AGAINST THE STATE.

In *Sac & Fox*, this Court reaffirmed that "[i]n *McClanahan v. Ariz. State Tax Comm'n*, 411 U.S. 164 (1973), [the Court] held that a State [i]s without jurisdiction to subject a tribal member living on the reservation, and whose income derived from reservation sources, to a state income tax absent an express authorization from Congress," 508 U.S. at 123.[3] In so holding, the *Sac & Fox* Court reaffirmed that Indians who live and earn their income in Indian country, as defined by 18 U.S.C. § 1151, are immune from the state income tax—ruling that "a tribal member need not live on a formal reservation … ; it is enough that the member live in 'Indian country[,]'" which "Congress has defined … broadly to include formal and informal

[3] The holding of *McClanahan* became the basis of the *per se* rule barring state taxation of Indians on Indian reservations. *See County of Yakima v. Confederated Tribes & Bands*, 502 U.S. 251, 258 (1992) ("[a]bsent cession of jurisdiction or other federal statutes permitting it, … a State is without power to tax reservation lands and reservation Indians." (quoting *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148 (1973)); *id.* at 267 ("[A]s the Court observed recently in *California v. Cabazon Band of Mission Indians*, [480 U.S. 202, 215 n.17 (1987)], we have traditionally followed 'a *per se* rule' '[i]n the special area of state taxation of Indian tribes and tribal members.'") (alteration in original).

reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States. *Id.* at 123 (citing 18 U.S.C. § 1151).[4] *Sac & Fox* and *McClanahan* provide the rule of law that is decisive here. Yet the decision below failed to even acknowledge these decisions. Review is necessary to correct that error.

There is another error, equally egregious, in the decision below. The Oklahoma Supreme Court's decision confines *McGirt*'s recognition of the continuing existence of the Creek Reservation to the application of the Major Crimes Act. 2025 OK 48, ¶ 10 (holding that this Court "expressly limited *McGirt* to the narrow issue of criminal jurisdiction under the Major Crimes Act."). That holding turns *McGirt* upside down. As the Court explained in *McGirt*, "[t]he key question" was "[d]id [Mr. McGirt] commit his crimes in Indian country," which "[a] neighboring provision of the MCA defines … to include, among other things, 'all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation.'" 591 U.S. at 898-99 (citing 18 U.S.C. § 1151(a)). Addressing that issue, the Court held "Congress established a reservation for the Creek," *id.* at 899-900, and that the Creek Reservation continues to exist. *Id.* at 902-24. As for the Major Crimes Act, 18 U.S.C.

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[4] Two years later, in *Oklahoma Tax Commission v. Chickasaw Nation*, 515 U.S. 450 (1995), the Court reaffirmed that "'Indian country,' as that Congress comprehends that term, see 18 U.S.C. § 1151, includes 'formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States.'" *Id.* at 452-53 & n.2 (quoting *Sac & Fox*, 508 U.S. at 123).

§ 1153, the Court held it applies only to certain crimes committed within Indian country by Indian defendants, *id.* at 898, and concluded that "the [Major Crimes Act] applies to Oklahoma according to its usual terms: Only the federal government, not the State, may prosecute Indians for major crimes committed in Indian country." *Id.* at 932. The decision below erred by failing to recognize that the statute defining Indian country to include private fee land, 18 U.S.C. § 1151(a), and this Court's *per se* rule barring state taxation of reservation Indians, also apply to Oklahoma on their usual terms.

Nor can a state court avoid the *per se* rule defining the tax immunity of an Indian who lives and works on her reservation by defining it as "present[ing] a purely legal question of [state] statutory interpretation." 2025 OK 48, ¶ 5. "The [Oklahoma Tax] Commission [("OTC")] concluded that Stroble's residence was not located within a formal reservation, because the land was neither owned by the Tribe nor held in trust for the Tribe by the federal government nor subject to any restrictions. Rather, Stroble lived on unrestricted, non-trust, private fee land." *Id.* ¶ 7. That holding is error because federal law makes clear that all land within the boundaries of an Indian reservation, whether held in trust or fee, is Indian country. *See* 18 U.S.C. § 1151(a); *McGirt*, 591 U.S. at 906. The OTC has no power to rewrite the definition of "Indian country" by defining "formal reservation" to mean only land owned by the Tribe, held in trust for the Tribe by the federal government, or subject to restrictions. *See* 2025 OK 48, ¶ 7. As this Court held in *Sac & Fox*, rejecting a like argument made by the same litigant as in this case, Oklahoma may not avoid precedent barring application of state personal property taxes to Indians living on a

