

# TRIBAL SELF-GOVERNMENT AND GAMING POLICY

The Consequences for Indians and Washington State

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## FINDINGS-AT-A-GLANCE

The common misperception that “special” Indian rights allow Washington tribes to perpetrate fiscal and economic harms on their neighbors—for example via gambling enterprises—is not supported by evidence.

Tribes have standing as governments that is based in history, law, and policy not in grants of “special” rights. More importantly, tribal government status is justified by practical success:

- Tribal self-determination results in significant improvements in the efficiency and effectiveness of tribal administration (Figure 5);
- Self-determination has also brought broad improvements in socioeconomic conditions on reservations across the United States, notwithstanding stagnant and inadequate federal funding for tribes (Figure 6, Figure 7, Figure 14);
- Washington tribes are no exception to the national trend of socioeconomic recovery (Figure 15);
- Tribes need steady self-determination policies and the economic development which those policies bring if they are to close the substantial gap that remains between reservations and the wider economy (Figure 15).

Because tribes are governments they are not taxed. But it is not the case that “Indians don’t pay taxes.”

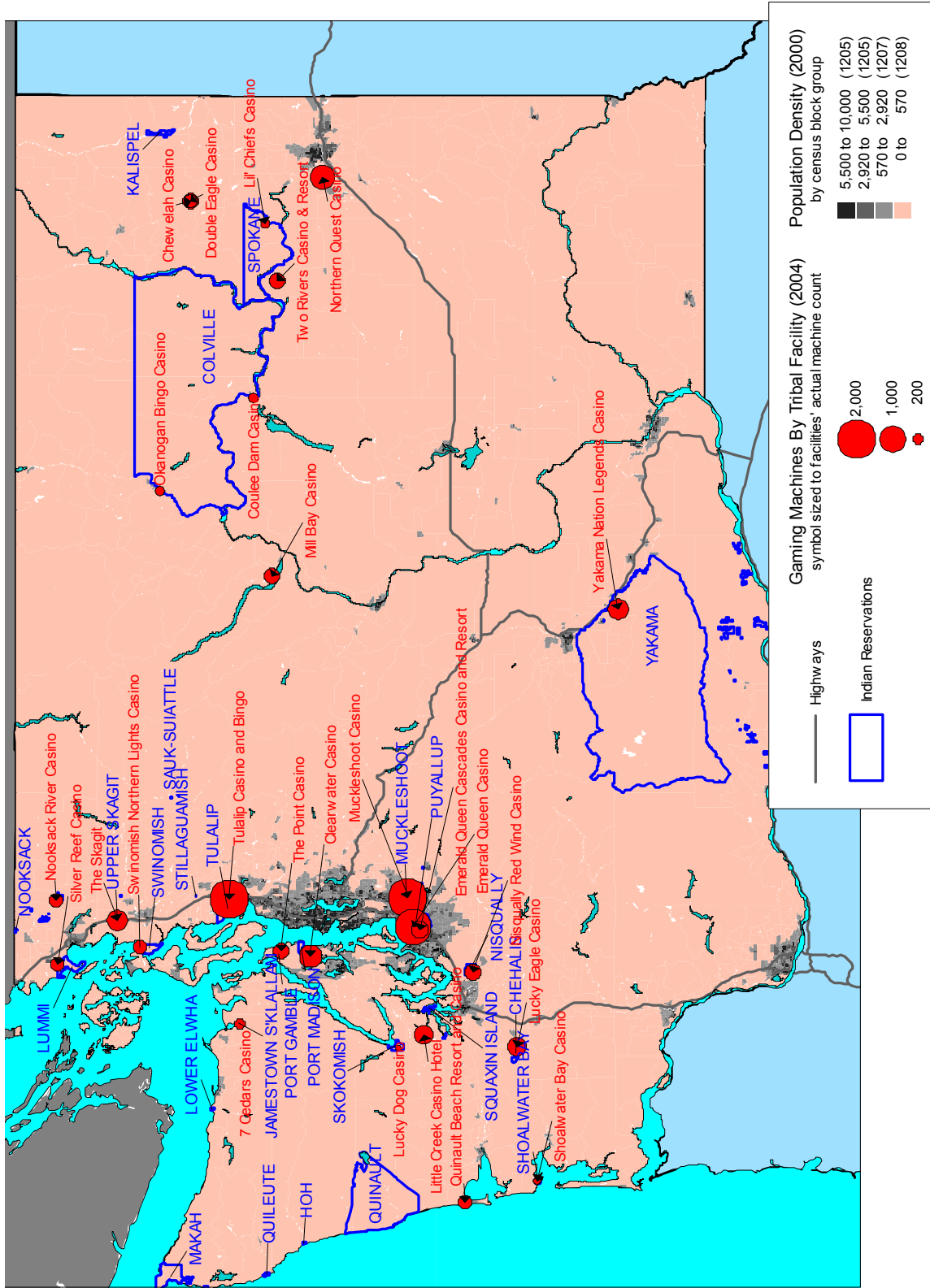
- Indians do in fact pay taxes (on and off the reservations), withhold taxes (\$45 million annually by tribal governments, *at least*), and collect taxes (from their own reservation economies) (Sections IV.A and IV.B).
- Tribes reimburse the State of Washington for Indian gaming regulation, and over the last five fiscal years tribes have paid \$5.9 million—15% in excess of actual costs (Figure 11).
- Tribes make fiscal contributions to local governments and community organizations under jointly derived impact mitigation arrangements. Over the last eight years, officially recorded payments of this kind totaled \$16 million (Figure 18). Actual funds expended exceed this.

Most importantly, because reservation economies cannot be economically isolationist—that is, because they cannot meet all their needs with reservation suppliers—funds spent on Indian reservations quickly cycle back to the off-reservation economy (Figure 20).

- Systematic statistical analysis of statewide data and comparable studies finds no discernible net migration of taxable activity away from the non-Indian economy to Indian casinos (Section IV.D). The advent of Indian casinos is not associated with systematic fiscal harms in the vicinity of reservations.

Indian gaming is and promises to continue to be a properly functioning and beneficial sector of the Washington economy that benefits Washington Indians specifically and Washingtonians more generally.

**Figure 1**  
Washington Tribal Governmental Gaming



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## I. Introduction

Tribes are governments, and contrary to popular misconceptions, tribal self-government is neither a quaint anachronism, nor an affirmative action entitlement, nor the consequence of a federal anti-poverty program. Tribal self-governance on the reservations is practical and necessary. Indian communities need governments to build schools, treat the sick, maintain roads, regulate waste disposal, enforce laws, resolve disputes, manage forests, and encourage economic development (among other things). Tribal governments provide these services on reservations in much the same way that state, county, and municipal governments do for citizens within their jurisdictions. Some attributes of tribal governance raise controversy, but for the most part, tribal government and regulation on the reservations is non-controversial. Tribal governments have presided over reservation life throughout the history of our country, and recognition of tribal sovereignty is rooted in the history and founding of the United States.

Nonetheless, some features of Indian self-government are controversial, especially tribal gambling operations and Indian tax status. This report undertakes a public policy analysis of both issues. It is not strictly an impact analysis, as those studies are generally understood. Rather it is a review of the whys and wherefores of Indian self-government, and the consequences of Indian self-determination for the people of Washington—Indian and non-Indian. In Section II the report describes the foundations and effects of Indian self-determination and the ways in which recognition of Indian self-governing rights is infused through the structure of national, state, and tribal gaming policy. The report next examines the socioeconomic consequences of Indian gaming for both tribes and nearby communities in Section III. In Section IV the analysis turns to the question at the heart of current controversies: Does Indian self-determination create an “uneven playing field” that somehow harms off-reservation economies? The report concludes in Section V that the citizens of Washington should not be alarmed by American Indian economic development—it helps tribes and it perpetrates no discernible fiscal or economic harm on neighboring communities.

## II. The Implications of Tribal Self-Government for Washington Gaming

Indian communities participate in the federal system as governments because they are inherently separate political entities. Tribes were so prior to the founding of the United States, and the laws of the US continue to recognize, support, and even emphasize their sovereign status. More importantly, after a century or more of experimentation in which federal Indian policy re-

peatedly swung from weakening the rights of Indian self-government to strengthening them and then back again, it is now clear that it is economically, fiscally, and socially practical to recognize tribes as governments. Moreover, the fact that Indian gaming takes place under the legal and policy frameworks of tribal self-government has important implications for the consequences of tribal casino development. This section explains why tribes are governments, why it is practical for tribes to be governments, and how tribes operate in conjunction with other governments within the federal system to oversee Indian gaming. The subsequent two sections look specifically at the socioeconomic and fiscal consequences of Indian gaming in Washington.

### A. The Law and Policy of Indian Self-Government

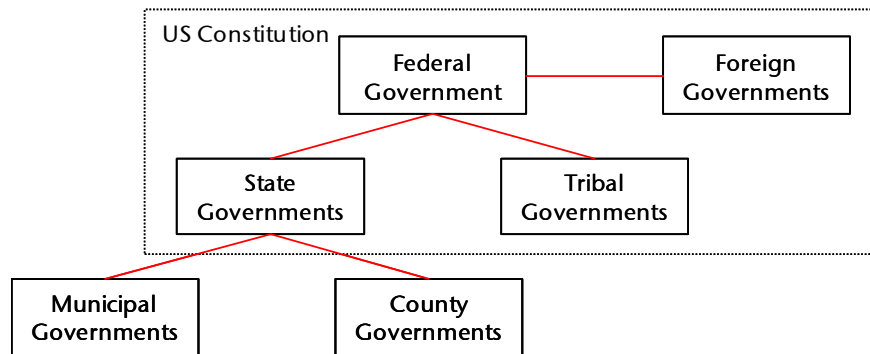
Recognition of Indian self-governing powers began in the diplomatic law of the European powers and became enshrined in the US Constitution and subsequent legal precedents. England recognized aboriginal property rights to the land of the continent and the self-governing powers of the tribes. Accordingly, England and its colonies made treaties with the tribes under the frameworks of international law (American Indian Lawyer Training Program – AILTP 1988, 4). Those treaties, in turn, created the political and geographic space within which the colonies grew. As a result, the United States was not formed just by its Declaration of Independence, Treaty of Paris, and Constitution, but also by its recognition of other treaties—treaties that gave the US its legal and territorial extent while protecting the retained sovereignty and property rights of tribes. Thus, at a fundamental level, the formation of the United States entails continuing obligations of the federal government to the sovereigns it subsumed: i) to the thirteen states; and ii) to the Indian tribes with whom the US had made agreements about warfare, land, and autonomy (Kalt and Singer 2004, 15-16).

The US Constitution acknowledges Tribes as sovereigns. The Supremacy Clause implicitly recognizes the importance of Indian tribes' relationships with the US by declaring treaties to be a part of the “supreme Law of the Land” (Art. VI, Cl. 2). And the Commerce Clause explicitly recognizes “Indian Tribes” in conjunction with two other sovereigns—“foreign Nations” and “the several States” (Art. 1, Sec. 8, Cl. 3) (see Figure 2).<sup>1</sup> And of course, the law and policy of continuing to make Indian treaties after ratification of the Constitution (and later making executive order agreements with tribes) underscores the legal status of tribes as sovereigns.

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<sup>1</sup> Indians are also mentioned explicitly as individual “Indians not taxed” in the enumeration of voters (Art. 1, Sec. 2, Clause 3).

**Figure 2**  
**The US Constitution Explicitly Recognizes Four Sovereigns**



Spilde, *et al.* (2002), 14.

Interpretations of the Constitution have further specified how Indian sovereigns should participate in the federal system, beginning most importantly with Chief Justice Marshall’s “Trilogy.” In *Johnson v. McIntosh* the Supreme Court held that tribes had title to the land that was valid against all third parties to the federal-tribal relationship (21 US 8 Wheat. 543, 1823). In *Cherokee Nation v. Georgia* the Court found that the Cherokee Nation was “a distinct political entity separated from others, capable of managing its own affairs and governing itself,” and distinct from foreign nations as a “domestic dependent nation” (30 US 5 Pet. 1, 1831). And in *Worcester v. Georgia* the Court held that the laws of the states have no force within the boundaries of an Indian nation (31 US 6 Pet. 515, 1832). Subsequent adjudication has adjusted the contours of these principles over the years, yet the Marshall Trilogy remains the foundation of separate Indian governmental jurisdiction within the federal system (Canby 1998, 13-17).

On this legal foundation, the executive and legislative branches have experimented with various policies to address pernicious and persistent poverty among Indians (and to serve opportunistic interests as well).<sup>2</sup> Widely described as a swinging pendulum, federal Indian policy has alternated between policies that intend to assimilate Indians and dissolve tribes on the one hand and policies that support Indian self-government on the other (see Figure 3). At the start of each new era, a consensus formed that the prior era’s policies

<sup>2</sup> See, e.g., Carlson (1981) on the confluence of reformer and opportunist interests in the passage of the Dawes (or Allotment) Act of 1887, “one of the largest real estate transfers in history” (18).

were, “a disaster...wrought upon the Indians,”<sup>3</sup> a “retardation” of Indian progress,<sup>4</sup> or “wrong” and “clearly harmful,”<sup>5</sup> and a new experiment would begin.

**Figure 3**  
**Federal Indian Policy has Vacillated in the Twentieth Century**

<b>Era</b>	<b>Signature Policies</b>	<b>Emphasis</b>
<b>Allotment</b> 1887-1928	US control of reservations Allotment of reservation lands Forced assimilation	Guardianship & Assimilation
<b>Reorganization</b> 1928-1953	Constitutions for Indian governments Federal charters for tribal corporations Protection for tribal landholdings	Self- government
<b>Termination</b> 1953-1970	Tribal dissolution & asset sales Transfers of criminal jurisdiction to states Forced relocation to urban areas	Assimilation
<b>Self-Determination</b> 1970-present	Block grants for tribal self-administration Treatment of tribes as states Government-to-government relations	Self- government

Dates are approximate  
ALTP (1988), 8-15; Cornell (1988), 14; Wilkins (2002), 105.

Notwithstanding the variety of approaches, this experimentation did not bring economic vitality to Indian communities. Historically, Indians were at the bottom of the social spectrum (Snipp 1991, 2), and by the close of the Termination Era around 1970 they remained so. Indians on reservations were the poorest identifiable group in the US (Kalt & Singer 2004, 38). They had incomes per capita that were one-third the US level and 57% of families were living in poverty—nearly six times the US rate of 10.7% (see discussion at Figure 6, below).

Since 1970, however, the pendulum has swung toward concrete powers of self-determination. Federal elected leaders have made explicit (and binding) commitments to Indian self-determination. Broadly, these bipartisan commitments have entailed recognition of tribal self-governing rights, respect for tribal property rights (especially for those held in trust by the US government), devolution of authority to tribes, and formalization of the government-to-government relationship (see Figure 4). The bipartisan consensus

<sup>3</sup> Commissioner of Indian Affairs John Collier on the Dawes Act, as cited in Carlson (18).

<sup>4</sup> The post-war view of the Indian Reorganization Act policies of the 1930s (Wilkins, 114).

<sup>5</sup> Richard Nixon commenting on termination policy in 1970 (Nixon).

around these principles has been further bolstered by commitments in both parties' recent platforms (Republican Party 2000, 2004 and Democratic Party 2000, 2004).

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**Figure 4**

**Bipartisan Presidential Support of Tribal Self-Determination has Included...**

- Advancing *self-determination among the Indian people* (Nixon 1970).
- Extending *the right to control and operate federal programs* (Nixon 1970).
- Ensuring *that self-determination principles... guide Indian policy* (Carter 1979).
- Restoring *responsibilities and resources...to the governments which are closest to the people served...not only state and local governments but also... Indian tribes* (Reagan 1983).
- Fulfilling *the federal trust responsibility for the physical and financial resources [the US holds] in trust for the tribes and their members* (Reagan 1983).
- *Acknowledging and reaffirming the...durability of our unique government-to-government relationship* (Bush, G. H. W. 1991).
- Requiring agencies to operate *within a government-to-government relationship with federally recognized Native American tribes* (Clinton 1994).
- Consulting *with tribal officials [regarding] the prerogatives and authority of Indian tribes* (Clinton 2000).
- Requiring that *agencies...honor tribal treaty and other rights* (Clinton 2000).
- Ensuring that *each executive...agency's working relationship with...tribal governments fully respects the rights of self-government and self-determination* (Bush, G. W. 2004).

Quoted material is italicized.

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Of course, political pronouncements are not an indicator of policy action, and concrete tests of the federal government's commitments to Indian sovereignty and rights continue to demonstrate mediocre or incompetent federal implementation. Perhaps the most salient example is the government's failure to account for billions of dollar's worth of Indian property it has a fiduciary trust duty to protect.<sup>6</sup> Nonetheless, beginning in the Nixon administration, substantial changes in federal law and policy have translated many of the above pledges into tangible increases in the governing power of tribes. Tribes now have the ability to be contractors of the federal programs that operate on and around their reservations. They can take over federal management of everything from regional Indian health clinics to off-reservation endangered species. Tribes may also choose to negotiate an intergovernmental compact that transfers responsibility for multiple programs within an agency to the tribe in

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<sup>6</sup> See, e.g., *Eloise Pepion Cobell, et al. v. Gale Norton et al.*, US District Court for the District of Columbia, 96CV01285.

the fashion of block grants to the states.<sup>7</sup> And like the states, tribes administer the block-grant funds with substantial flexibility and creativity. Tribes are able to establish specific agencies to replace federal and federal-state structures of program administration.<sup>8</sup> Tribes may take on the status of state regulators,<sup>9</sup> and federal agencies are increasingly required to operate under specified rules requiring government-to-government consultation, federal recognition of self-governance and treaty rights, and federal protection of trust assets—even outside the Indian-focused Bureau of Indian Affairs (BIA) and Indian Health Service (IHS).<sup>10</sup>

These and other policies<sup>11</sup> buttress the position of tribes among the other sovereigns in the federal system. Yet the tribal position in the system is in flux, and not always operating to the satisfaction of Indian governments or their citizens. Tribes worry whether their powers and property rights are robust enough to be effective now and in the future. They are also concerned about outside encroachments on everything from cultural integrity (through non-Indian adoption and grave-robbing) to economic vitality (via regulatory uncertainty about gaming). Nonetheless, setting aside the inherent frictions between governments under federalism and the substantial Indian-specific complications to federalism arising from the vulnerability of Indian rights, the last three decades have seen unprecedented strengthening of tribal governing effectiveness.

