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Editorial: Sonntag right to urge scrutiny of Indian gas-tax deals

Former state Auditor Brian Sonntag took a deep breath, looked into the charges swirling about the state's Indian gas-tax deals, and it left his head reeling.

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EVER since former Gov. Chris Gregoire negotiated a fuel-tax deal with the state's Native American tribes in 2007, critics have called it a lucrative giveaway to a special-interest group.

Together, tribes have demonstrated growing generosity every campaign season — \$1.6 million during the last state elections — and an eagerness to erect gas stations statewide.

Now, as the state Supreme Court decides whether to accept a direct review of a lawsuit from the state's gas-station operators, the respected former state Auditor Brian Sonntag says he smells something funny.

The 200-member Automotive United Trades Organization persuaded Sonntag to examine the central charges in its lawsuit, for free. His response reads like those blistering performance audits he used to write about state-government mismanagement.

Since 2005, Washington has given tribes \$193 million to settle legal issues created when the U.S. Supreme Court held tribes can't be required to pay state gas taxes — equivalent to 75 percent of taxes generated by fuel sales on tribal trust land.

Trouble is, the state Constitution says gas taxes have to be spent for highway purposes, and the agreements don't allow public audits to determine if money is spent on reservation roads. Though the state calls the payments "refunds," permitted by the Constitution, Sonntag says that isn't proper because the tribes don't pay taxes — they are collected higher up the supply chain, when refiners sell to distributors.

If nothing changes, the state will pay out \$340 million over 10 years. If lawmakers raise taxes a dime, that's another \$91 million, and if tribal sales increase at the current rate, Sonntag estimates impact at \$597 million. That means less money for state road projects and long-term bonds.

A tribal organization, the Tribal Transportation Investment Partnership, calls Sonntag's analysis speculative, and says the issues are better judged by courts. Absolutely right. When Sonntag says something about the gas deal reeks, the state Supreme Court should accept the case immediately.

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