

2004

Tribal Gaming Compacts. Exclusive Gaming Rights. Contributions to State.

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PROP

69

DNA Samples. Collection. Database. Funding. Initiative Statute.

Summary

Requires collection of DNA samples from all felons, and from others arrested for or charged with specified crimes, and submission to state DNA database. Provides for funding. Fiscal Impact: Net state cost to process DNA samples of potentially nearly \$20 million annually when costs are fully realized. Local costs likely more than fully offset by revenues, with the additional revenues available for other DNA-related activities.

What Your Vote Means

Yes

A **YES** vote on this measure means: The state would expand the collection of DNA samples to include all convicted felons, and some convicted nonfelons, as well as individuals arrested for certain offenses. Criminal penalties would increase to fund the expansion of DNA collection.

No

A **NO** vote on this measure means: DNA samples would continue to be required only from persons convicted of serious felony offenses. Criminal penalties would not increase.

Arguments

Pro

Requiring convicted felons and arrestees for rape/murder to submit DNA, Proposition 69 helps solve crime, prevents false imprisonment, and stops serial rapists/killers. 69 brings California law enforcement up to par with 34 states. Governor Schwarzenegger, Attorney General Lockyer, law enforcement, defense attorneys, and victims' groups say vote yes!

Con

Proposition 69 will not make you safer, but could trap your DNA in a criminal database. 69 treats thousands of Californians that are never charged with a crime just like the guilty. 69 risks your most sensitive, private information—your DNA. Protect your privacy. No on 69! See www.protectmyDNA.com

For Additional Information

For

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Against

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PROP

70

Tribal Gaming Compacts. Exclusive Gaming Rights. Contributions to State. Initiative Constitutional Amendment and Statute.

Summary

Upon tribe's request, Governor must execute 99-year compact. Tribes contribute percentage of net gaming income to state funds, in exchange for expanded, exclusive tribal casino gaming. Fiscal Impact: Unknown effect on payments to the state from Indian tribes. The potential increase or decrease in these payments could be in the tens of millions to over a hundred million dollars annually.

What Your Vote Means

Yes

A **YES** vote on this measure means: Tribes entering a new or amended tribal-state gambling compact would make payments to the state based on their gambling income. These compacts would last 99 years and place no limits on the types or number of casino games.

No

A **NO** vote on this measure means: Tribes would continue to be subject to existing tribal-state gambling compacts, which require various types of payments to the state. Existing compacts will last up to 26 more years and place some limits on the types and number of casino games.

Arguments

Pro

Proposition 70 will provide billions of dollars to the State and will restrict tribal gambling to Indian reservations. Both the taxpayers and Indians win: Tribes pay the same amount as every other business pays in state income taxes; in return, they can operate their casinos. That's only fair!

Con

PROPOSITION 70 IS A BAD DEAL FOR CALIFORNIA. Governor Schwarzenegger's negotiated agreements with Indian gaming tribes guarantee they pay their fair share and respect California laws. *Proposition 70 effectively destroys these agreements.* Join Governor Schwarzenegger, law enforcement, labor, environmental groups, and seniors in voting *NO on Proposition 70.*

For Additional Information

For

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Against

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TRIBAL GAMING COMPACTS. EXCLUSIVE GAMING RIGHTS. CONTRIBUTIONS TO STATE. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

Tribal Gaming Compacts. Exclusive Gaming Rights. Contributions to State. Initiative Constitutional Amendment and Statute.

- Upon request by federally-recognized Indian tribe, Governor must execute renewable 99-year gaming compact.
- Grants exclusive tribal gaming rights; no limits on number of machines, facilities, types of games on Indian land.
- Tribes contribute percentage of net gaming income, based on prevailing state corporate tax rate, to state fund.
- Contributions cease if non-tribal casino-type gaming is permitted.
- Contributions are in lieu of any other fees, taxes, levies.
- Requires off-reservation impact assessments, public notice/comment opportunities before significant expansion or construction of gaming facilities.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Unknown effect on payments to the state from Indian tribes. The potential increase or decrease in these payments could be in the tens of millions to over a hundred million dollars annually.
- Likely reduction in tribal payments to local governments, potentially totaling in the millions of dollars annually.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Indian Tribes in California. Under federal law, Indian tribes in California are considered sovereign nations. As a result, tribes are not required to pay most federal, state, or local taxes (such as income, property, or sales tax). In addition, tribes are largely exempt from state laws, including California environmental and workplace laws.

Gambling on Tribal Lands. Federal law and the State Constitution allow tribes to conduct gambling on Indian land if they enter into agreements with the state. These agreements, called compacts, lay out the conditions under which the gambling may occur. Under current compacts, tribes may operate slot machines and card games, such as twenty-one. Other Nevada-style casino games such as craps and roulette are prohibited. Currently, 64 tribes have compacts and operate 53 casinos with a total of more than 54,000 slot machines.