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<sup>7</sup> Under *The Indian Self-Determination and Educational Assistance Act of 1975*, 25 USC §450a(c) and subsequent amendments.

<sup>8</sup> Under *The Native American Housing Assistance and Self-Determination Act of 1996* (25 USC §4101) many tribes have created their own tribally designated housing entities (TDHEs) which administer federal housing programs in lieu of federally structured Housing and Urban Development (HUD) programs and processes. Tribes have also opted to self-manage welfare—Temporary Assistance to Needy Families (TANF)—per the provisions of *The Personal Work Opportunity Reconciliation Act of 1996* (8 USC §1621) rather than accepting the administration of benefits under a state TANF programs.

<sup>9</sup> For example, the Clean Water, Safe Drinking Water, and Clean Air Acts explicitly allow the Environmental Protection Agency (EPA) to give Indian governments “tribes-as-states status” (TAS) for certain types of grant awards and for program authorization (EPA 2004).

<sup>10</sup> For example, the Secretaries of the Departments of Interior and Commerce jointly promulgated a secretarial order on the Endangered Species Act (ESA) to ensure that federal line managers responsible for the ESA operate in accord with laws and precepts of Indian self-government and federal trust obligations (US Departments of Interior & Commerce 1997). In addition, the EPA has been operating since 1984 under an Indian policy that calls on line managers to: i) work on a government-to-government basis with tribes; ii) assist tribes in assuming regulatory and programmatic responsibility; and iii) protect Indian trust assets (Whitman, 2001).

<sup>11</sup> E.g., *The Indian Health Care Improvement Act of 1976* (25 USC §1601); *The Indian Financing Act of 1974* (25 USC §145); and *The Indian Gaming Regulatory Act* (25 USC §2701).

Not only are tribes governments by historic right and law, they are increasingly effective governments as a result of their own initiative. Today, tribal governments: build houses, pave roads, mobilize emergency services, heal the sick, feed the elderly, restore habitats, discount prescription drugs, place foster children, police drug traffickers, monitor water pollution, and operate malls. Tribes compact with each other, the federal government, and the states to tax gasoline sales, provide healthcare, manage endangered species, and regulate casinos.

Many of Indian governments operate with such creativity and effectiveness that they are ranked with the top governments in the country. The Cangleska Domestic Violence Program (Oglala Sioux Tribe, SD), the Inupiat Ilitqusiak Traditional Values program (Maniilaq Association, AK), and Ho-Chunk, Inc. (Winnebago Tribe, NE) are among the top government programs chosen annually for the Innovations in American Government Awards (Ash Institute). More importantly, non-Indian governments increasingly emulate Indian governments. Minnesota's foster care agency studied and emulated the Fond du Lac Foster Care Program. Non-Indian courts regularly turn to the Navajo Judicial Branch's Peacemaker Division as a model for restorative justice and alternative dispute resolution. Non-tribal wildlife managers regularly study the White Mountain Apache Tribe's Wildlife and Outdoor Recreation Program for its success in recovering the endangered Apache Trout.<sup>12</sup> This is not to say that Indian governments are all equally effective—that could not be said of any class of governments: municipal, county, state, or national. However, understanding that there is variation across Indian governments as they strive to unwind the legacy of federal and state meddling in their institutions,<sup>13</sup> it is fair to observe that Indian governments have never been as robust as they are now.

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<sup>12</sup> Sixty-four examples of effective assertions of Indian self-determination (including the three mentioned here) can be found at the website for Honoring Contributions in the Governance of American Indian Nations, an awards program for excellence in tribal government: [www.ksg.harvard.edu/hpaied/hn\\_main.htm](http://www.ksg.harvard.edu/hpaied/hn_main.htm). See also, Honoring Nations (1999, 2000, 2002, and 2004).

<sup>13</sup> A case in point: it appears that the boilerplate constitution distributed by the BIA for tribes to consider adopting under the Indian Reorganization Act of 1934 was modeled on the by-laws of a social club (Kalt and Cornell, 1997a, 13). Notwithstanding the organizational merits of social clubs, they have no need of courts to resolve disputes, no need of separation of powers, and no relevant other features of a *society* (e.g., political sub-districts, citizen-voters, public administration). Unfortunately, the legacy of this boilerplate document has been and continues to be a great deal of operational difficulty and challenges to collective action on community problems (Cornell and Kalt 1997a, 1997b, 2000).

## B. The Socioeconomic Benefits of Indian Self-Government

Does it matter in a practical sense that tribal governments are more robust than ever? A growing number of studies show that self-determination is associated with improvements in program outcomes. As Indian governments regain authority from non-Indian interests—be they federal bureaucrats or opportunistic private developers—they improve the functioning of government (see Figure 5).

**Figure 5**  
**Tribal Self-Determination Yields Concrete Benefits**

When tribes take over...		...they obtain...
Forestry	⇒	More efficient timber harvests Higher prices for commodity lumber
Health Care	⇒	More comprehensive services Greater patient satisfaction
Poverty Policy	⇒	Lower poverty levels Declines in child psychopathology
Economic Development	⇒	Greater profitability Greater diversification
Policing	⇒	Faster response times Better police treatment

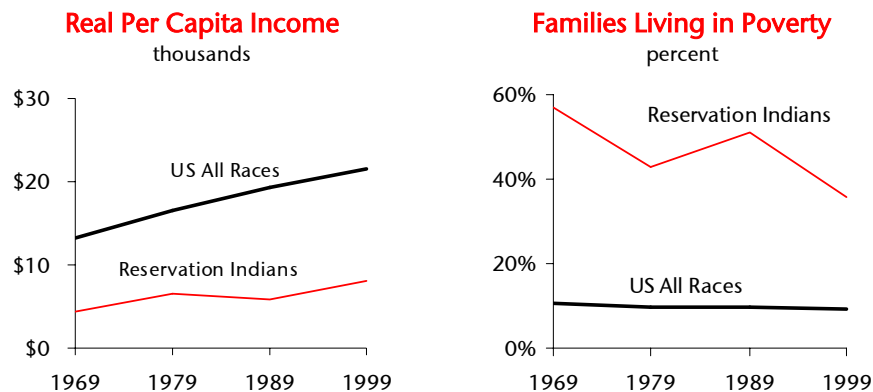
Moore, *et al.* (1990); Cornell & Kalt (1992); Krepps & Caves (1994); Dixon, *et al.* (1998); Cornell, *et al.* (1998); Jorgensen (2000); Wakeling, *et al.* (2001); Costello, *et al.* (2003).

These gains in effectiveness arise because self-rule offers a number of operational advantages. First, under self-government the immediacy of local community sanction enhances the ability of a community to discipline managers who under-perform (Krepps & Caves 1994, Jorgensen 2000). The consequences of decisions (good and bad) are closer to the decision-makers (Cornell & Kalt 1992, 13). Second, knowledge of local circumstances is likely to be more complete at the tribal level than in a centralized bureaucracy. Third, the institutional structures under which administration takes place are more likely to be culturally and politically appropriate to local conditions, with attendant benefits for effectiveness (Cornell & Kalt 1995, 1997a, 1997b, 2000). Fourth, the agendas of tribal governments are more likely to resemble tribal members' preferences than, say, the agendas of the BIA or state welfare agencies (Cornell-Kalt 1992, 13). In sum, Indian self-determination offers practical benefits for the same reasons that fiscal federalism does at the state level: In most

realms of domestic policy, states *and* tribes are more likely to understand local citizens' concerns, local operating conditions, and local administrative requirements.<sup>14</sup>

More importantly, accumulating evidence demonstrates that the program improvements identified in the research behind Figure 5 are translating into positive socioeconomic change as measured in the US Census. Taking Nixon's Special Message to Congress in 1970 as the beginning of the Self-Determination Era, the economic fortunes of Indians living on the reservations have improved substantially in the three decades since (see Figure 6). After adjusting for inflation, their incomes grew by 83% over the three decades, while US incomes rose 64%. In the same period, the proportion of Indian families on reservations living in poverty declined by 21 points, while in the US as a whole it declined by a point. Despite substantial socioeconomic improvement, much remains to be done to close the gap with US averages.

**Figure 6**  
Tribal Self-Determination has Brought Socioeconomic Change, 1969-1999  
1999 dollars



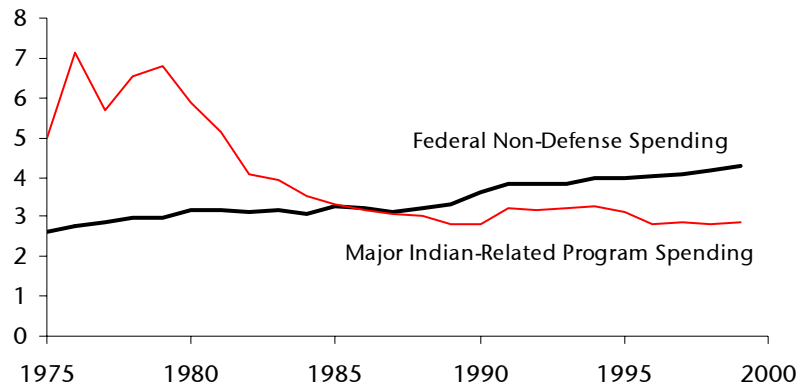
Kalt & Singer (2004), 39; Taylor & Kalt (2005), 7; US Census;

Note that Indians on reservations watched their inflation-adjusted per capita income improve in the seventies (+49%), worsen slightly in the eighties (-8%), and then improve again in the nineties (+33%). This apparently uneven progress (and its correspondent in family poverty) would seem to suggest that the Self-Determination Era has a mixed track record. In actuality, the conditions associated with these changes indicate the opposite. The progress

<sup>14</sup> Cornell and Taylor (2000) discuss parallel trends in the devolution of federal authority to states and tribes, and Oates (1999) offers an overview of the theory of and evidence about fiscal federalism.

of the seventies is associated with substantial federal funding to reservations—both Great Society programs and other programs specifically tailored to Indian Country. The partial reversal of that progress in the 1980s is associated with very sharp declines of federal spending during the Reagan years—nearly a 60% decline of inflation-adjusted federal spending per capita over the decade ending in 1989 (see Figure 7). Since a significant driver of reservation economies (especially at the beginning of the Era) was federal program expenditure and its associated employment, it is not surprising that incomes per capita fell in the 1980s in line with the Reagan cuts (Trosper 1996, 173, 188).

**Figure 7**  
**Major Indian Program Spending has Fallen Substantially since 1975**  
 000 1997 dollars per capita



Walke (2000).

In contrast, the positive change among reservation Indians in the nineties occurs independent of changes in federal spending (and notwithstanding the demonstrated inadequacy of that level of spending—see Section III, below). Real per capita funding for a number of “major programs affecting the nation’s Indian population, particularly those programs targeting Indians in federally recognized tribes” (Walke 2000) was relatively flat through the 1990s and lost ground relative to federal non-defense domestic spending per capita (Figure 7). Nonetheless, Indians on reservations witnessed a 33% increase in incomes and a 15-point drop in family poverty in nineties (per Figure 6).

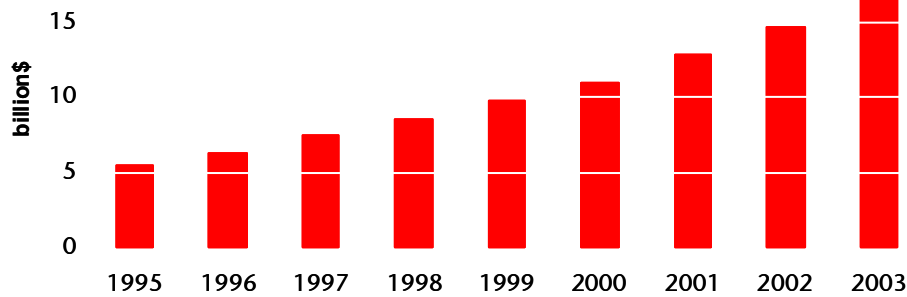
In sum, not only is self-determination improving the functioning of reservation governments per Figure 5, but that improved functioning is also

translating into positive socioeconomic change per Figure 6.<sup>15</sup> The change was achieved in the nineties despite the declining relative rate of federal investment in Indian reservations and its general inadequacy. And the trend is experienced by tribes with gaming facilities and without (Taylor & Kalt 2005).

### C. The Structure of Gaming Policy Under Indian Self-Government

Indian gaming was one of a number of tribal economic development initiatives to emerge as a result of Indian self-determination, and as with a great deal of change in the era, the initiative came from the tribes and Congress responded. The Seminole Tribe of Florida opened the first high-stakes bingo operation in 1979, and the sector grew quickly. In Washington, the Tulalip, Puyallup, and Muckleshoot tribes opened large-scale bingo facilities in 1983 (WSGC 2004a), and by 1986 the Tulalip facility was reported to be grossing \$15 million (Cordeiro 1992, 2007). Nationwide, Indian gaming had at least \$100 million in revenues by 1988 (Senate Committee on Indian Affairs 1988), and by 2003 revenues stood at \$16.7 billion (see Figure 8).

**Figure 8**  
US Indian Gaming Revenues have Grown Rapidly



National Indian Gaming Commission (2004b).

Very soon after the tribes opened bingo facilities, litigation ensued as states tried to establish their own jurisdiction over Indian gaming. The contours of federalism with respect to tribes and states were convoluted in this area of law, and it took several years for the precedents to coalesce. During the Termination Era, Congress had passed Public Law 280 (67 Stat. 588, 1953), which extended state criminal and certain civil jurisdiction over Indian tribes, explicitly to some states (e.g., California) and optionally for other states (e.g.,

<sup>15</sup> Generally, other variables of socioeconomic status such as housing quality and quantity, educational attainment, and employment move with the income and poverty variables shown in Figure 6 (Trosper 1996, Taylor 2004).

Washington).<sup>16</sup> PL 280 was held not to have conveyed to states general regulatory authority over tribes, in part, because to do so would be to vitiate tribal self-government (*Bryan v. Itasca*, 426 U.S. 373, 1976, 388). The question of who had jurisdiction over Indian gaming regulation was critical. Did, for example, state statutes governing betting limits apply to Indian tribes under Public Law 280's extension of state criminal jurisdiction?

In *California v. Cabazon* (480 US 202, 1987) the Supreme Court established that analysis of the question hinged on whether the state's statutes on gaming were "criminal/prohibitory" or "civil/regulatory" per *Bryan v. Itasca*. If state laws were prohibitory (as the total bans in Utah and Hawaii were), Indian gaming was impermissible; if gambling was allowed for certain controlled purposes (as it was in most other states), then Indian gaming could proceed according to tribal prerogatives. This was so because

the inquiry [into the competing interests of states and tribes] is to proceed in light of traditional notions of Indian sovereignty and the congressional goal of Indian self-government, including its 'overriding goal' of encouraging tribal self-sufficiency and economic development (334).

Thus, in *Cabazon*, the court affirmed that tribal powers of self-determination encompassed not just the ability to offer gambling but also the regulatory flexibility to set tribal standards for bet limits, prize payouts, and other features of games.

Nearly immediately, states turned to Congress to address what they perceived to be a loss to another sovereign in the federal system of control over critical interests. Congress quickly wrote and passed the Indian Gaming Regulatory Act (IGRA) in 1988 (25 USC §2701, *et seq.*). IGRA balances "the need for sound enforcement of gaming laws and regulations with the strong Federal interest in preserving the sovereign rights of tribal governments" (Senate Committee, 1988). It does so, in large measure, by establishing a three-layer regulatory structure. IGRA divides Indian gaming into three classes (see Figure 9) and assigns regulation to sovereigns in the federal system differently for each class.

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<sup>16</sup> The extent PL 280 jurisdiction in "optional" states like Washington is complex and depends upon the constitution and statutes of the state, tribal consents given, and precedents interpreting all of the above.

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**Figure 9**  
**The Indian Gaming Regulatory Act Delineates Three Types of Tribal Gaming**

**Class I** gaming means social games or traditional forms of Indian gaming.

**Class II** gaming means: (i) bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)...including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and (ii) card games that are explicitly authorized by the laws of the State, or are not explicitly prohibited by the laws of the State and are played at any location in the State...

**Class III** gaming means all forms of gaming that are not class I gaming or class II gaming.

Indian Gaming Regulatory Act, 25 USC §2703.

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Class I gaming—social and traditional Indian games of chance—falls wholly under tribal oversight. Class II gaming—bingo, lotto, pull tabs and related games—is primarily regulated by the tribal governments with oversight from the newly created National Indian Gaming Commission (NIGC). Class III gaming—everything not covered in Classes I and II—is regulated under a compact negotiated between the tribes and states with oversight from the NIGC (see Figure 10). IGRA calls for the tribal-state compact to cover the scope and regulation of gaming and prohibits the imposition of taxes by the state on the gaming facility (§ 2710(d)(1)(3)). This compacting process allows states to participate in the regulation and oversight of Indian gaming within their borders. One state has chosen not to regulate Indian gaming at all,<sup>17</sup> but most have folded Indian gaming regulation into the state’s governing structure. For example, Washington’s State Gambling Commission (WSGC) has a Tribal Gaming Unit to conduct oversight per the compacts.