reservation by "avoiding the name 'personal property tax' here anymore than Washington could in [*Washington v. Confederated Tribes of Colville Reservation*, 447 U.S. 134 (1980)]." 508 U.S. at 127-28; *see id.* at 127 ("In *Colville*, we rejected Washington's distinction of [*Moe v. Salish & Kootenai Tribes*, 425 U.S. 463 (1976)] because the only difference between the Washington taxes and the Montana taxes was their names. We did 'not think *Moe* and *McClanahan* c[ould] be this easily circumvented.'") (quoting *Colville*, 447 U.S. at 163) (alteration by the *Sac & Fox* Court). Here, Oklahoma may not avoid the force of *Sac & Fox* as precedent by redefining, as a matter of state law, the term "formal reservation" to exclude privately held land within reservation boundaries.

The decision below presents an acute need for review by this Court to correct these errors.

II. THE QUESTION PRESENTED IS EXCEPTIONALLY IMPORTANT NATIONWIDE AND TO THE RULE OF LAW IN OKLAHOMA.

A. The Protection Of Indians From State Income Taxation Under The *Per Se* Rule Has Nationwide Importance.

The *per se* rule barring state taxation of the income of Indians who live and work on their reservation is important to Indian tribes nationwide because it is an essential element of their right of self-government. As this Court explained in *McClanahan*, the taxation of Indians who live and work on their own reservation is "totally within the sphere which the relevant Treaties and statutes leave for the Federal Government and the Indians themselves." 411 U.S. at 179-80. Allowing state taxation of such income would put the fate of

tribal self-government in the hands of the State, as "the power to tax involves the power to destroy," *County of Yakima*, 502 U.S. at 258 (quoting *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 431 (1819)). If States had that power, they could convert the economic activity of reservation Indians to state tax revenue—collected at a rate and on the subjects the State decided upon—without regard for the rights of Indian tribes. And that would virtually negate "the right of reservation Indians to make their own laws and be ruled by them." *Williams v. Lee*, 358 U.S. 217, 220 (1959); *see also Fisher v. Dist. Ct.*, 424 U.S. 382, 386 (1976) (per curiam); *McClanahan*, 411 U.S. at 181.

The rule established by *McClanahan* instead leaves it up to each tribe to determine for itself, free from state interference, whether to tax the income its members earn on their own reservation. The right to make that decision is the essence of self-government. For the Nations, the hardships their members endured for generations, which the Nations' exercise of self-government has only recently begin to ameliorate, provides one reason not to impose an income tax on Indians who live and work on their Reservation at this time.

In the early-to mid-20th century, the Nations' economic plight was so severe that it was specially noted by a survey commissioned by the Department of the Interior to evaluate the condition of Indians. *See* Lewis Meriam, et al., *The Problem of Indian Administration* (1928), bit.ly/47NlKIr ("Meriam Report"). The report identified the "many indigent of the Five Civilized Tribes of Oklahoma" who were "in a forlorn condition, neglected both by the national government and by the state." Meriam Report at 488. The researcher and historian Angie Debo reported that, around this time, people in traditional Indian communities "were found to be

actually starving, in a few extreme cases even starving to death." Angie Debo, *The Five Civilized Tribes of Oklahoma: Report on Social and Economic Conditions* 3 (1951), http://bit.ly/4qyNNTg. Although the lands of the Reservations had been allotted to individuals, by the mid-20th century the land that remained in Indian ownership was of low quality, and as restrictions on land alienation were being lifted, the amount of land available to new generations of Indians was shrinking dramatically. *Id.* at 5-6. The result was poverty of staggering dimensions and attendant social effects, *see id.* at 24 (describing rates of tuberculosis deaths six times higher among Indians than whites, and an infant mortality rate nearly twice as high among Indians as whites), that were only being alleviated in small part by federal programs like farm loans or the acquisition of small tracts of land in trust by the federal government. *See id.* at 9-19. The Meriam Report suggested that "[r]elief should be provided for these people as a part of an educational program in which both the nation and the state should have a part." Meriam Report at 488.