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<sup>17</sup> Michigan has no role in the regulation of Indian gaming under its compacts. The compacts call for the tribes to post notices in their casinos stating so (US GAO 1998, 42-43).

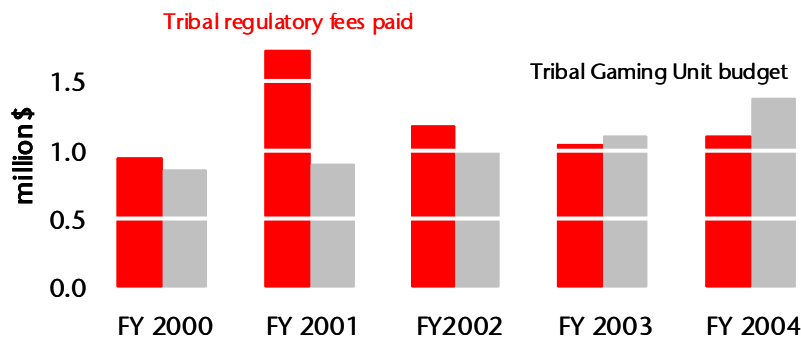
**Figure 10**  
**Different Governments Regulate Different Classes of Indian Gaming**

		Government		
		Tribal	Federal	State
Gaming Class	I	✓		
	II	✓	✓	
	III	✓	✓	✓

25 USC §2701 *et seq.*

Tribal government regulation is substantial as well. Under IGRA, tribes are required to pass a gaming ordinance and establish their own regulatory commission, subject to approval by the NIGC (§2710). A survey by the National Indian Gaming Association (NIGA) of tribal regulatory activities indicates that in 2001, tribal governments spent at least \$164 million annually on tribal gaming commission staffs and related regulatory employees. They also collectively paid more than \$40 million to states and another \$8 million to the National Indian Gaming Commission to reimburse those regulators for their oversight of Indian Gaming.<sup>18</sup> In Washington State, in particular, the compacts require the tribes to pay their shares of the State’s actual regulatory costs. Over the last five fiscal years, Washington Indian tribes have made payments totaling \$5.9 million—\$760,000 in excess of the Washington Commission’s Tribal Gaming Unit’s budgeted costs for the period (see Figure 11).

**Figure 11**  
**Washington Gaming Tribes Compensate the State for Regulatory Costs**



Washington State Gambling Commission.

<sup>18</sup> From a survey of gaming tribes with a response rate of 78% (NIGA 2002).

The NIGC also reviews contracts with outside management companies and oversees the licensing of key gaming employees. The NIGC has enforcement authority, and if it finds that the IGRA, NIGC regulations, or tribal regulations have been violated, it may issue notices of violation, closure orders, and civil fines up to \$25,000 per day, per violation (Coleman 1998).

IGRA also contains a few other requirements that make Indian gaming distinct in its operation and effect from other forms of gaming. First, gaming facilities must be on reservation lands unless additional approvals are made or the lands are part of a land claim settlement or restoration. If a facility is to be built on lands off the reservation, which were acquired after the passage of IGRA, additional state and local approvals are required before the Secretary of the Interior can allow development to proceed (§2719(b)). Thus, the geographic extent of Indian gaming is generally constrained to reservation lands—lands whose location and extent has more to do with Indian treaty-making, relocation, and allotment than with the commercial requirements of a leisure industry.

Second, IGRA requires that net revenues from tribal gaming be used to address Indian and neighboring communities' socioeconomic conditions (see Figure 12). And, while tribal governments had the incentive well before IGRA to invest gaming revenues in scholarships, health clinics, fire departments, and economic diversification (Cordeiro 1992, 207), the law has provided an added impetus. In fact, if a tribe seeks to allocate some of its gaming profits to individuals on a per capita basis, the tribe must file a gaming revenue allocation plan subject to Secretarial approval, documenting how it will spend its money to advance the required purposes (§2710(b)(2)). Third, IGRA requires that “the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity,” except under rare circumstances (§2710(a)(2)(A) and (§2710(a)(4)). In actuality, virtually all Indian gaming operations are tribal government owned.

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**Figure 12**  
**Federal Law Governs Tribal Gaming Profit Expenditure**

Under the IGRA, Indian governments must spend gaming revenue to:

- i. Fund tribal government operations or programs;
- ii. Provide for the general welfare of the Indian tribe and its members;
- iii. Promote tribal economic development;
- iv. Donate to charitable organizations; or
- v. Help fund operations of local government agencies.

25 USC §2710(b)(2)(B).

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## D. Summary

Indian self-government is neither an anachronism nor a beneficence of the federal government. Indian self-government is rooted in agreements forged by Indians to establish their own property rights in exchange for large land concessions. While the powers of Indian self-rule have waned and waxed twice in the twentieth century, it is clear that the recent resurgence of Indian government is salutary to Indian well being. Not only has Indian self-determination received rhetorical support and legislative backing at the national level, its energetic implementation by tribes has shown it to be the only policy capable of reducing poverty on the reservations (Kalt 1996, 4). As such, it is also critical to reducing taxpayer burdens associated with socioeconomic recovery on the reservations. Without robust Indian self-government, taxpayers from the surrounding society would bear a far heavier burden of Indian poverty—either via continuing failed federal antipoverty programs or via spillover effects associated with depressed reservation economies. It is critical that public policies not embrace popular myths about Indian governance, which de-emphasize the governmental nature of tribes (see Figure 13).<sup>19</sup> Public policies can and ought to acknowledge tribes' place in the federal system and maximize the benefits that their position brings to Indians and non-Indians alike.

**Figure 13**  
The Realities of Tribal Status Do Not Correspond with Popular Myths

Myth	Reality
Indians have special <i>ethnic</i> rights.	<i>Tribes</i> (not Indians) retain sovereignty by treaty, law, and practice.
Tribes are fraternal organizations.	Tribal <i>governmental</i> status is essential to Indian socioeconomic recovery.
Reservations are welfare states.	Relative <i>Indian funding is in decline</i> , and on-reservation <i>Indian incomes are rising</i> .
Congress <i>gave</i> Indians gaming.	<i>IGRA constrained tribal sovereignty</i> as recognized in court precedent.

Indian gaming is both a particular expression of self-determination and a source of support for it. The choice of entering the industry was first made by tribes nearly a decade before Congressional action on the subject, and the

<sup>19</sup> See also, Kalt & Singer 2004.

decision of whether to enter the market continues to be up to the tribes themselves—not Congress or the states. The Hopi Tribe, for example, has twice rejected gaming in referenda. If and when a tribe does decide to enter the gambling industry, it must do so in a manner that is consistent with the position it occupies in the federal system, as determined by treaties, the Marshall Trilogy (and its successors), *Cabazon*, and Congress—most recently in IGRA. More importantly, the fact that Indian gaming develops under the frameworks of self-government means that the benefits of Indian casinos accrue to Indian communities (as opposed to widely dispersed owners) and thereby helps to close the socioeconomic gap between Indians and the rest of society. In addition, the intergovernmental relationships established under IGRA and the Washington State compacts negotiated in accord with it mean that these benefits are attained without unduly burdening the citizens and government of the State of Washington. The next sections cover these points in turn.

### III. The Socioeconomic Effects of Indian Gaming in Washington

The structure of Indian gaming is unique among the various sectors of the gaming industry and has a significant influence on its socioeconomic consequences. Unlike most casinos around the US, tribes own Indian casinos, and gambling proceeds thereby go to local governments rather than to geographically dispersed owners. Unlike the government-owned state lotteries, tribal casino proceeds concentrate in the poorest identifiable population in the US—Indians living on reservations (Kalt & Singer 2004, 38). Moreover the unique inter-sovereign relationships affirmed by *Cabazon*, refined by IGRA, and implemented by Washington State and its tribes, further influence the consequences of Indian gaming—for Indians and non-Indians alike. In particular, the structure of Indian gaming is intentionally directed toward producing positive socioeconomic consequences for Indians and minimizing external costs to non-Indians.

The first subsection examines the structures of Indian gaming in Washington that influence socioeconomic consequences. The second assesses the socioeconomic status of Indians in Washington before and after the advent of casino operations. And the third reviews evidence of socioeconomic change in areas surrounding the reservations. Together, the subsections demonstrate that tribal governmental gaming in Washington is having the effect intended by the tribes and Congress.

#### A. The Structure of Indian Gaming and Socioeconomic Outcomes

As noted above, IGRA imposes requirements on states and tribes regarding how gambling activity takes place when tribes develop it. First, with lim-

ited exception, Indian gaming must take place on Indian land—lands that are held in trust by the federal government. This requirement means that Indian gaming employment must generally be concentrated on Indian lands, and because historical patterns of settlement determined where Washington Indian reservations are today (see Figure 1), much of this land is found in low-density, rural, and distressed regions of the state. Twelve of the state’s twenty-six Indian casinos are located in what the Washington Employment Security Department identifies as “distressed counties” (2003). Distressed counties have three-year average unemployment rates that are greater than 120% of the state average rate (per RCW 50.65.138). Thus, not only do the proceeds of Indian gaming accrue to one of the poorest identifiable population in the US—Indians on reservations—the location of Indian reservations in Washington means that many of the tribal casinos are in areas that need economic activity outside the reservation as well. To the extent that Indian casinos attract destination tourists to these regions by offering an entertainment service that is not widely available, Indian casinos may bring positive economic effects in excess of any substitution they might precipitate away from non-Indian businesses in these regions.

Second, IGRA caps the proportion of proceeds that can be expended on management companies who partner with the tribes to finance, build, or operate casinos. In particular, IGRA mandates that management contracts provide no more than thirty percent of the net revenues to the outside company, unless special allowance is made by the NIGC Chairman upon tribal request to allow up to forty percent (25 USC §2711(b)). In addition, the duration of the management contracts is limited to five years, unless the tribe specifically requests that the NIGC Chairman to extend the duration up to seven years (25 USC §2711(c)). These constraints help to ensure that gambling profits remain in tribal hands.

In Washington, five tribes have had such management contracts approved. Four of them—the Confederated Tribes of the Chehalis Reservation, the Muckleshoot Indian Tribe, the Jamestown S’Klallam Tribe, and the Upper Skagit Indian Tribe—had their management contracts approved more than seven years ago. Since then, none of these four have had new contracts approved (NIGC 2004a), meaning that the four have weaned themselves of the companies either by buying out their contracts or by allowing them to expire. The fifth tribe, the Lummi Nation, had a management agreement approved in 2002. Thus, the vast majority of the profits of Indian gaming statewide have accrued to the owner governments: shortly after starting operations whose capital lives are typically much longer than the five-year term, Washington tribes have taken over management themselves.

Third, Indian gaming proceeds must be spent by tribal government on operations, tribal citizen welfare, economic development, charities, or other local government (see Figure 12). If the tribe chooses to distribute a portion of gambling profits in a per capita payment (the way Alaska chooses to distribute a portion of its oil wealth), IGRA specifically requires a tribal Revenue Allocation Plan to document how the tribe will advance its purposes in accord with IGRA. To be approved by the Secretary of the Interior, such a plan must adequately address purposes (i) and (iii) of Figure 12, that is, tribal government programs and operations and tribal economic development (25 USC §2710(b)(3)). In Washington, eight of the twenty-seven tribes with Class III compacts have gaming revenue allocation plans approved by the federal government: Chehalis, Hoh, Kalispel, Muckleshoot, Nisqually, Puyallup, Squaxin Island, and Tulalip (NIGC 2004c).

Whether the tribe allocates some of the proceeds per capita or not, the proceeds of tribal government gaming concentrate in the membership of the tribe (some of whom may live off the reservation, of course) and in the communities surrounding the reservation. This spending pattern contrasts with the distribution of gambling profits made by a private corporation to geographically dispersed owners and shareholders. Because tribal governments are long-standing and permanent fixtures in the state's political geography, the economic presence of Indian gaming is assured for much longer than even the presence of a mainstay corporation like Boeing. Neither the Muckleshoot Tribe nor any other will ever depart with its casino employees for another state.

Fourth, the structure of the state-tribal compact allows gaming wealth to be distributed regionally within Washington. Under Appendix X (the standard-form addendum to all Washington compacts), the tribes can jointly establish a trading plan under which tribes in large markets can lease the rights to deploy lottery player terminals from tribes that choose not to use their rights in a facility of their own. Appendix X caps each tribe's terminal count at 675 machines but allows any one tribe to have more than 675 devices in its facility, if it has arranged to acquire some of another tribe's device "rights" (§12). Trading thus enables tribes in larger markets to take advantage of those markets while helping spread the wealth to tribes in rural markets.

Twenty of the twenty-seven compacted Washington tribes have participated in such arrangements—five as buyers, fifteen as sellers—for a total of 6,494 devices traded among Washington tribes. Eight of the fifteen selling tribes (who represent 56% of the traded capacity) are located in distressed counties, whereas none of the buying tribes are (WIGA internal records). Thus, not only is wealth being spread to remote and rural tribes, it is being

spread to neighbors of tribes in distressed regions of the state who benefit to the extent leasing tribes spend the lease-derived funds in their government programs locally. These formal transfers of gaming revenues under lease arrangements complement numerous, repeated, and substantial charitable contributions made by metropolitan tribes to tribes in more rural and economically depressed regions (see Figure 19).

## B. Socioeconomic Change on Reservations

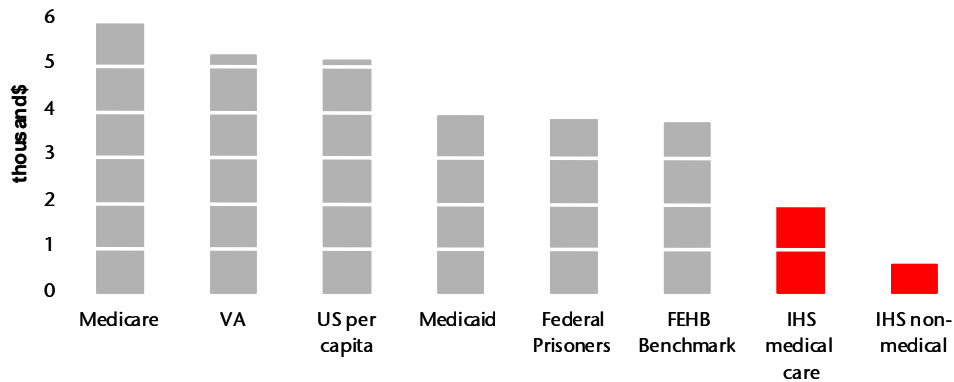
The national view of Indians given in Section II demonstrated that Indian reservations were among the poorest locations in America, that federal funding had declined substantially in the 1980s and did not recover, and that nonetheless the 1990s were a period of relative socioeconomic recovery for gaming *and non-gaming tribes*. Recall also from Section II that programs designed and operated by tribes are significantly more likely to achieve positive socioeconomic outcomes for Indians. Washington State does not deviate significantly from this picture. Reservation Indians in Washington are poorer than Washington residents, yet their fortunes are improving, notwithstanding the substantial inadequacy of federal funding for tribes.<sup>20</sup>

The inadequacy of funding to meet the accumulated needs of Indians is hard to overstate. A detailed review of federal programs and unmet needs in Indian Country shows that funding for Indian programs is disproportionately lower than similar or identical programs for non-Indians across such domains as health, housing, policing, and education despite higher needs (US Commission on Civil Rights). An emblematic and distressing picture of the problem is given in Figure 14, which shows the substantial gaps between what the US makes available to Indians and non-Indians in health care expenditures on a per capita basis. Considering that Indians suffer lower life expectancy, higher diabetes death rates, higher suicide rates, greater cirrhosis death rates, and greater accidental death rates than other Americans (Indian Health Service 1999), the disparity in funding with US prisons, for example, is particularly stark.

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<sup>20</sup> Note here and below, the phrase *Indian reservations* refers to reservation and trust lands and does not encompass Tribally Designated Statistical Areas (TDSAs) and other Census geographies related to Indian lands.

**Figure 14**  
**Relative Under-funding of Indian Health Programs is Substantial**  
 FY 2003 dollars per person



US Commission on Civil Rights (2003), Figure 3.2.

Tribes in Washington report a wide variety of unmet needs. Various, they draw attention to housing shortages, regionally depressed job markets, low pay, high rates of domestic violence, excess juvenile delinquency, prevalent diabetes, and widespread substance abuse (Survey of Washington Indian Tribes). Gaming revenue is helping tribes address these challenges.

Historically private investors have not found reservations attractive (see US Treasury 2001). Gaming profits have allowed tribes to diversify their economies by supplementing inadequate private capital flows to reservations. Washington tribes have invested variously in convenience stores, malls, construction companies, wastewater treatment plants, plastics manufacturing plants, real estate leasing operations, retail shops, business parks, resorts, lumber mills, seafood processors, aquaculture exporters, juice bottlers, and myriad other businesses (see, e.g., Tiller, Chase n.d.). Quite a few of these enterprises complement the leisure industry offerings of a tribal casino and depend on its traffic of patrons. In general, however, tribes recognize the possibility that their position in gaming markets could be easily upset by regulatory or legislative change, and they endeavor to diversify away from their gambling patron bases so that the benefits gaming has brought will be long-lived.

Jobs may make the “best social program,” yet employment alone cannot educate children or treat diabetes. Thus, Washington tribes have also seen fit to spend gaming proceeds to complement inadequate federal funding for tribal programs. Tribes’ gaming proceeds support, among other things: habitat protection, day care, road construction, family crisis intervention, dental care, youth activity, foster care, delinquency prevention, elder housing, assault victim advocacy, schools, police forces, college scholarships, courts,

home construction, small business development, and parks. For most tribes, supplementing what was available from the federal government was never possible before gaming because, in large measure, tribal powers of taxation of economic activity on their lands have been murky and contested. After the advent of gaming, virtually every facet of tribal self-government may potentially be supported by gaming revenue.

Finally, tribes may allocate some gaming proceeds on a per capita basis: to support elders (many of whom lack pensions and retirement savings due to historic underemployment), youth (via escrow accounts that often give incentives for educational completion), and their broader membership (who lack the asset bases and net worth of individuals who have historically earned more). As noted above, such per capita distributions are not unique to Indian gaming, they were contemplated in IGRA, and they cannot proceed until the Secretary of the Interior approves spending plans that also support government functions and economic development. Moreover, in contrast to the popular perception that such per capita wealth transfers represent narrowly self-interested profligacy on the part of Indian voters, systematic evidence demonstrates that such transfers directly reduce sociopathology by easing the burdens of poverty (Costello *et al.* 2003).

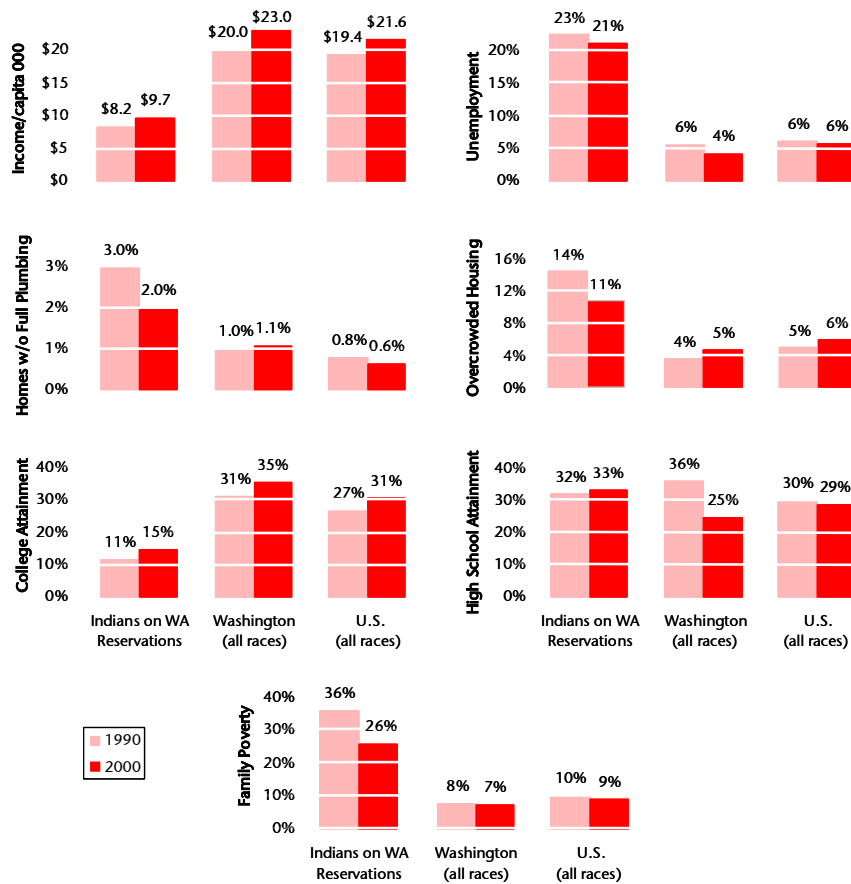
Increases in these three categories of gaming revenue expenditure (economic investment, social programs, and personal income) correspond with improvements in the socioeconomic status of Washington's reservation Indians (see Figure 15).<sup>21</sup> Indians in the state have made gains over the 1990s, and yet a substantial gap remains between Indians and non-Indians in Washington. Income per capita for Indians on Washington reservations grew by a faster rate (17.2%) than either for Washington (14.6%) or for the US (11.4%). Nonetheless, the low starting point in 1990 leaves Indians on reservations in 2000 with incomes less than half the Washington average. Unemployment improved somewhat but remains more than three-times the Washington and US levels. Housing condition and supply improved substantially. Nevertheless, homes without hot and cold piped water, a flush toilet, or a bathtub/shower are twice as prevalent for Indians on reservations than elsewhere

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<sup>21</sup> Because Washington *Indians* (as that term is defined via the Census Bureau's self-identification protocols) can encompass people with a variety of Native affiliations (for example, as shareholders of Alaska Native Corporations, as Indians that are not official members of a Washington tribe, or even as Latin American Indians), it is difficult to disentangle the influences on the socioeconomic status of off-reservation Indians. Though such complexities of identification also exist for on-reservation Indians, they typically are less likely to create a spurious influence on indicators of socioeconomic status since non-member Indians on a reservation are more likely to have strong ties (e.g., marriage, employment) that bind their fortunes more closely to the tribe's.

in Washington. Indian home overcrowding has fallen by about a quarter, yet it remains about twice the levels in the state and country. Progress on family poverty is pronounced: a ten-point drop for Indians on Washington reservations. Nonetheless, it remains at more than twice the non-Indian level. In sum, the progress is notable, yet the amount of socioeconomic recovery still to be done to put Indians on par with Washingtonians and Americans generally is substantial.

**Figure 15**  
**Conditions for Indians on the Reservations have Improved, 1990-2000**  
 1999 dollars



*High School Attainment* is the proportion of adults with *only* high school degrees.  
 US Census.

### C. Socioeconomic Change off Reservations

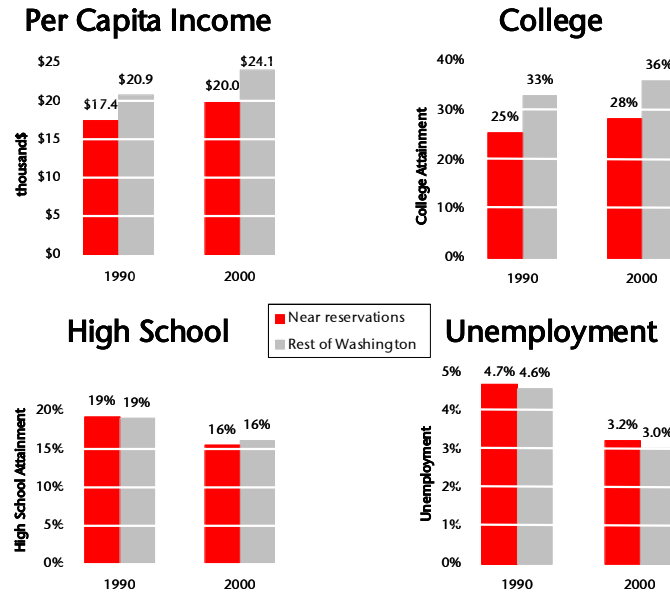
As noted above, a fair number of Indian casinos are located in distressed counties and a majority of the leased device rights come from tribes in distressed counties. Have Indian tribes brought positive socioeconomic change

by creating destination effects or have they brought social costs to their neighbors as the critics of casino gambling may fear?

Systematic evidence from a national 100-community sample indicates that no statistically discernible social harms are associated with the introduction of casinos. The National Gambling Impact Study commission contracted Dean Gerstein and his colleagues at the National Opinion Research Center (NORC) at the University of Chicago to perform a statistical sample of 100 randomly selected non-Indian communities, half of which witnessed a casino introduction within 50 miles and half of which did not (Gerstein, Volberg, Harwood, Christansen, 1999). Their examination of socioeconomic status over a sixteen-year period found the introduction of a casino precipitated no statistically discernible change in eight indicators of crime ranging from general crime indexes to specific crimes like larcenies and assaults. The study also found no change in infant mortality associated with casino openings. A further review of the NORC dataset found that where the casinos in question were Indian casinos, the non-Indian communities in proximity were generally worse off than their counterparts before the introduction of the casino and better off after the casinos were developed, as crime rates were found to go down (Taylor, Krepps, Wang, n.d.). (Economic results of both studies showing positive benefits to casino introductions are discussed in Section IV.)

Census data gathered from around Washington Indian reservations shows a picture that is consistent with the one from national statistical studies (see Figure 16). Specifically, an examination of census block groups intersecting a five-mile buffer around the reservations (Near Reservation in the figure), does not demonstrate a markedly different picture from the rest of the state. The percentage change in per capita income differs by about a point (14% for Near Reservation and 15% for Rest of Washington), and the other indicators are about tied. In sum, Indian gaming in Washington does not appear to bring much off-reservation change in these basic variables, for good or for ill.

**Figure 16**  
**Communities Near Indian Reservations are not Changing Differently**  
 1999 dollars



*Near reservations* consists of the average of off-reservation block groups that intersect a five-mile buffer around each reservation. *Rest of Washington* is the average of the remaining block groups. US Census.

#### IV. Washington Indian Gaming and Taxes

The conventional wisdom holds that Indians are not taxed due to their “special” privileges, and consequently, reservation economic growth is asserted to undermine economies around the reservations. Some researchers reinforce the perception, decrying the “uneven playing field” and “lost” tax revenues, and asserting economic harms. Both the premise and conclusion are false: Indians are taxed (though their governments are not), and tribal economic growth, particularly casino gaming does not systematically erode nearby economies. Indeed, the alternative to tribal economic development— isolated pockets of poverty around the state—has a demonstrated record of negative implications for non-Indian taxpayers and citizens.

##### A. Indians do Pay Taxes

The taxes that Indian citizens must pay depend upon their political and legal status in the relevant tax jurisdiction—just as would be the case for any other American citizen. Generally Indians who live, shop, and work off the reservations are required to pay the taxes that non-Indians must bear in those jurisdictions. Only when an Indian lives, shops, or works on the reservation does the taxation of Indians differ from that of non-Indians. Even then there

is no difference in federal taxation—all Indians must comply with federal income tax law regardless of where they live and work (see Figure 17). Transactions on the reservation are not free of state taxation by default. Indians on the reservations, especially non-member Indians, may be subject to state taxation, depending upon the tax in question, the relevant case law, and any tribal-state tax agreements that cover the transaction.

**Figure 17**  
**Individual Indians Pay Federal and State Taxes**

Tax	Taxed activity on Reservation?		Exceptions
	On	Off	
Federal Income	✓	✓	
FICA	✓	✓	
Unemployment	✓	✓	Tribe may self-insure.
Property	✓	✓	Lands held in federal trust.
Sales*	✓/✗	✓	Tax agreements; non-members.
Liquor, Gas & Tobacco*	✓/✗	✓	Tax agreements; non-members.
Motor Vehicle*	✓/✗	✓	Tax agreements; non-members.

\*Depends upon the tax, the law, and tribal-state tax agreements, especially for non-member Indians. Canby (1998), 243-252.

In this regard, Indians are like state citizens. When an Oregonian buys property in Washington she must abide by Washington's property tax codes and pay accordingly, notwithstanding that to do so is to accept taxation without representation. The same applies to Indian residents of a reservation. When a member of the Quinault Tribe purchases a home off the reservation she must pay local property taxes. In her tribe's home jurisdiction however, she must pay according to Quinault tribal law. Note that this does *not* work in reverse, i.e., to the benefit of tribal treasuries. If a non-Indian has property on a reservation, more likely than not, there will be *no* tribal power to tax the property regardless of how badly the tribe needs the revenue to pave streets or provide fire protection to the property. Indeed, one of the reasons tribes turn to tribally owned enterprise in the first place, despite the poor performance record worldwide of government-owned business, is that tribal taxing powers are uncertain and Balkanized.

## B. Tribal Governments do not Pay Taxes

While individual Indians clearly pay taxes, tribes do not; they are governments. Tribes *levy* taxes. For example, the Squaxin Island Tribe charges a 10% tax on its hotel patrons. And it is a generally acknowledged principle of public finance that the thousands of governments that operate in the US do not tax each other. Funds flow upward and downward through the federal and state finance systems to and from states, school districts, counties, towns, and special purpose districts. Governments routinely charge each other fees for services or compact with each other to share responsibilities and costs. And while the contours of what is a tax and what is a fee and who should pay what are continually being tested in the courts, general agreement surrounds the principle that governments ought to have tax immunity from each other.

Notwithstanding this general principle of taxation, there is a common perception that Indian governments receive a “special” exemption from taxes—an exemption they should not have. Regarding the twenty-nine federally recognized Indian governments in Washington, the Washington Research Council writes:

State and local governments have limited ability to collect taxes from activities on tribal lands. Money spent at non-taxed tribal businesses would, in the absence of those businesses, be spent in ways that generate state and local government revenue. The amount of foregone revenue is not trivial. (2002, 1).

The first statement is patently true and ought not to be controversial. Few would question that Washington State has a “limited ability to collect taxes” on, say, Oregon lands. The second statement fails to recognize that, like the State’s lottery operations, the non-taxed businesses in question are government-owned. *All* their income goes toward local government purposes—it is “taxed” at a rate of 100%. The third statement is a matter of economic analysis and empirical investigation to which the next two subsections will turn.

More importantly, the implied conclusion of the quoted passage above—that something should be done to tap the revenues of Indian governments—is unreasonable and inconsistent with sound public policy. A project to allow intergovernmental taxation would never be concocted for state governments. While Washington citizens may wish to share in the benefits of Alaska’s Permanent Fund, which distributes North Slope oil royalties per capita, a Washington State tax on such Alaska revenues is inconceivable. In the case of tribal governments, however, the popular misconception that tribes

benefit unfairly from “special legal rights” routinely motivates calls for “revenue sharing” from Indian governments.

The framers of IGRA anticipated that there would be pressure from states to raise revenue from Indian gaming, and they specifically prevented it:

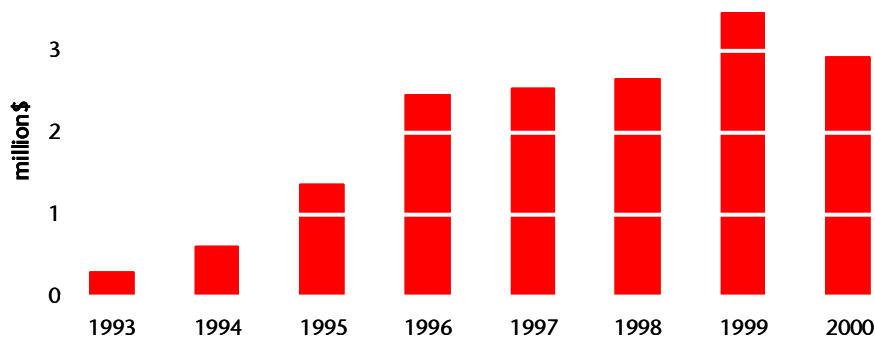
Except for any assessments...necessary to defray the costs of regulating [gaming]...nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions [the] authority to impose any tax, fee, charge, or other assessment upon an Indian tribe (25 USC §2710 (3)(C)(iii) & (4).

In so doing, the authors of IGRA allowed the tribes and states to jointly determine how tribal governments would reimburse the state for costs associated with gaming, and they ensured that the principle of intergovernmental tax immunity continued to apply to tribes. Tribes do share gaming revenue with some states, but the standard for Secretarial approval for compacts with such transfers requires that the tribes receive a benefit in return—for example, exclusivity in Connecticut and limited condemnation powers in western New York. The standard ensures that the “revenue sharing” is part of a two-way exchange between governments rather than a violation of the principle of intergovernmental tax immunity.

Washington and its tribal governments have enshrined these principles of public finance in their negotiated compacts. Specifically, the tribes agreed to reimburse Washington for its Class III regulatory costs under the compact (Appendix X, §13). Annual fees paid by the tribes must cover the actual regulatory costs, and over the past five years, the fees have more than compensated the Washington State Gambling Commission for its \$5.1 million in Indian-related costs (see Figure 11).

The compacts’ Appendix X also contemplates that tribes will make intergovernmental and charitable payments to compensate for demonstrated impacts of Indian gaming on local communities (§14). Tribes have done so, typically in coordination with impact mitigation committees comprised of local government and community leaders and sometimes under explicit agreements with neighboring governments. Figure 18 shows that tribes have made at least \$16 million in impact mitigation payments over the last eight years.

**Figure 18**  
**Tribes Have Contributed Substantially to Local Governments and Charities**



Note: Graph includes only payments that are made explicitly under Appendix X. Many tribes make charitable contributions in addition to the indicated amounts, especially in later years. Brown (2002).

The picture in Figure 18 is a conservative one because tribes have increasingly instituted formal impact mitigation arrangements outside the rubrics of the compact. These arrangements have the effect of reducing the formally recorded amount of such contributions but not necessarily the actual level of mitigation effort. The expenditures cover many realms of community life (see Figure 19) and represent only a subset of the full measure of charitable contributions made by tribes in Washington.

**Figure 19**  
**Tribes Support Local Governments and Charities**

A sample from 1995-2004

- |                                       |                                  |
|---------------------------------------|----------------------------------|
| Big Brother/Big Sister                | Northwest Indian College         |
| Chambers of Commerce                  | Presbyterian Church              |
| City & County Governments             | Prosecuting Attorney             |
| Council on Problem Gambling           | Public Works                     |
| Crisis Clinic                         | Safe Place                       |
| Domestic Viol. & Sexual Assault Svcs. | Schools & School Districts       |
| El Centro de la Raza                  | Shaker Church                    |
| Elder Services                        | Sheriffs Offices & Police Depts. |
| Evergreen State College               | State Patrol                     |
| Family Support Center                 | Storm Water Control              |
| Fire Districts                        | Traffic signal construction      |
| Food Banks                            | Trauma Center                    |
| Gambling Revolving Fund               | Washington State University      |
| Make-a-Wish Foundation                | YMCA/YWCA                        |
| Museums                               | Youth Sports                     |

Survey of Washington Tribes, Brown (2002).

Notwithstanding their status as governments, Washington's tribes must also participate in the federal income tax system—just as any government does. Federal income tax applies to all tribal employees, regardless of background, and tribal governments withhold income to cover Medicare, Social Security, and income taxes just as any other government would. The amounts they withhold are substantial: a selection of eight tribes responding to a survey on the question reported that they withheld more than \$45 million on behalf of about 9,500 enterprise and government workers in 2003.