In fact, the primary authors of economic relief for Nation members have been the Nations themselves. Indian efforts at self-government were nascent during the mid-20th century and provided reasons for hope. *See* Debo at 32. Since then, pursuant to the self-determination policy, the Nations have developed into economic engines that benefit their members and Oklahoma as a whole. *See* Bill Anoatubby, Governor, Chickasaw Nation, 2025 State of the Nation: A Gathering of Our People (Oct. 4, 2025), http://bit.ly/4oBMb9G (stating that "in 1987, we had 250 employees within the Chickasaw Nation. Now, we have 15,000 … . Nationally, we support more than 35,000 jobs and our economic impact is $8.2 billion."); Crystal Bunezky-

Robertson, *Choctaw Nation Brings More than $3.2 Billion Impact to Oklahoma in 2021*, Durant Democrat (Mar. 20, 2024), http://bit.ly/4odKoru (reporting results of economic impact survey finding that the Choctaw Nation of Oklahoma "provided 20k jobs and $1 billion in wages and benefits paid to Oklahomans in 2021," as well as "$11 million in Oklahoma highways," and "$3.5 million in grants to cities, towns and counties to help support infrastructure upgrades and repairs, sustainability and economic development"); Russell Evans, Econ. Impact Grp., *The Economic Impact of the Cherokee Nation: Fiscal Year 2023* 5-6, http://bit.ly/4oMTJXn ("The Cherokee Nation is among the largest employers in northeastern Oklahoma," employing over 14,500 people, and "directly produces, sales, or buys almost $2.4 billion in goods and services in the regional economy"). The Nations now provide healthcare for millions of patient visits a year, summer food benefits for hundreds of thousands of children, and millions of dollars in programmatic support and direct benefits in education and childcare assistance, workforce training, support for elders, natural disaster response, and cultural preservation.

These investments make a material impact in people's lives. There is, however, more to be done as the Nations' Reservations remain some of the most poverty-stricken parts of the State, with poverty rates well above the national and state averages. *See* Nat'l Inst. on Minority Health & Health Disparities, Nat'l Insts. of Health, *Poverty (Families below poverty) for Oklahoma by County*, http://bit.ly/47vT9Gn (last visited Oct. 29, 2025) (displaying county-wide poverty rates for all races between 2019-23). The Nations' exercise of self-government has been a significant part of the effort to address economic problems on their Reservations. Deciding if, when, and how to impose an

income tax on their own members in light of economic realities on the Reservation is one element of the Nations' right to exercise their powers of self-government to address economic conditions.

In addition, tribal Nations in Oklahoma have well demonstrated that their exercise of self-government to develop their own economies does not just benefit their communities; it benefits the entire State. *See* Kyle D. Dean, *The Economic Impact of Tribal Nations in Oklahoma: Fiscal Year 2023* (2025) ("2023 Report"), http://bit.ly/4nsKP08. The total economic impact of tribes, which has been made possible by the self-determination policy, *see infra* at 15-16, is nearly 140,000 jobs in Oklahoma, $7.8 billion in wages and benefits to Oklahoma workers, and $23.4 billion in the production of goods and services in Oklahoma—the majority of which is attributable to the multiplier effect of tribal employment and spending on non-tribal communities and citizens. *See id.* at 4. And a recent study by the Federal Reserve Bank found "that the state's increase in labor force participation since 2021 has been primarily driven by heightened participation among the Native American population, in both metro and non-metro areas. . . . [T]hese gains have mostly been concentrated at schools, hospitals, and government entities." Chase Farha, Fed. Reserve Bank of Kan. City, Oklahoma, Omaha, *Oklahoma's Rising Labor Force Participation Driven Largely by Native Americans* 1 (Oct. 2, 2024), http://bit.ly/49sb5UN. "Native American and tribal government employment have grown much faster than total state employment since 2015 … . From 2015 to 2019, tribal government employment and overall Native American employment in Oklahoma increased by around 20% even as total state employment levels stayed mostly flat." *Id.* at 3 (citing Chart 5, *id.* at 6). "Native Americans' job gains in

Oklahoma since 2021 have" included "a substantial number of jobs in three government sub-industries: *administration of human resources* (6,800 jobs), *national security and international affairs* (6,700 jobs), and *justice, public order, and safety* (3,700 jobs)." *Id.* (footnote omitted) (emphasis in original).