When it comes to public finance, tribal governments are not markedly different from the multitude of governing units that exist in the US and Washington. They own gambling enterprises, just as the states do. They make formal and informal agreements to compensate other governments to meet infrastructure needs or to mitigate the impacts of their activities, just the way municipalities do. They abide by a multitude of laws that govern how their citizens and others are taxed, just as any government must. Nonetheless, many would exempt tribes from the generally supported principle of inter-governmental tax immunity. Ostensibly tribal governments ought to be taxed because their rights are “special,” but Section II demonstrated that, as unique as those rights might be in their origin, the practical implication of Indian self-determination is just the same as it is for non-Indians. Self-rule works better.

### **C. The Economics of Tribes and Off-Reservation Tax Bases**

Another ostensible justification for trying to tax Indian governments is that they are said to encroach on the tax bases of their neighbors. The Washington Research Council (2002) asserts:

The diversion of economic activity to untaxed tribal business costs state and local governments revenue (1). The expansion of tribal businesses...reduces the ability [of] state and local governments to fund services (7). The amount of foregone revenue is not trivial (1).

Holding aside for the next subsection the question of whether this claim is factually supportable or not, the argument collapses in its conception. Jurisdictions everywhere witness competition for taxable activity. In 1968 New Hampshire developed the first state lottery, and Massachusetts residents flocked north of the border to participate. The amount of foregone revenue was not trivial. More recently, Detroit residents flocked to a large government-owned casino in Windsor, Ontario, to the alarm of Michigan taxpayers.

In neither case was intergovernmental taxation seriously considered as a solution—it was unthinkable.

If governments did turn to intergovernmental taxation every time Boeing or Wal-Mart opened a new facility, a tangle of intergovernmental taxes and conflict would drag upon the US economy and system of government. Even if it could be arranged somehow, citizens would be denied a strong mechanism of disciplining their governments' behavior. If a government could simply tax its neighbor rather than competing to attract productive residents and investors, the competition between governments to provide attractive tax rates, reasonable regulation, and efficient services would be diminished significantly.

And supposing the principle of intergovernmental tax immunity were suspended for a moment: Is it a foregone conclusion that “special rights” of Indian self-government warrant sharing revenues with states because tribes deplete off-reservation tax collections? The economics of Indian reservations indicate otherwise.

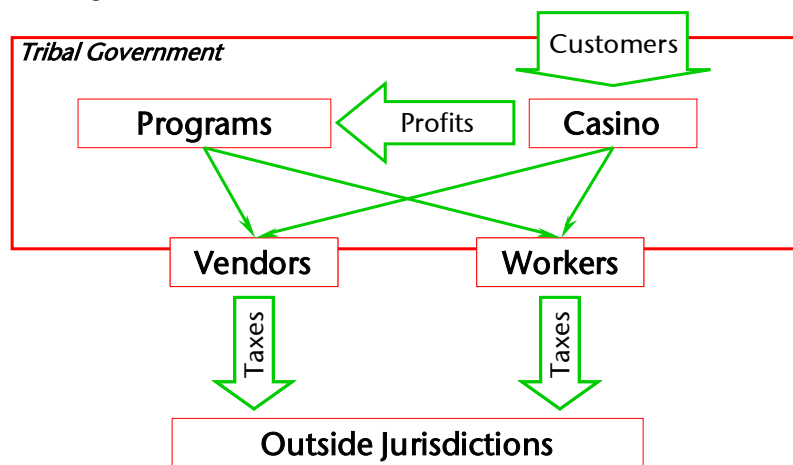
At its core, this allegation begins with the sensible notion that a decision by a non-Indian to spend some discretionary household income at an Indian casino means that the income cannot be spent on a state-taxable transaction: a movie, a hamburger, or a car. It goes without saying that within fixed budgets, consumers must make substitutions between consumption alternatives. As reasonable as the observation is, however, there are potentially countervailing effects. A casino may be an attractive destination that brings net new spending into a region. Thus, depending upon the economic geography in question, Indian gaming can precipitate net regional growth (e.g., as demonstrated in Grant, Spilde, Taylor 2004).

Because Indian gaming takes place on Indian land (with limited exception) and Indian reservations are scattered around Washington in ways that have more to do with settlement history than with leisure business strategy (see Figure 1), customers have to drive further from their homes than would otherwise be the case. And in so doing, they move economic activity around the state more than they otherwise would. A visit to the Swinomish Casino by a Bellevue couple entails moving some of their discretionary spending out of the metropolitan area to Skagit County hotels and gas stations, to Casino employees' grocery budgets, and to the Swinomish Tribe's housing program. That movement of money brings with it all the attendant positive implications for local revenue collections. To be sure, this destination effect must be netted of local substitution effects. Nonetheless, the fundamental economic geography is clear: because Indian casinos are spread throughout Washington

(and often in economically depressed areas) they have destination effects that potentially surpass local customers' substitution away from other in-region purchases. If and to the extent this is so, local jurisdictions' tax bases will be augmented, not diminished by the introduction of Indian gaming.

In addition, tribes are incapable of economic isolation and they are forced to turn to the off-reservation economy for significant proportions of their purchases. These purchases, in turn, are associated with tax collections by non-Indian governments. Customers bring dollars to a tribal casino or other enterprise and those revenues are split between the providers of capital, labor, goods, and services, on the one hand, and the tribe on the other. The tribal revenues, in turn, are spent on government programs and services, which then require additional capital, labor, goods and services (see Figure 20).

**Figure 20**  
Indian Gaming Finance at a Glance



Try as they might, Indian governments cannot artificially keep dollars circulating in their reservation economies by buying these goods and services on the reservation. Tribal governments and their enterprises need carpets, banking services, electricity, graduate education, advertising, trucks, computers, asphalt, legal advice, and schoolteachers. And while tribes have every incentive to procure from reservation workers and companies so as to accelerate socioeconomic recovery, they cannot meet the demand for labor with "domestic" supply, and they certainly cannot meet the demand for goods, services, and capital. Reservation economies are too small and undiversified. The excess demand must be satisfied from off the reservation, and that demand then ripples outward with all the usual tax implications for the state.

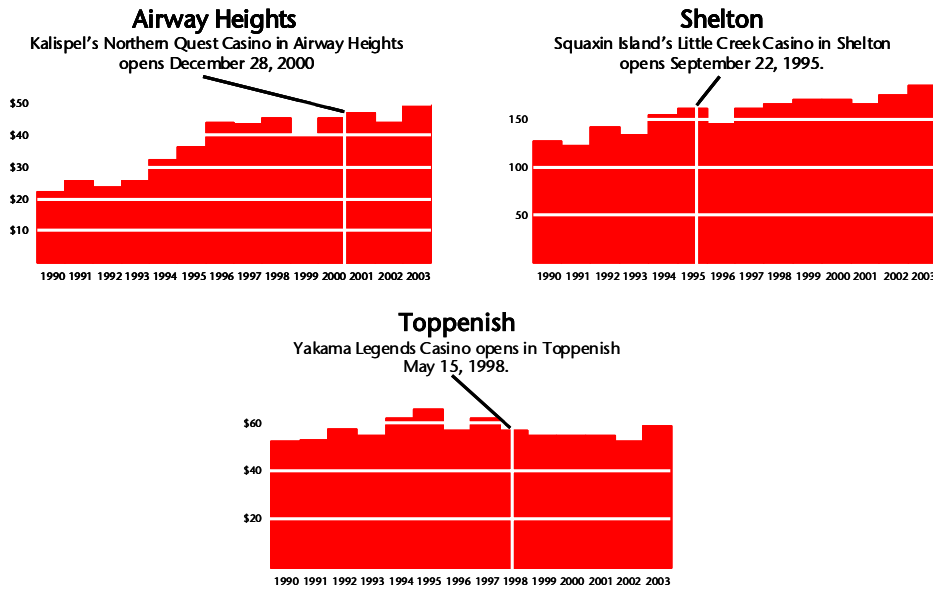
In the main, only the initial purchase or sale is affected by the tax status of the Indian or tribal party to the transaction. And the impossibility of economic isolation on the reservations thus makes tribes relatively efficient at converting whatever destination benefit it may create into an off-reservation economic benefit, too. If the local off-reservation economy can provide the goods and services the tribe needs at economically advantageous terms, the tribe has every incentive to purchase locally, and many do.

Thus, the economics cuts two ways. On the one hand, spending a household's discretionary dollar at a tribal casino means it is not available for spending elsewhere. On the other hand, destination effects and the dependency of reservation economies upon off-reservation suppliers tend to bolster taxable spending off the reservations. Which one of these countervailing effects dominates is a matter of local conditions and customer behavior, and thus claims regarding the "non-triviality" of tax revenue losses off the reservations can only be evaluated with systematic evidence. The next section examines evidence from several sources.

#### **D. The Evidence on Tribes and Off-Reservation Tax Bases**

Washington does not rely on personal income taxes for revenue, and the bulk of non-Indian government funding comes from sales and property taxes. Thus, it would be important to know whether Indian casino introductions have a net effect on taxable economic activity and property. A visual examination of Washington tax districts across a span of years demonstrates how difficult this is to do (see Figure 21). Simply looking at the data is not sufficient to answer the relevant questions. Do taxable sales rise after a casino opening like they appear to in Shelton or do they fall like they appear to in Toppenish? Did the casino introduction actually cause a change in taxable sales or would the observed trend have happened anyway? What is going on in these regional economies apart from casino introductions? Can unrelated factors be isolated in this analysis? Are these graphs representative of other tax districts in Washington?

**Figure 21**  
**Taxable Sales Fluctuate Before and After Casino Introductions**  
 000,000 2003 dollars



Washington Department of Revenue (2004); Washington State Gambling Commission (2004c).

The proper way to examine the question is with a statistical analysis that looks for a discernible effect that can be attributed to Indian casinos once the apparent statistical “noise” of typical fluctuations is properly understood. Appendix B describes the technical details of such an analysis. It examines data from 268 of the 280 Washington tax districts (the ones for which data exist over the period 1990 – 2003). The analysis—known as a fixed-effects regression—simultaneously isolates time trends and local conditions from the introduction of casinos. The approach allows the variation of the larger economy and the variation of local districts’ experience to be accounted for, so that the effect of casino presence near a district can be observed.

The analysis accounts for 99% of the variation in taxable sales—as often happens under a fixed-effects approach—and no statistically discernible change in taxable sales is found to be associated with casino proximity (at either five or fifteen miles’ distance). A similar regression that examines all tax districts where property values are assessed annually finds likewise—no discernible effect of a casino on taxable property is found at either five or fifteen miles’ distance. In Washington, casino presence is not associated with declines in these tax bases. (See Appendix B for a more detailed discussion of the results.)

And yet, the absence of evidence of a tax decline is not proof of absence. Can confirmation of this Washington-specific finding be found in other stud-

ies? As noted above, Gerstein *et al.* (1999) at the University of Chicago conducted a before-and-after and control-versus-experiment study of casino introductions and socioeconomic effects in communities across the country. The analysis was conducted under a contract for the National Gambling Impact Study Commission. Gerstein and his colleagues randomly selected 100 US communities, half of which had casinos nearby (less than 50 mi.) and half of which did not by the end of a 16-year period of analysis. Due to data limitations, all of the communities under investigation had to be non-Indian, but not all of the casinos were. The authors found that casino introductions are associated with signs of economic vitality (see Figure 22). After casino introductions, incomes held steady but unemployment declined, as did income derived from welfare and unemployment programs.

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**Figure 22**

**Analysis of 100 Communities finds Casino Introductions are Associated with...**

- A 12% decline in unemployment;
- No discernible change in total incomes;
- A 13% decline in income derived from income maintenance programs;
- A 17% decline in income derived from unemployment insurance programs;
- A 3% decline in income derived from other transfer payment programs; and
- No discernible change in business or non-business bankruptcy filings...

...relative to communities that did not experience casino introductions over a sixteen-year period of study.

Gerstein *et al.*, 71.

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The analysis by Gerstein *et al.* does not examine taxation directly, nor does it look at economic effects across tribal-state jurisdictional boundaries. Despite these limitations, the analysis demonstrates that casino gaming does not correspond with economic decline. In fact the opposite is true: casino introductions are associated with people moving into the workforce and off welfare—both of which imply greater economic productivity and tax collections in the region in question.

A further examination of this same dataset (Taylor *et al.*, n.d.) determined that the communities near Indian casinos witnessed even more pronounced gains from casino introductions. The communities in question—all are non-Indian communities—began the period of analysis with incomes 19% lower than in the general sample of 100. This is not surprising since Indian reservations are often not only economically depressed themselves, but located within economically depressed regions. In contrast to the original Gerstein study where incomes were found to be static, Taylor *et al.* found that

these communities experienced rising incomes with the introduction of a casino. The effect on non-Indian unemployment was about the same as in Gerstein *et al.* (a reduction), but the reductions in welfare dependence were more pronounced (Taylor *et al.*, Table 4). Thus, Indian casino introductions were associated with discernible net economic benefits across the jurisdictional boundary in non-Indian communities. Though the study did not examine taxes directly, the rising incomes identified near Indian casino introductions would surely be associated with rising tax collections in the non-Indian communities.

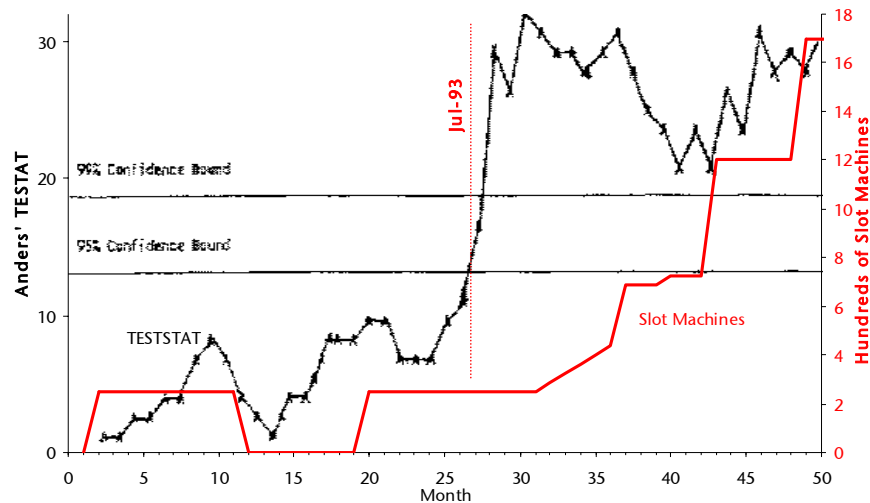
Another analysis, one that would seem on its face not to confirm the findings of the fixed-effect regression described in Appendix B, actually confirms them when properly understood. Anders, Seigel, and Yacoub (1998) performed a tax analysis on Indian casino introductions that takes the inverse approach to Gerstein *et al.* Rather than identify when casinos opened and search for changes in variables of concern, Anders *et al.* examined a variable of concern over time to see if statistically significant changes in it could be identified. Once they found a change, they attributed the change to developments in Indian gambling.

In particular, Anders *et al.* examined transaction privilege taxes (TPT)—Arizona’s version of sales taxes—in Maricopa County, the county that contains Phoenix. During the period of analysis (July 1990 to December 1996) several Indian tribes in and near the county signed compacts under IGRA and opened casinos. The analysis identified a statistically significant decline in TPT collections during July and August of 1993. The authors noted that the three tribes in and around Maricopa County signed gaming compacts with Arizona in June of that same summer, and concluded: “after casinos came on-line, forecasted revenues exceeded actual revenues” (353-4). The authors associated the decline in collections with the “introduction” of gaming.

On its face, the analysis by Anders *et al.* would seem to give credence to the notion that net economic activity leaves a state’s taxing jurisdiction when an Indian casino opens. However, the analysis is so fatally flawed that it actually indicates the opposite of what its authors conclude. Casinos did not “come on-line” nor were they “introduced” in the summer of 1993. The Ft. McDowell Indian Community had introduced gaming two years earlier in July of 1991. In May of the subsequent year, federal agents closed the facility, and it was reopened in January 1993. The other two tribes under analysis did not make their capacity available to Maricopa County consumers until *nearly a year after* signing the compacts in the summer of 1993.

Figure 23 reproduces the authors' graph of TESTSTAT—the indicator of a deviation from expectations. The horizontal lines in the graph denote when actual results deviate from expectations with 95% and 99% confidence (reading from bottom upward). To the left of the vertical dotted line marked **Jul-93**, TPT collections conform to expectations; to the right of the line, collections are statistically different from expectations (in the negative) with high levels of confidence.

**Figure 23**  
Tax Collections Change in Arizona, but not in Relation to Casino Capacity  
Maricopa County, 7/90-12/96



The registration of the horizontal scale for Slot Machines and the Anders, *et al.* data may be off by one month.

Reproduction of Anders *et al.* (1998) Fig. 1; Flannery (1993); Wilson (1994); casino management.

As the solid line **Slot Machines** indicates, the bulk of capacity actually made available to customers is not deployed until *after* the threshold change identified by TESTSTAT. Intergovernmental legal documents were signed at the time of the threshold, but the documents had nothing to do at all with altering consumer behavior. When the vast bulk of Maricopa County's Indian gaming capacity eventually and *actually* "comes on-line," TESTSTAT is unperturbed. Anders *et al.* misattributed a threshold effect they discovered in their data to Indian gaming, and the inverse of their conclusion is warranted when the actual "coming on-line" of capacity is understood.

Taken together, these three empirical studies paint a picture consistent with the Washington statistical analysis described above. Casino openings are a form of economic development and systematically increase employment and decrease welfare dependence in non-Indian communities (Gerstein *et al.*).

Destination effects are greater than substitution effects in depressed areas, and not only do unemployment and welfare decline accordingly, but earned income rises as well (Taylor *et al.*). Finally, the experience of Phoenix, Arizona—properly understood—indicates that Indian casinos are not associated with sales tax declines (Anders *et al.* as corrected above). These studies and the Washington State regressions together show that Indian casinos generally do not precipitate an injury to the tax base of communities around reservations. The opposite is probably the case, and even if not, taxpayers are sure to benefit as Indian gaming revenues are spent on Indian socioeconomic recovery.

A few words about discernibility and public policy are in order. To say that a casino effect on taxes is not statistically discernible can mean two things. First, it could mean that the effects are small and lost in the ordinary fluctuation and overall growth of the economy. To the extent that this is true, policy analysis must turn to the question of whether the tax equities are worth further research and dispute. The fixed-effects regression coefficients of Appendix B indicate that the Washington sales tax base grew by an average of 64% in rural areas and urban taxable sales more than doubled over the fourteen examined years. In other words, the ups and downs that create the difficulties of interpretation in Figure 21 turn out to be increases, on average, over the period of study. Washington has been growing. And given that Indian self-government is crucial for Indian well-being (as demonstrated in Section II), overturning the principle of intergovernmental tax immunity is not warranted, especially as a “remedy” of tax effects that are too small to observe through systematic statistical analysis.

On the other hand, effects might be hard to separate from the background noise because positive consequences in some sectors of the economy offset negative effects elsewhere. (Note that this could also be true with *discernible* increases or decreases). To the extent that offsetting effects are present, public policy may turn to equitably addressing individual communities’ grievances. Both IGRA and Washington’s compacting process offer means to do so. IGRA allows gaming revenues to be spent on charitable causes, and communities can and do appeal to the tribes directly for contributions to address local effects. More concretely, the Washington compacts’ Appendix X requires that the tribes and a locally constituted committee agree on mitigation spending, and in this way any concentrated local effects of Indian casinos can be addressed. In other words, the structure of Washington Indian gaming policy already accounts for off-reservation effects (discernible or otherwise).

## V. Conclusion

The assertion has been made that an “uneven playing field” allows Washington tribes to perpetrate economic harms on their neighbors. The assertion is not borne out by the economics of Indian gaming, neither is it supported by the facts of Indian gaming as it has actually developed in Washington.

To start, the claim that “Indians do not pay taxes” does not withstand scrutiny. Indians do in fact pay taxes, withhold taxes, and collect taxes. *Governments* do not pay taxes, and the claim that tribal governments are free from taxation due to “special” rights belittles their standing as governments. That standing is based in history, negotiated in treaties, recognized by law, supported by policy, and—most importantly—justified by practical consequences. Robust Indian self-government is the *only* approach to precipitate positive socioeconomic change on the reservations in a century (Kalt 1996, 4). Its achievements come despite stagnant and inadequate federal support for Indians. Washington State is not exceptional in this regard. The state has an interest in seeing Indians continue to close the very substantial socioeconomic gap with non-Indians so that Indian dependence on other taxpayers and governments is eliminated. If belittling tribal government standing translates into policies that actually erode tribal powers essential to self-government, the gains that Indians have made recently could easily be reversed. They have been before, and other governments have had to carry the consequences.

Tribal sovereignty and intergovernmental tax immunity are not blank checks, however. Tribes exist within a network of governments, and their actions can and do have consequences for the other governments around them. The Indian Gaming Regulatory Act and Washington’s implementation of it in the compacting process recognize this feature of Indian gaming. The tribes address gaming-related concerns in conjunction with state and local governments. Under formal and informal negotiated agreements, the tribes pay Washington, local governments, and local community organizations to defray the costs of gambling regulation and to mitigate negative local impacts. Washington’s Indian gaming policy also goes a step beyond reimbursement for costs with an explicit redistribution scheme. The trading of device rights among tribes is intended to spread the wealth of metropolitan Indian gaming to more remote tribes, about half of which are located in Washington’s economically distressed counties.

Moreover, to assert that

Money spent at non-taxed tribal businesses would, in the absence of those businesses, be spent in ways that generate state and local government revenue (Washington Research Council 2002, 1).

is to fail to understand that governments “harm” each other in this fashion all the time. They carve out regulatory exemptions and abate taxes to retain large employers. They build better schools to attract white-collar workers away from other communities. They even raise bet ceilings in gambling establishments to attract out-of-state customers. Intergovernmental competition is an intentional feature of the distributed governing system of the country. Once governments compensate each other for intergovernmental burdens, as they do under the Washington gaming compacts, it is best to let this competition flourish.

To make the above assertion is also to fail to recognize that tribal business profits are expended directly by *local governments* on everything from salmon restoration and school equipment purchases to housing rehabilitation and substance-abuse prevention. The inference that such funds somehow leave the state-taxed economy never to return is also mistaken. Indian reservations are not closed economies—they depend almost completely on off-reservation vendors and heavily on off-reservation workforces. Most importantly, there is no systematic evidence that local tax collections are harmed because “state and local governments have limited ability to collect taxes from activities on tribal lands” (*Id.*). Taxable sales and property do not change in proximity to Indian casino introductions. In sum, Indian gaming is and promises to continue to be a properly functioning and beneficial sector of the Washington economy. It is also an effective exercise of Indian self-determination that benefits Washington Indians specifically and Washingtonians more generally.

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## Appendix A – Survey of Washington Tribes

A survey of Washington tribes was designed by the Taylor Policy Group and issued between August and October, 2004 by the Washington Indian Gaming Association (WIGA). It solicited information about gaming capacity over time, tax withholding, compacted charitable and intergovernmental contributions, land use, and unmet needs. Compliance was voluntary but encouraged by repeated personal communication from WIGA. Fourteen out of Washington’s twenty-nine federally recognized tribes participated:

1. Confederated Tribes of the Chehalis Reservation
2. Confederated Tribes of the Colville Reservation
3. Jamestown S'Klallam Tribe
4. Kalispel Tribe
5. Lummi Indian Nation
6. Muckleshoot Indian Tribe
7. Nisqually Indian Community
8. Port Gamble S'Klallam Tribe
9. Quileute Tribe
10. Quinault Indian Nation
11. Squaxin Island Tribe
12. Suquamish Tribe
13. Swinomish Indian Tribe
14. Tulalip Tribes

Usage of this data is indicated in the text by “Survey of Washington Tribes.”

## Appendix B – Regression of Indian Casino Introductions

Fixed-effect regressions were performed to predict the natural logarithm of taxable sales ( $\ln_{ts}$ ) and of assessed property values ( $\ln_{pt}$ ) by tax district around the state of Washington. Tax districts correspond to incorporated places in the state.

For the sales tax regression, fourteen year dummies and 268 tax district dummies were used, yielding 3,752 observations (268 of the 280 Washington tax districts have 14 years of data spanning 1990 to 2003). For the property tax regression, fourteen year dummies were used but only 123 district dummies were used (for 1,722 observations). Fewer tax districts were examined in the case of property taxes because the analysis focused only on districts that have annual revaluations (confusingly referred to as a “six-year” cycle revaluations), as opposed to four- or two-year revaluations. The latter revaluations introduce thresholds where assessed values changed dramatically every other year or every four years, complicating analysis. Revaluation cycles vary by county and thus, whole counties drop out of the analysis due to their differences in revaluation regime. About half the counties representing about two-thirds the population of Washington remain in the property tax regression.

A dummy for Indian casino proximity over time was created using GIS software to identify Indian casino openings (obtained from the Washington State Gambling Commission—WSGC) near tax districts. “Proximity” was defined, alternatively, as within five miles and within fifteen miles of the tax district border. The coefficient on these dummies ( $casinos_5$  and  $casinos_{15}$ ) was the variable of interest. It would show (or not show) an introduction-specific effect of Indian casinos on taxable sales (for sales taxes) or assessed valuations (for property taxes).

A continuous variable was constructed using data from the Washington State Gaming Commission for Indian casino capacity within the same geographies—i.e., five and fifteen miles. However, the WSGC observations of capacity begin only in 2000, and several Indian casinos were open well before that. Additional efforts were made to obtain capacity data from the tribes directly, from third-party compilers of casino directories, and by backward induction from compacts and amendments. In the first case, tribal survey responses were insufficient in coverage. In the second case, casino directories were not reliably compiled for Washington Indian casinos prior to the late 1990s. In the third case, it was determined that the compact constraint was not always binding. Compacting dates and capacity limits move independently of capacity deployments (per the discussion of Anders *et al.* in Section III). Thus, no

credence could be given to a regression that tested the effect of capacity additions over time and that avenue of investigation was abandoned.

Population, population density, taxable sales/assessed valuations per capita, and latitude/longitude were used for diagnosing residuals or as weights, but endogeneity with the dependent variable precluded their inclusion in the regression. Residuals showed no trends or patterns with respect to casino dummies, population, geography, or time. Regression by quartiles indicated that location might be correlated with the time dummies. An urban dummy (based on the Census definition of urban area) was interacted with time dummies to isolate an urban and rural time trends. Coefficients on rural time dummies and urban time dummies were jointly different from each other, so the final specification included the term interacting year and urban dummies (`_JyrXu_1991_1`).

Residuals had lower variances at higher values of left-hand side variables, in accord with expectations. Heteroskedasticity was expected because large economies tend not to have large percentage-change swings in taxable sales relative to smaller (i.e., more undiversified) economies. Because the dataset was sufficiently large and because it represented close to the total universe of tax districts, heteroskedasticity was not a concern for bias of the estimates. The regression was run with robust standard errors to address the effects on significance tests.

### Results for the Sales Tax Regression

Regression with robust standard errors

Number of obs = 3752  
 F(294, 3457) = 3292.52  
 Prob > F = 0.0000  
 R-squared = 0.9885  
 Root MSE = .2486

lnts	Coef.	Robust Std. Err.	t	P> t	[95% Conf. Interval]
casinos5	-.021686	.0203425	-1.07	0.286	-.0615705 .0181985
YR2	-.0355925	.0417659	-0.85	0.394	-.1174808 .0462957
YR3	.1076734	.0466216	2.31	0.021	.0162647 .199082
YR4	.1944527	.0399543	4.87	0.000	.1161162 .2727892
YR5	.2395252	.0394843	6.07	0.000	.1621102 .3169401
YR6	.3851051	.0451335	8.53	0.000	.2966141 .4735962
YR7	.3783416	.0387475	9.76	0.000	.3023714 .4543119
YR8	.448081	.0404664	11.07	0.000	.3687406 .5274214
YR9	.3891291	.0376972	10.32	0.000	.3152181 .46304
YR10	.513389	.0416406	12.33	0.000	.4317463 .5950317
YR11	.4743198	.0390062	12.16	0.000	.3978423 .5507974
YR12	.4171689	.0414606	10.06	0.000	.3358792 .4984586
YR13	.4001923	.0427286	9.37	0.000	.3164165 .4839681
YR14	.4954	.0473546	10.46	0.000	.4025543 .5882458

_JyrXu_1~1_1	.0789313	.0517273	1.53	0.127	-.0224878	.1803504
_JyrXu_1~2_1	.0354269	.0560964	0.63	0.528	-.0745585	.1454124
_JyrXu_1~3_1	.0095078	.0504231	0.19	0.850	-.0893543	.10837
_JyrXu_1~4_1	.0660171	.0478963	1.38	0.168	-.0278907	.159925
_JyrXu_1~5_1	-.0507675	.051607	-0.98	0.325	-.1519508	.0504158
_JyrXu_1~6_1	.0149238	.0455402	0.33	0.743	-.0743646	.1042123
_JyrXu_1~7_1	.0255415	.0474366	0.54	0.590	-.0674651	.1185481
_JyrXu_1~8_1	.1500134	.0455476	3.29	0.001	.0607106	.2393163
_JyrXu_1~9_1	.1210737	.0495442	2.44	0.015	.0239349	.2182125
_JyrXu_2~0_1	.1981425	.0480567	4.12	0.000	.1039201	.2923649
_JyrXu_2~1_1	.2546717	.0507785	5.02	0.000	.1551128	.3542307
_JyrXu_2~2_1	.2857245	.0508113	5.62	0.000	.1861013	.3853477
_JyrXu_2~3_1	.2434244	.0558251	4.36	0.000	.1339709	.3528778
_Idistrict_2	-2.096854	.0994137	-21.09	0.000	-2.291769	-1.901938
_Idistrict_3	-6.03668	.0729096	-82.80	0.000	-6.17963	-5.893729
_Idistrict_4	-2.683102	.1027916	-26.10	0.000	-2.88464	-2.481563
_Idistrict_5	-4.609433	.0849629	-54.25	0.000	-4.776016	-4.442851
_Idistrict_6	-.4699979	.0499717	-9.41	0.000	-.5679749	-.372021
_Idistrict_7	-.5897561	.0833542	-7.08	0.000	-.7531845	-.4263278
_Idistrict_8	-4.479441	.0719327	-62.27	0.000	-4.620476	-4.338406
_Idistrict_9	1.234732	.0396511	31.14	0.000	1.15699	1.312474
_Idistri~_10	-.7046828	.0729699	-9.66	0.000	-.8477512	-.5616144
_Idistri~_11	-1.281805	.0539748	-23.75	0.000	-1.387631	-1.175979
_Idistri~_12	-5.014268	.112947	-44.39	0.000	-5.235718	-4.792818
_Idistri~_13	2.453486	.037041	66.24	0.000	2.380861	2.52611
_Idistri~_14	1.436943	.0435502	33.00	0.000	1.351557	1.52233
_Idistri~_15	-3.208065	.0528757	-60.67	0.000	-3.311736	-3.104395
_Idistri~_16	-3.459377	.0602606	-57.41	0.000	-3.577527	-3.341227
_Idistri~_17	-2.966406	.0478685	-61.97	0.000	-3.06026	-2.872553
_Idistri~_18	-1.349419	.0783983	-17.21	0.000	-1.503131	-1.195708
_Idistri~_19	-1.280875	.0978813	-13.09	0.000	-1.472786	-1.088964
_Idistri~_20	.3569122	.1233051	2.89	0.004	.1151541	.5986703
_Idistri~_21	.5165536	.0401534	12.86	0.000	.4378268	.5952804
_Idistri~_22	-2.523329	.0626975	-40.25	0.000	-2.646257	-2.400401
_Idistri~_23	-4.148639	.098594	-42.08	0.000	-4.341947	-3.95533
_Idistri~_24	-3.48418	.0582096	-59.86	0.000	-3.598309	-3.370051
_Idistri~_25	-2.281267	.0415085	-54.96	0.000	-2.36265	-2.199883
_Idistri~_26	-5.463064	.0689348	-79.25	0.000	-5.598221	-5.327907
_Idistri~_27	.2954636	.0478947	6.17	0.000	.2015588	.3893684
_Idistri~_28	-.8543162	.05671	-15.06	0.000	-.9655046	-.7431277
_Idistri~_29	-5.809917	.1673286	-34.72	0.000	-6.13799	-5.481844
_Idistri~_30	-2.642211	.0853949	-30.94	0.000	-2.809641	-2.474782
_Idistri~_31	-2.672107	.0741439	-36.04	0.000	-2.817477	-2.526737
_Idistri~_32	-2.461404	.0525997	-46.80	0.000	-2.564533	-2.358274
_Idistri~_33	-3.72828	.0738981	-50.45	0.000	-3.873169	-3.583392
_Idistri~_34	-.3463556	.0482593	-7.18	0.000	-.4409753	-.2517359
_Idistri~_35	-.1812714	.0417769	-4.34	0.000	-.2631814	-.0993615
_Idistri~_36	-1.583791	.0418677	-37.83	0.000	-1.665879	-1.501703
_Idistri~_37	-1.511195	.0504992	-29.93	0.000	-1.610206	-1.412183
_Idistri~_38	-2.481708	.0576012	-43.08	0.000	-2.594644	-2.368772
_Idistri~_39	-1.137391	.0406985	-27.95	0.000	-1.217187	-1.057596
_Idistri~_40	-2.118972	.0378531	-55.98	0.000	-2.193189	-2.044755
_Idistri~_41	-3.309959	.1027086	-32.23	0.000	-3.511335	-3.108583
_Idistri~_42	-2.307391	.057252	-40.30	0.000	-2.419643	-2.19514
_Idistri~_43	-2.683579	.0951605	-28.20	0.000	-2.870156	-2.497003
_Idistri~_44	-5.764912	.0638166	-90.34	0.000	-5.890034	-5.639791
_Idistri~_45	-.9730343	.0409116	-23.78	0.000	-1.053248	-.892821
_Idistri~_46	-5.763505	.075537	-76.30	0.000	-5.911606	-5.615403
_Idistri~_47	-3.747362	.0798409	-46.94	0.000	-3.903902	-3.590822
_Idistri~_48	-2.880216	.0850381	-33.87	0.000	-3.046946	-2.713486
_Idistri~_49	-3.163928	.1023859	-30.90	0.000	-3.364671	-2.963185
_Idistri~_50	-3.495421	.0875189	-39.94	0.000	-3.667015	-3.323827
_Idistri~_51	-4.047012	.0635924	-63.64	0.000	-4.171695	-3.92233