The desire to recruit and retain tribal members as reservation residents to build the reservation economy provides another reason not to apply income tax to tribal members who earn income on the reservation. And any threat of double-taxation of tribal members "would discourage economic growth." *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 811 (2014) (Sotomayor, J., concurring) (citing, *inter alia*, Enterprise Zones, Hearings Before the Subcommittee on Select Revenue Measures of the House Committee on Ways and Means, 102d Cong., 1st Sess., 234 (1991) (statement of Peterson Zah, President, Navajo Nation)). Indeed, there is a healthy debate as to whether changes in state income tax rates help or hurt the economy, *see* Timothy Vermeer, *The Impact of Individual Income Tax Changes On Economic Growth*, Tax Found. (June 14, 2022), http://bit.ly/4nlR1Xv, and eight states "levy no income tax at all," Andrey Yushkov & Katherine Loughead, *State Individual Income Tax Rates and Brackets, 2025*, Tax Found. (Feb. 18, 2025) http://bit.ly/4319bGR. If, instead, States could tax the income of Indians who live and work on their own reservation there would be, as a practical matter, nothing left for the Tribe to decide.

The *per se* rule is equally important to protect the federal rights of individual Indians. As this Court held in *McClanahan*, "appellant's rights as a reservation Indian were violated when the state collected a tax from her which it had no jurisdiction to impose." 411 U.S. at 181. And the simplicity of the *per se* rule makes

it easy to apply for both the individual Indian and state tax administrators, as an individual's residence and place of employment are readily available and easily verifiable.

B. Circumstances In Oklahoma Make This Court's Review Of The Question Presented Critically Important.

The decision below has already had a catastrophic effect on the federal rights of Indian tribes in Oklahoma. On October 8, 2025, the Oklahoma Department of Wildlife Conservation ("ODWC") announced its position that "state fish and wildlife laws apply to everyone in Oklahoma" and that its game wardens would "issue citations to anyone in violation of the state's fish and game laws, regardless of tribal citizenship. *ODWC Reaffirms Enforcement of Oklahoma's Wildlife Laws*, Okla. Dep't of Wildlife Conservation (Oct. 8, 2025), http://bit.ly/3WtI0kf. The asserted basis of this position was that "[t]he Stroble v. Oklahoma Tax Commission case … has provided clear legal confirmation that McGirt is limited to prosecuting crimes under the federal Major Crimes Act only." *Id.* Since the Major Crimes Act does not include wildlife offenses, *see* 18 U.S.C. § 1153, this interpretation of *Stroble* and the ODWC's announcement makes clear that at least one agency of the State will now rely on *Stroble* to exercise jurisdiction over all Indians in Indian country throughout the State.

Review of the decision below is thus necessary to enforce the rule of law, as set forth in decisions of this Court, in Oklahoma.

C. Oklahoma's Attack On The Nations' Sovereignty Is Counterproductive.

The State's attacks on the Nations' sovereignty also ignore the major contributions that the Nations' exercise of rights of self-government make to the state economy and to public safety. These contributions are the product of the Nations' exercise of their right of self-government and of the federal government's support of the self-determination policy announced by President Richard Nixon in 1970, *see* Special Message to the Congress on Indian Affairs, 1 Pub. Papers 564 (July 8, 1970), implemented by administrations in subsequent decades, Exec. Order No. 13,175, 65 Fed. Reg. 67,249 (Nov. 9, 2000); Memorandum for the Heads of Executive Departments and Agencies, 2 Pub. Papers 2177 (Sept. 23, 2004), and reaffirmed by President Donald Trump, *see* Message on the 50th Anniversary of the Federal Policy of Indian Self-Determination, 2020 Daily Comp. Pres. Doc. No. 1 (July 8, 2020).