_Idistri~_52	-2.498998	.0680347	-36.73	0.000	-2.63239	-2.365606
_Idistri~_53	-5.640955	.0698139	-80.80	0.000	-5.777836	-5.504075
_Idistri~_54	-5.267476	.0815641	-64.58	0.000	-5.427394	-5.107557
_Idistri~_55	-3.47538	.0734836	-47.29	0.000	-3.619456	-3.331305
_Idistri~_56	-2.761934	.0598303	-46.16	0.000	-2.87924	-2.644628
_Idistri~_57	-2.814585	.0488162	-57.66	0.000	-2.910297	-2.718874
_Idistri~_58	-2.12885	.0542651	-39.23	0.000	-2.235245	-2.022456
_Idistri~_59	-.9349551	.0394005	-23.73	0.000	-1.012206	-.8577045
_Idistri~_60	-2.975915	.2623402	-11.34	0.000	-3.490273	-2.461558
_Idistri~_61	-2.203096	.060114	-36.65	0.000	-2.320958	-2.085233
_Idistri~_62	-.7665499	.0411755	-18.62	0.000	-.8472806	-.6858192
_Idistri~_63	-2.283092	.0558734	-40.86	0.000	-2.39264	-2.173544
_Idistri~_64	.1958167	.0366871	5.34	0.000	.1238861	.2677473
_Idistri~_65	-4.772134	.0553815	-86.17	0.000	-4.880717	-4.66355
_Idistri~_66	-.368536	.0340308	-10.83	0.000	-.4352585	-.3018134
_Idistri~_67	-2.186761	.0565346	-38.68	0.000	-2.297606	-2.075916
_Idistri~_68	-6.623517	.1028235	-64.42	0.000	-6.825118	-6.421916
_Idistri~_69	-5.486613	.1146543	-47.85	0.000	-5.71141	-5.261816
_Idistri~_70	-4.32562	.111087	-38.94	0.000	-4.543423	-4.107817
_Idistri~_71	-.6217304	.0411179	-15.12	0.000	-.7023483	-.5411125
_Idistri~_72	-1.495935	.0403179	-37.10	0.000	-1.574984	-1.416885
_Idistri~_73	1.842385	.05127	35.93	0.000	1.741863	1.942908
_Idistri~_74	-3.010867	.0752685	-40.00	0.000	-3.158442	-2.863292
_Idistri~_75	-3.964084	.0864304	-45.86	0.000	-4.133544	-3.794624
_Idistri~_76	-6.479015	.0881591	-73.49	0.000	-6.651865	-6.306166
_Idistri~_77	1.172384	.0394149	29.74	0.000	1.095105	1.249663
_Idistri~_78	-1.297225	.0342084	-37.92	0.000	-1.364296	-1.230154
_Idistri~_79	.1899703	.0529812	3.59	0.000	.0860926	.2938479
_Idistri~_80	-2.991191	.0599537	-49.89	0.000	-3.108739	-2.873643
_Idistri~_81	-2.24825	.0636449	-35.32	0.000	-2.373035	-2.123464
_Idistri~_82	-1.437333	.0554151	-25.94	0.000	-1.545982	-1.328683
_Idistri~_83	-4.680704	.0843706	-55.48	0.000	-4.846125	-4.515282
_Idistri~_84	-4.382251	.0721472	-60.74	0.000	-4.523706	-4.240795
_Idistri~_85	-.4354132	.083222	-5.23	0.000	-.5985824	-.272244
_Idistri~_86	-3.948142	.0702023	-56.24	0.000	-4.085785	-3.8105
_Idistri~_87	-2.070613	.1106377	-18.72	0.000	-2.287535	-1.853691
_Idistri~_88	-2.783405	.0559861	-49.72	0.000	-2.893175	-2.673636
_Idistri~_89	-1.638649	.0436297	-37.56	0.000	-1.724192	-1.553107
_Idistri~_90	-3.868225	.0905573	-42.72	0.000	-4.045777	-3.690674
_Idistri~_91	-2.551038	.0752086	-33.92	0.000	-2.698496	-2.40358
_Idistri~_92	-5.635116	.0652225	-86.40	0.000	-5.762995	-5.507238
_Idistri~_93	-5.030332	.0827193	-60.81	0.000	-5.192516	-4.868149
_Idistri~_94	-4.607103	.0671444	-68.61	0.000	-4.738749	-4.475456
_Idistri~_95	-6.274427	.1041124	-60.27	0.000	-6.478555	-6.070299
_Idistri~_96	-7.354066	.1599472	-45.98	0.000	-7.667667	-7.040465
_Idistri~_97	-1.673788	.0791168	-21.16	0.000	-1.828909	-1.518668
_Idistri~_98	-3.673142	.1139122	-32.25	0.000	-3.896484	-3.4498
_Idistri~_99	-3.374403	.0675796	-49.93	0.000	-3.506903	-3.241903
_Idistri~100	-5.558659	.0730112	-76.13	0.000	-5.701809	-5.41551
_Idistri~101	-4.388253	.0604409	-72.60	0.000	-4.506756	-4.269749
_Idistri~102	.5394091	.1033853	5.22	0.000	.3367067	.7421115
_Idistri~103	-6.240969	.0763003	-81.79	0.000	-6.390567	-6.091371
_Idistri~104	-2.658678	.058249	-45.64	0.000	-2.772884	-2.544472
_Idistri~105	-.511698	.0442984	-11.55	0.000	-.5985517	-.4248444
_Idistri~106	1.038552	.0352378	29.47	0.000	.9694634	1.107641
_Idistri~107	1.766815	.0410581	43.03	0.000	1.686315	1.847316
_Idistri~108	-3.156414	.06233	-50.64	0.000	-3.278622	-3.034207
_Idistri~109	1.328086	.0383414	34.64	0.000	1.252912	1.40326
_Idistri~110	-4.153291	.0686557	-60.49	0.000	-4.287901	-4.018681
_Idistri~111	-8.060849	.1507395	-53.48	0.000	-8.356397	-7.765302
_Idistri~112	-3.38301	.1188878	-28.46	0.000	-3.616107	-3.149912
_Idistri~113	-2.131972	.050326	-42.36	0.000	-2.230644	-2.0333
_Idistri~114	.277171	.0405821	6.83	0.000	.1976037	.3567383

_Idistri~115	-4.321765	.0899747	-48.03	0.000	-4.498174	-4.145356
_Idistri~116	-2.10551	.0417225	-50.46	0.000	-2.187314	-2.023707
_Idistri~117	-1.972272	.0505101	-39.05	0.000	-2.071305	-1.87324
_Idistri~118	-7.301632	.1263263	-57.80	0.000	-7.549314	-7.053951
_Idistri~119	-2.503085	.0557515	-44.90	0.000	-2.612395	-2.393776
_Idistri~120	-5.492769	.0576687	-95.25	0.000	-5.605837	-5.379701
_Idistri~121	-1.467366	.0582884	-25.17	0.000	-1.581649	-1.353083
_Idistri~122	-3.577259	.1038411	-34.45	0.000	-3.780856	-3.373663
_Idistri~123	-2.313774	.0456647	-50.67	0.000	-2.403306	-2.224241
_Idistri~124	.5645512	.0415681	13.58	0.000	.4830508	.6460517
_Idistri~125	-5.117814	.138499	-36.95	0.000	-5.389363	-4.846266
_Idistri~126	-.8110352	.0340038	-23.85	0.000	-.8777047	-.7443656
_Idistri~127	1.567735	.0422195	37.13	0.000	1.484957	1.650512
_Idistri~128	-4.294519	.0969098	-44.31	0.000	-4.484525	-4.104513
_Idistri~129	-7.027619	.1892575	-37.13	0.000	-7.398686	-6.656551
_Idistri~130	-5.266246	.0719235	-73.22	0.000	-5.407263	-5.12523
_Idistri~131	-7.186361	.0981619	-73.21	0.000	-7.378822	-6.993899
_Idistri~132	.0294805	.0368899	0.80	0.424	-.0428478	.1018088
_Idistri~133	-3.441538	.06513	-52.84	0.000	-3.569236	-3.313841
_Idistri~134	-3.834759	.0711182	-53.92	0.000	-3.974197	-3.695321
_Idistri~135	-2.886017	.0717518	-40.22	0.000	-3.026697	-2.745336
_Idistri~136	-1.704084	.1011538	-16.85	0.000	-1.902412	-1.505757
_Idistri~137	-.4686805	.0629977	-7.44	0.000	-.592197	-.3451641
_Idistri~138	-4.47391	.0837349	-53.43	0.000	-4.638085	-4.309736
_Idistri~139	-6.132281	.1359142	-45.12	0.000	-6.398761	-5.865801
_Idistri~140	-4.813537	.0729815	-65.96	0.000	-4.956628	-4.670445
_Idistri~141	-1.199518	.0435367	-27.55	0.000	-1.284878	-1.114158
_Idistri~142	-2.812478	.0572883	-49.09	0.000	-2.9248	-2.700156
_Idistri~143	-1.426916	.0734675	-19.42	0.000	-1.570961	-1.282872
_Idistri~144	-.3881915	.061055	-6.36	0.000	-.5078991	-.2684839
_Idistri~145	-2.00606	.0732728	-27.38	0.000	-2.149723	-1.862398
_Idistri~146	-2.383587	.0633329	-37.64	0.000	-2.507761	-2.259414
_Idistri~147	.0127386	.0373188	0.34	0.733	-.0604305	.0859078
_Idistri~148	-4.095824	.0733167	-55.86	0.000	-4.239572	-3.952075
_Idistri~149	.191377	.0362565	5.28	0.000	.1202906	.2624633
_Idistri~150	-.9702497	.0409866	-23.67	0.000	-1.05061	-.8898894
_Idistri~151	-3.996618	.0656373	-60.89	0.000	-4.12531	-3.867927
_Idistri~152	-.9210577	.0706794	-13.03	0.000	-1.059635	-.78248
_Idistri~153	-3.511641	.0728536	-48.20	0.000	-3.654482	-3.368801
_Idistri~154	-4.040869	.192377	-21.00	0.000	-4.418053	-3.663685
_Idistri~155	-6.097569	.1263459	-48.26	0.000	-6.345289	-5.849848
_Idistri~156	-2.443559	.0574295	-42.55	0.000	-2.556159	-2.33096
_Idistri~157	-4.290549	.0587105	-73.08	0.000	-4.40566	-4.175438
_Idistri~158	-2.508402	.0564404	-44.44	0.000	-2.619062	-2.397742
_Idistri~159	-1.051714	.0401087	-26.22	0.000	-1.130353	-.9730753
_Idistri~160	-5.161568	.1893659	-27.26	0.000	-5.532848	-4.790287
_Idistri~161	-5.062674	.094505	-53.57	0.000	-5.247966	-4.877383
_Idistri~162	-.3962158	.0374654	-10.58	0.000	-.4696724	-.3227593
_Idistri~163	-5.037884	.0569633	-88.44	0.000	-5.149569	-4.926198
_Idistri~164	-4.427571	.0782649	-56.57	0.000	-4.581021	-4.274121
_Idistri~165	-1.827048	.0435812	-41.92	0.000	-1.912495	-1.7416
_Idistri~166	-3.115647	.0685413	-45.46	0.000	-3.250032	-2.981261
_Idistri~167	-2.162127	.0542771	-39.84	0.000	-2.268546	-2.055709
_Idistri~168	1.326654	.0351211	37.77	0.000	1.257794	1.395514
_Idistri~169	-1.242559	.0401246	-30.97	0.000	-1.32123	-1.163889
_Idistri~170	-2.490594	.0847522	-29.39	0.000	-2.656763	-2.324424
_Idistri~171	-2.769372	.0796441	-34.77	0.000	-2.925526	-2.613217
_Idistri~172	-1.35028	.0404913	-33.35	0.000	-1.429669	-1.27089
_Idistri~173	-2.154218	.1148808	-18.75	0.000	-2.379459	-1.928977
_Idistri~174	-4.124214	.064206	-64.23	0.000	-4.250099	-3.998328
_Idistri~175	.454421	.0352538	12.89	0.000	.3853007	.5235414
_Idistri~176	-4.143131	.0718391	-57.67	0.000	-4.283982	-4.00228
_Idistri~177	-4.630719	.1024589	-45.20	0.000	-4.831605	-4.429832

_Idistri~178	-3.109116	.0632325	-49.17	0.000	-3.233093	-2.985139
_Idistri~179	-.1395407	.0700449	-1.99	0.046	-.2768742	-.0022072
_Idistri~180	-.4781585	.0333335	-14.34	0.000	-.543514	-.4128031
_Idistri~181	-.9674546	.0406239	-23.81	0.000	-1.047104	-.8878053
_Idistri~182	-.4945974	.0373682	-13.24	0.000	-.5678633	-.4213314
_Idistri~183	-5.00867	.0711108	-70.43	0.000	-5.148094	-4.869247
_Idistri~184	-1.552337	.0498939	-31.11	0.000	-1.650162	-1.454513
_Idistri~185	-.418687	.0377139	-11.10	0.000	-.4926307	-.3447433
_Idistri~186	1.155002	.0553257	20.88	0.000	1.046528	1.263477
_Idistri~187	-1.646706	.0731002	-22.53	0.000	-1.79003	-1.503382
_Idistri~188	-3.717306	.056605	-65.67	0.000	-3.828289	-3.608323
_Idistri~189	-2.388723	.0683147	-34.97	0.000	-2.522664	-2.254781
_Idistri~190	-4.428445	.0598866	-73.95	0.000	-4.545862	-4.311028
_Idistri~191	1.485188	.043913	33.82	0.000	1.39909	1.571286
_Idistri~192	1.480136	.0360614	41.04	0.000	1.409432	1.55084
_Idistri~193	-2.986027	.0945278	-31.59	0.000	-3.171363	-2.800691
_Idistri~194	.2507512	.0482622	5.20	0.000	.1561259	.3453766
_Idistri~195	-2.797482	.1572647	-17.79	0.000	-3.105823	-2.489141
_Idistri~196	-2.455707	.0511263	-48.03	0.000	-2.555948	-2.355466
_Idistri~197	-5.476287	.0635324	-86.20	0.000	-5.600852	-5.351722
_Idistri~198	-4.625244	.0633555	-73.00	0.000	-4.749462	-4.501026
_Idistri~199	-4.305662	.0556473	-77.37	0.000	-4.414766	-4.196557
_Idistri~200	-4.454216	.1059995	-42.02	0.000	-4.662044	-4.246389
_Idistri~201	-4.12954	.094453	-43.72	0.000	-4.314729	-3.94435
_Idistri~202	-3.574588	.1072322	-33.34	0.000	-3.784833	-3.364344
_Idistri~203	-3.24812	.0634087	-51.23	0.000	-3.372442	-3.123797
_Idistri~204	-4.740264	.0973472	-48.69	0.000	-4.931128	-4.5494
_Idistri~205	.6960113	.0421135	16.53	0.000	.6134415	.7785811
_Idistri~206	3.570826	.0394056	90.62	0.000	3.493565	3.648086
_Idistri~207	-1.157606	.0419916	-27.57	0.000	-1.239937	-1.075275
_Idistri~208	-1.737248	.0400129	-43.42	0.000	-1.8157	-1.658797
_Idistri~209	-1.03624	.0415314	-24.95	0.000	-1.117668	-.954811
_Idistri~210	-.7885029	.0357738	-22.04	0.000	-.8586428	-.718363
_Idistri~211	-4.342361	.0981398	-44.25	0.000	-4.534779	-4.149944
_Idistri~212	-.7181988	.0366735	-19.58	0.000	-.7901028	-.6462948
_Idistri~213	-1.744466	.1022862	-17.05	0.000	-1.945013	-1.543918
_Idistri~214	-3.66529	.0738716	-49.62	0.000	-3.810127	-3.520454
_Idistri~215	-3.284897	.0661988	-49.62	0.000	-3.41469	-3.155105
_Idistri~216	-5.888615	.0658133	-89.47	0.000	-6.017651	-5.759578
_Idistri~217	-4.940278	.0703902	-70.18	0.000	-5.078289	-4.802268
_Idistri~218	-4.206201	.0547585	-76.81	0.000	-4.313563	-4.098839
_Idistri~219	2.237018	.0445879	50.17	0.000	2.149597	2.324439
_Idistri~220	-4.378634	.0811064	-53.99	0.000	-4.537656	-4.219613
_Idistri~221	-4.755532	.1041712	-45.65	0.000	-4.959775	-4.551289
_Idistri~222	-3.737585	.0631358	-59.20	0.000	-3.861372	-3.613797
_Idistri~223	-1.44148	.0418855	-34.41	0.000	-1.523602	-1.359357
_Idistri~224	-6.611806	.1019782	-64.84	0.000	-6.811749	-6.411862
_Idistri~225	-2.587133	.1297591	-19.94	0.000	-2.841545	-2.33272
_Idistri~226	-2.41816	.1122417	-21.54	0.000	-2.638226	-2.198093
_Idistri~227	-2.653756	.0453923	-58.46	0.000	-2.742754	-2.564758
_Idistri~228	-2.840138	.1813361	-15.66	0.000	-3.195675	-2.484602
_Idistri~229	-.5468096	.0584204	-9.36	0.000	-.6613515	-.4322676
_Idistri~230	-.5698231	.0373627	-15.25	0.000	-.6430784	-.4965679
_Idistri~231	2.324571	.0450625	51.59	0.000	2.23622	2.412923
_Idistri~232	-3.983583	.0796257	-50.03	0.000	-4.139701	-3.827465
_Idistri~233	-3.120448	.063649	-49.03	0.000	-3.245241	-2.995655
_Idistri~234	-3.773634	.1038982	-36.32	0.000	-3.977342	-3.569926
_Idistri~235	-3.595876	.068914	-52.18	0.000	-3.730992	-3.46076
_Idistri~236	-2.621282	.063807	-41.08	0.000	-2.746385	-2.496179
_Idistri~237	-1.786905	.0510264	-35.02	0.000	-1.88695	-1.68686
_Idistri~238	1.672866	.0455231	36.75	0.000	1.583611	1.762121
_Idistri~239	-.2997227	.0382783	-7.83	0.000	-.3747729	-.2246724
_Idistri~240	-2.991188	.0552689	-54.12	0.000	-3.099551	-2.882825