The Nations' exercise of their sovereign rights improves the quality of life on their Reservations while also providing direct economic support to the State, providing jobs for Oklahoma workers, Indian and non-Indian, and reducing demands on state and local governments' budgets through their own expenditures in areas such as the operation of health clinics, funding education, paving roads, and other capital expenditures. *See* 2023 Report at 11-20. We described some of these benefits *supra* at 10-13, but they are felt statewide and can be attributed to all of Oklahoma's tribes. In 2023 alone, Indian tribes in Oklahoma paid the State $208 million in revenue sharing payments from

their gaming enterprises. *Id.* at 20.[5] That year, Indian gaming and related operations employed 24,900 Oklahoma workers who were paid $1.2 billion in wages and benefits. *Id.* at 18. And 64% of those workers were non-Indians, *id.*, who are of course subject to the state income tax. The overall jobs numbers are significantly higher: in 2023, Indian tribes in Oklahoma employed 55,659 Oklahoma workers, who were paid wages and benefits totaling $3.3 billion. *Id.* at 23. The multiplier effects are even greater, *see supra* at 12. All of the non-Indian workers, as well as the Indian workers who do not live and work on their own Tribes' Indian country, are subject to state income tax. In health care, Oklahoma Tribes spent $582 million in 2023, which funded 72 health care facilities, and provided care for 3.6 million patient visits. *Id.* at 15. In education, Oklahoma Tribes spent $133.6 million for tribal education programs and scholarships, and donated $39.3 million to support education programs in Oklahoma communities and universities. *Id.* at 13. And in 2023, Oklahoma Tribes' expenditures on roads projects and other capital expenditures exceeded $827 million. *Id.* at 23.

The Nations have also met the responsibilities imposed on them by the *McGirt* decision though the exercise of their rights of self-government. After the continuing existence of their Reservations was recognized under the rule of law set forth in *McGirt*, *see supra* at 6-7, each Nation became responsible for exercising criminal jurisdiction over all lands within the boundaries of its Reservation, as all such lands are Indian country under federal law, 18 U.S.C. § 1151(a), over which the Nations have criminal jurisdiction. *See*

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[5] Since 2006, when revenue sharing payments began, Oklahoma tribes have paid the State $2.6 billion in such payments. *Id.* at 13.

25 U.S.C. §§ 1301(2). In *McGirt*, "Oklahoma warn[ed] of the burdens federal and tribal courts will experience with a wider jurisdiction and increased caseload," 591 U.S. at 934-35; the Court responded that "for every jurisdictional reaction there seems to be an opposite reaction" and that "while the federal prosecutors might be initially understaffed and Oklahoma prosecutors initially overstaffed, it doesn't take a lot of imagination to see how things could work out in the end," *id*., and it is now clear that the Court was correct.

Each *Amici* Nation met the challenge of implementing *McGirt* by undertaking an immediate and comprehensive expansion of their criminal justice system, by seating additional judges, hiring more prosecutors, establishing public defender offices, increasing the size of their police forces, constructing new facilities, purchasing new equipment, and sponsoring the training necessary to operate an efficient and technologically up-to-standard criminal justice system. The *Amici* Nations have invested over $400 million of appropriations in their justice systems since their Reservations were acknowledged after *McGirt*. To ensure effective law enforcement and criminal prosecution on their Reservations, each *Amici* Nation also expanded its network of cross-deputization agreements with law enforcement entities that operate within its Reservation, under which local and state police officers enforce tribal law against Indians on the Reservation and refer charges to tribal courts and prosecutors for prosecution. The Cherokee Nation has entered into 96 cross-deputization agreements with state agencies and local governments located on the Cherokee Nation Reservation. The Chickasaw Nation has entered into 71 Chickasaw Nation-sister agency commission agreements which authorize non-Chickasaw Nation officers to exercise Chickasaw Nation law

enforcement powers. The Choctaw Nation has entered into 80 cross-deputization agreements with state agencies and local governments. Over the past four years, the *Amici* Nations have collectively cross-deputized over 5,800 officers to enforce tribal law on the Reservations.

These efforts have produced remarkable results. Before the *McGirt* decision, *Amici* Nations' prosecutors collectively filed only a few dozen charges a year. In contrast, since the continuing existence of their Reservations was recognized in accordance with *McGirt*, the Nations have initiated over 50,000 prosecutions for offenses on their Reservations which have resulted in over 28,000 convictions, with tens of thousands of active cases currently progressing through their courts.

The Nations' success in developing their economies—not just for their own benefit, but for the benefit all Oklahomans—and in meeting the challenges of *McGirt* should, but has not, led the State to seek further improvement in the state economy and public safety by working with, not against, the Nations. More fundamentally, the rights that the State is attacking are the same rights from which it benefits substantially. The State is free to make its own litigation choices, but it is not free to disregard this Court's ruling. Review is necessary to make that clear to the State.

CONCLUSION

The petition should be granted.

Respectfully submitted,

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