_Idistri~241	-.3271141	.0396194	-8.26	0.000	-.4047939	-.2494343
_Idistri~242	-5.090074	.1159785	-43.89	0.000	-5.317467	-4.862681
_Idistri~243	-5.484247	.0894375	-61.32	0.000	-5.659603	-5.308892
_Idistri~244	1.408665	.0890731	15.81	0.000	1.234024	1.583306
_Idistri~245	-4.023385	.0651616	-61.74	0.000	-4.151144	-3.895625
_Idistri~246	.094194	.0384589	2.45	0.014	.0187896	.1695984
_Idistri~247	-2.475406	.0500933	-49.42	0.000	-2.573622	-2.377191
_Idistri~248	-3.154895	.0794288	-39.72	0.000	-3.310627	-2.999163
_Idistri~249	-1.624599	.0482454	-33.67	0.000	-1.719191	-1.530006
_Idistri~250	-5.424288	.126313	-42.94	0.000	-5.671944	-5.176632
_Idistri~251	-3.951358	.0855948	-46.16	0.000	-4.119179	-3.783536
_Idistri~252	-6.461316	.0894096	-72.27	0.000	-6.636617	-6.286015
_Idistri~253	.4986578	.0392362	12.71	0.000	.4217294	.5755862
_Idistri~254	-2.854785	.094363	-30.25	0.000	-3.039798	-2.669772
_Idistri~255	-2.494651	.0664171	-37.56	0.000	-2.624872	-2.364431
_Idistri~256	-3.063501	.0502614	-60.95	0.000	-3.162046	-2.964956
_Idistri~257	-3.572794	.0602471	-59.30	0.000	-3.690917	-3.45467
_Idistri~258	-5.128254	.0580302	-88.37	0.000	-5.242031	-5.014477
_Idistri~259	-5.730311	.1124656	-50.95	0.000	-5.950817	-5.509805
_Idistri~260	-3.281696	.0547898	-59.90	0.000	-3.389119	-3.174272
_Idistri~261	-2.89407	.0602353	-48.05	0.000	-3.01217	-2.77597
_Idistri~262	-1.632052	.042729	-38.20	0.000	-1.715828	-1.548275
_Idistri~263	-3.59469	.0701053	-51.28	0.000	-3.732142	-3.457238
_Idistri~264	-4.074813	.1379134	-29.55	0.000	-4.345213	-3.804413
_Idistri~265	1.261019	.0420638	29.98	0.000	1.178546	1.343491
_Idistri~266	-3.836091	.1222172	-31.39	0.000	-4.075716	-3.596466
_Idistri~267	-1.697628	.0602953	-28.16	0.000	-1.815846	-1.57941
_Idistri~268	-2.95948	.0404235	-73.21	0.000	-3.038736	-2.880223
_cons	19.0828	.0384712	496.03	0.000	19.00737	19.15822

### Results for the Property Tax Regression

Regression with robust standard errors

Number of obs = 1722

F(149, 1572) = 6631.73

Prob > F = 0.0000

R-squared = 0.9962

Root MSE = .14089

lnpt	Coef.	Robust Std. Err.	t	P> t	[95% Conf. Interval]
casinos5	-.0154101	.0174243	-0.88	0.377	-.0495874 .0187673
YR2	.0472486	.0444749	1.06	0.288	-.0399877 .1344849
YR3	.080195	.039838	2.01	0.044	.0020538 .1583361
YR4	.1278746	.0387965	3.30	0.001	.0517764 .2039729
YR5	.2383946	.0366114	6.51	0.000	.1665823 .310207
YR6	.3162963	.0366507	8.63	0.000	.2444069 .3881857
YR7	.3748784	.0359932	10.42	0.000	.3042786 .4454782
YR8	.472302	.0360228	13.11	0.000	.4016441 .5429598
YR9	.5631973	.0367608	15.32	0.000	.4910919 .6353028
YR10	.6071841	.0363963	16.68	0.000	.5357936 .6785746
YR11	.6727896	.0375203	17.93	0.000	.5991946 .7463847
YR12	.7308326	.0390286	18.73	0.000	.654279 .8073862
YR13	.7866302	.0393838	19.97	0.000	.7093799 .8638805
YR14	.8349722	.0433566	19.26	0.000	.7499294 .920015
_JyrXu_1~1_1	.0699729	.0535529	1.31	0.192	-.0350698 .1750157
_JyrXu_1~2_1	.1446625	.048844	2.96	0.003	.0488562 .2404688
_JyrXu_1~3_1	.2443108	.0482053	5.07	0.000	.1497575 .3388642
_JyrXu_1~4_1	.2222848	.0451633	4.92	0.000	.1336981 .3108715
_JyrXu_1~5_1	.251873	.0447694	5.63	0.000	.164059 .339687

_JyrXu_1~6_1	.2867692	.0438252	6.54	0.000	.2008073	.3727312
_JyrXu_1~7_1	.2619754	.0439295	5.96	0.000	.1758088	.3481421
_JyrXu_1~8_1	.2661592	.045137	5.90	0.000	.1776241	.3546944
_JyrXu_1~9_1	.2880129	.044982	6.40	0.000	.1997819	.3762439
_JyrXu_2~0_1	.3006448	.0463444	6.49	0.000	.2097415	.3915481
_JyrXu_2~1_1	.3292062	.0484303	6.80	0.000	.2342114	.424201
_JyrXu_2~2_1	.3407383	.0498537	6.83	0.000	.2429516	.438525
_JyrXu_2~3_1	.3491458	.0541334	6.45	0.000	.2429644	.4553271
_Idistrict_2	-1.892	.0509032	-37.17	0.000	-1.991845	-1.792155
_Idistrict_3	.8403504	.045512	18.46	0.000	.7510798	.929621
_Idistrict_4	-2.198823	.0601971	-36.53	0.000	-2.316898	-2.080748
_Idistrict_5	2.490108	.0289033	86.15	0.000	2.433415	2.546801
_Idistrict_6	3.584625	.0313788	114.24	0.000	3.523077	3.646174
_Idistrict_7	1.130964	.0905248	12.49	0.000	.9534022	1.308526
_Idistrict_8	5.053365	.0377928	133.71	0.000	4.979235	5.127494
_Idistrict_9	-.6556862	.0435406	-15.06	0.000	-.74109	-.5702825
_Idistri~10	1.692586	.0369814	45.77	0.000	1.620048	1.765124
_Idistri~11	2.760754	.0534105	51.69	0.000	2.655991	2.865518
_Idistri~12	.5614041	.0262241	21.41	0.000	.5099662	.612842
_Idistri~13	-1.717143	.0485927	-35.34	0.000	-1.812456	-1.62183
_Idistri~14	1.66742	.0382992	43.54	0.000	1.592298	1.742543
_Idistri~15	2.702992	.0433876	62.30	0.000	2.617889	2.788096
_Idistri~16	-1.415183	.0588076	-24.06	0.000	-1.530533	-1.299833
_Idistri~17	.2236664	.0732196	3.05	0.002	.0800481	.3672847
_Idistri~18	-.06181	.0466507	-1.32	0.185	-.1533141	.0296941
_Idistri~19	.8368419	.0295568	28.31	0.000	.7788669	.8948168
_Idistri~20	-.0074167	.0373354	-0.20	0.843	-.0806491	.0658157
_Idistri~21	-1.774929	.0562539	-31.55	0.000	-1.88527	-1.664589
_Idistri~22	-.5664323	.0561678	-10.08	0.000	-.6766039	-.4562607
_Idistri~23	.4787596	.0488944	9.79	0.000	.3828544	.5746647
_Idistrict~24	-2.750708	.0545267	-50.45	0.000	-2.857661	-2.643756
_Idistrict~25	-.2731238	.0479301	-5.70	0.000	-.3671374	-.1791102
_Idistrict~26	-.001865	.0330999	-0.06	0.955	-.0667896	.0630597
_Idistrict~27	1.039707	.0628846	16.53	0.000	.9163608	1.163054
_Idistrict~28	.0991581	.062888	1.58	0.115	-.0241951	.2225113
_Idistrict~29	-2.195845	.0664361	-33.05	0.000	-2.326158	-2.065533
_Idistrict~30	1.784848	.0313944	56.85	0.000	1.723269	1.846428
_Idistrict~31	-1.262644	.0546509	-23.10	0.000	-1.36984	-1.155448
_Idistrict~32	-3.048912	.0529352	-57.60	0.000	-3.152743	-2.945081
_Idistrict~33	1.962375	.0317599	61.79	0.000	1.900079	2.024671
_Idistrict~34	1.264835	.0310992	40.67	0.000	1.203835	1.325836
_Idistrict~35	-.0108606	.0458584	-0.24	0.813	-.1008106	.0790895
_Idistrict~36	-1.654424	.0560904	-29.50	0.000	-1.764444	-1.544405
_Idistrict~37	1.631333	.0566523	28.80	0.000	1.520211	1.742455
_Idistrict~38	.9768862	.0345116	28.31	0.000	.9091927	1.04458
_Idistrict~39	-.8665991	.0591335	-14.65	0.000	-.982588	-.7506103
_Idistrict~40	-2.009698	.0556888	-36.09	0.000	-2.11893	-1.900465
_Idistrict~41	-1.970339	.0570302	-34.55	0.000	-2.082203	-1.858476
_Idistrict~42	-1.648322	.0580463	-28.40	0.000	-1.762178	-1.534466
_Idistrict~43	-3.72058	.0598454	-62.17	0.000	-3.837965	-3.603195
_Idistrict~44	2.605416	.0538349	48.40	0.000	2.49982	2.711012
_Idistrict~45	.0626663	.065571	0.96	0.339	-.0659494	.191282
_Idistrict~46	1.585504	.0348071	45.55	0.000	1.517231	1.653777
_Idistrict~47	4.147806	.0338062	122.69	0.000	4.081496	4.214116
_Idistrict~48	3.918401	.0293482	133.51	0.000	3.860836	3.975967
_Idistrict~49	2.731901	.0295367	92.49	0.000	2.673966	2.789837
_Idistrict~50	-3.090337	.0758829	-40.73	0.000	-3.239179	-2.941494
_Idistrict~51	.4093656	.0592072	6.91	0.000	.2932321	.5254991
_Idistrict~52	-2.697922	.0557252	-48.41	0.000	-2.807226	-2.588619
_Idistrict~53	-1.587509	.0450377	-35.25	0.000	-1.675849	-1.499169
_Idistrict~54	2.84643	.0328301	86.70	0.000	2.782034	2.910825
_Idistrict~55	-1.898023	.0616247	-30.80	0.000	-2.018898	-1.777147
_Idistrict~56	-1.346753	.0476248	-28.28	0.000	-1.440168	-1.253338

_Idistric~57	-3.236044	.0602977	-53.67	0.000	-3.354316	-3.117771
_Idistric~58	-.147901	.0335145	-4.41	0.000	-.2136389	-.0821631
_Idistric~59	2.513245	.046796	53.71	0.000	2.421456	2.605035
_Idistric~60	.3791663	.0334629	11.33	0.000	.3135298	.4448029
_Idistric~61	1.203272	.0287559	41.84	0.000	1.146868	1.259676
_Idistric~62	2.55587	.031476	81.20	0.000	2.494131	2.61761
_Idistric~63	-.7794576	.0357618	-21.80	0.000	-.8496034	-.7093118
_Idistric~64	-1.265435	.0476122	-26.58	0.000	-1.358825	-1.172045
_Idistric~65	2.148106	.0390472	55.01	0.000	2.071516	2.224696
_Idistric~66	-1.792168	.0539165	-33.24	0.000	-1.897924	-1.686412
_Idistric~67	-1.066092	.0553913	-19.25	0.000	-1.174741	-.9574434
_Idistric~68	3.37192	.042218	79.87	0.000	3.28911	3.45473
_Idistric~69	.1948458	.0588295	3.31	0.001	.0794531	.3102384
_Idistric~70	1.060076	.0332827	31.85	0.000	.9947931	1.125359
_Idistric~71	-1.049653	.0485924	-21.60	0.000	-1.144966	-.9543403
_Idistric~72	-.6104785	.0511847	-11.93	0.000	-.7108759	-.510081
_Idistric~73	2.431405	.0563255	43.17	0.000	2.320924	2.541886
_Idistric~74	1.268823	.0253508	50.05	0.000	1.219098	1.318548
_Idistric~75	1.508937	.0243726	61.91	0.000	1.461131	1.556743
_Idistric~76	.8909077	.0350831	25.39	0.000	.8220932	.9597222
_Idistric~77	1.866294	.0270239	69.06	0.000	1.813287	1.9193
_Idistric~78	3.04513	.0232971	130.71	0.000	2.999434	3.090827
_Idistric~79	-.5812896	.0723277	-8.04	0.000	-.7231585	-.4394208
_Idistric~80	-1.517764	.0466752	-32.52	0.000	-1.609316	-1.426212
_Idistric~81	4.112553	.0309084	133.06	0.000	4.051926	4.173179
_Idistric~82	3.910246	.0492409	79.41	0.000	3.813661	4.006831
_Idistric~83	3.059534	.0263316	116.19	0.000	3.007885	3.111182
_Idistric~84	.1881118	.1036766	1.81	0.070	-.0152473	.3914709
_Idistric~85	-.1515159	.0483865	-3.13	0.002	-.2464247	-.0566071
_Idistric~86	-1.54833	.0484056	-31.99	0.000	-1.643276	-1.453384
_Idistric~87	-1.566348	.0464978	-33.69	0.000	-1.657552	-1.475143
_Idistric~88	-1.76271	.0775187	-22.74	0.000	-1.914761	-1.610659
_Idistric~89	-.9897669	.0223525	-44.28	0.000	-1.033611	-.945923
_Idistric~90	6.411986	.0454612	141.04	0.000	6.322816	6.501157
_Idistric~91	1.083832	.0297976	36.37	0.000	1.025385	1.142279
_Idistric~92	1.16173	.0340277	34.14	0.000	1.094986	1.228474
_Idistric~93	-1.627359	.051945	-31.33	0.000	-1.729248	-1.52547
_Idistric~94	-1.936745	.0300431	-64.47	0.000	-1.995673	-1.877816
_Idistric~95	-1.992741	.0667302	-29.86	0.000	-2.123631	-1.861852
_Idistric~96	4.491621	.0415206	108.18	0.000	4.41018	4.573063
_Idistric~97	-1.92377	.0498036	-38.63	0.000	-2.021459	-1.826082
_Idistric~98	-1.430401	.0466226	-30.68	0.000	-1.52185	-1.338952
_Idistric~99	1.591865	.0541585	29.39	0.000	1.485635	1.698096
_Idistri~100	.0203768	.0852405	0.24	0.811	-.1468203	.1875739
_Idistri~101	1.717897	.0374815	45.83	0.000	1.644378	1.791416
_Idistri~102	1.381392	.0271262	50.92	0.000	1.328185	1.4346
_Idistri~103	4.691233	.042662	109.96	0.000	4.607553	4.774914
_Idistri~104	-1.408173	.0539775	-26.09	0.000	-1.514048	-1.302297
_Idistri~105	-.3950885	.0444735	-8.88	0.000	-.4823222	-.3078549
_Idistri~106	-.9691849	.063264	-15.32	0.000	-1.093276	-.8450942
_Idistri~107	.5314056	.0342848	15.50	0.000	.4641568	.5986544
_Idistri~108	3.354782	.0586417	57.21	0.000	3.239758	3.469806
_Idistri~109	2.165406	.0237247	91.27	0.000	2.118871	2.211942
_Idistri~110	1.031031	.0258672	39.86	0.000	.9802933	1.081769
_Idistri~111	-1.834159	.0467487	-39.23	0.000	-1.925855	-1.742463
_Idistri~112	3.948764	.1090645	36.21	0.000	3.734837	4.162692
_Idistri~113	1.439819	.0455679	31.60	0.000	1.350439	1.5292
_Idistri~114	-2.569573	.0621145	-41.37	0.000	-2.691409	-2.447737
_Idistri~115	-3.312909	.0527227	-62.84	0.000	-3.416323	-3.209494
_Idistri~116	.8600478	.0672643	12.79	0.000	.7281105	.991985
_Idistri~117	-.9356334	.0548455	-17.06	0.000	-1.043212	-.8280553
_Idistri~118	-1.844038	.0245996	-74.96	0.000	-1.89229	-1.795787
_Idistri~119	.7100443	.0465108	15.27	0.000	.6188146	.801274

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_Idistri~120		-1.011258	.1034381	-9.78	0.000	-1.214149	-.8083671
_Idistri~121		3.406031	.0283468	120.16	0.000	3.350429	3.461632
_Idistri~122		.2858489	.0687882	4.16	0.000	.1509226	.4207752
_Idistri~123		-.2361126	.0330185	-7.15	0.000	-.3008775	-.1713477
_cons		17.497	.0299703	583.81	0.000	17.43821	17.55578

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## Appendix C – About the Author

Jonathan Taylor is an economist with expertise in natural resources, gaming, and economic development. He has provided consulting expertise to tribes and bands in the United States and Canada consisting of public policy analysis, strategic advice, and economic research. He has also authored or supported expert testimony in litigation and other public proceedings for a number of Native American groups.

### Recent work:

Taylor, J. B., and J. P. Kalt (2005). *American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses*. Cambridge: Harvard Project on American Indian Economic Development, 2005, (with J. Kalt).

Social and Economic Consequences of Indian Gaming in Oklahoma, *American Indian Culture and Research Journal*, 28:2, 2004, 97-129 (with K. Grant and K. Spilde).

Improving the Chances for Success in Tribally Owned Enterprises, (with K. Grant) in Jorgensen, M. R., ed., *Resources for Nation-Building: Strategies, Cases, and Tools for American Indian Economic Development* (Tucson: University of Arizona Press), forthcoming.

A Comparative Analysis of Tribal and Indigenous Community Enterprises, (with K. Grant, R. Lopez, and J. Austin), Jan. 2004.

Mr. Taylor is President of the Taylor Policy Group, an economics and public policy consultancy. Mr. Taylor is also a Research Fellow at The Harvard Project on American Indian Economic Development at the Kennedy School of Government, and a Senior Policy Scholar at The Udall Center for Studies in Public Policy, University of Arizona, Tucson.