1999 Compacts. Most tribes signed their current compacts in 1999. Under these compacts, a tribe may operate up to two facilities and up to a total of 2,000 slot machines. In exchange, tribes make some payments to the state which can only be used for specified purposes (such as for making payments to tribes that either do not operate slot machines or operate fewer than 350 machines). These payments total over \$100 million annually. Under these compacts, tribes are required to prepare an environmental study analyzing the impact on the surrounding area of any new or expanded gambling facility. These compacts will expire in 2020.

2004 Compacts. In the summer of 2004, five tribes signed amendments to their 1999 compacts, and these revised

agreements were approved by the state. Under these new agreements, these tribes may operate as many slot machines as they desire. In exchange, these tribes make a specified payment annually to the state, with additional payments for each slot machine added to their facilities. Payments to the state from these revised compacts are expected to total in the low hundreds of millions of dollars annually. Unlike the payments required by the 1999 compacts, the state can use these payments for any purpose. The newer compacts also require the tribes to (1) prepare more detailed environmental studies, (2) negotiate with local governments regarding payments addressing the impacts of new gambling facilities on the local communities, and (3) follow other provisions related to patron disputes, building codes, and labor relations. These new agreements expire in 2030, ten years later than the 1999 compacts.

PROPOSAL

This measure amends the State Constitution and state statutes to require the Governor to amend an existing compact or enter into a new compact with any tribe within 30 days of a tribe's request. Any such compact would have to include certain provisions, as discussed below.

Gambling Revenues. Under the provisions of the measure, a tribe entering into an amended or new compact would pay the state a percentage of its net income from gambling activities. The percentage of net income paid would be equivalent to the corporate tax rate paid by a private business (currently 8.84 percent). The measure specifies that the state could spend these revenues for any purpose. In the event that the tribes lose their exclusive right

ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

to conduct certain types of gambling in California, the tribes would no longer be required to make these payments to the state. These payments generally would be in place of any other state or local government fees, taxes, or levies on gambling activities. (Tribes, however, would still be required to make the specific payments required under the 1999 compacts.)

Expansion of Gambling. The measure expands the types of games authorized by the compacts to include roulette, craps, and any other form of casino gambling. The measure eliminates the 1999 compact limit on the number of slot machines and facilities a tribe can operate on Indian lands.

Compacts Extended. The measure specifies that any amended or new compact would remain in effect for 99 years. These compacts could be amended or renewed upon agreement of the Governor and a tribe and approval by the federal government.

Environmental Studies. As required under the 1999 compacts, any tribe entering a compact under this measure would be required to prepare an environmental study analyzing the impact on the surrounding area of any new or expanded tribal gambling facility.

Related Provisions in Proposition 68. Proposition 68 on this ballot also contains provisions affecting the number of slot machines authorized in the state. That measure would allow specified card rooms and racetracks to operate slot machines if tribes do not agree to make specified payments to the state and abide by certain state laws. The State Constitution provides that if the provisions of two approved propositions are in conflict, only the provisions of the measure with the higher number of yes votes at the statewide election take effect.

FISCAL EFFECT

Background. Over time, it is likely that additional tribes will seek amendments to their compacts similar to those agreed to by five tribes earlier this year. These amendments would allow tribes to exceed their current limit of 2,000 slot machines. As a result, over the next few years (absent any other changes), the state would likely experience:

- Increased slot machines operated on Indian lands in the thousands.
- Increased state revenues in the hundreds of millions of dollars annually.
- Increased payments to local governments to address the impacts of gambling on communities in the millions of dollars annually.

Changes Under the Measure. In comparison to the existing compacts, the compacts authorized under this measure would generally offer tribes the following:

- **More Games.** Like the 2004 compacts, this measure's compacts would not restrict the number of allowable slot machines. In addition, this measure would allow tribes to offer additional casino games, like craps and roulette.

- **Likely Lower Payments.** Rather than the per machine payments to the state required under the 2004 compacts, this measure's payments would be based on the income generated by the machines (and other games). The amount of payments received by the state, therefore, would vary among tribes, depending on their gambling operations. Consequently, it is difficult to determine the exact amount that would be paid to the state. We have reviewed the payments required by the 2004 compacts and those required under this measure. For any given level of tribal gambling activity, the payments to the state would tend to be lower under this measure.

- **Fewer Regulations.** Tribes under this measure would not be subject to several provisions in the 2004 compacts, such as the requirements for more extensive environmental reviews and negotiations with local governments.

- **Longer Length.** Under the measure, tribes' compacts would last 99 years. This would provide tribes with greater long-term stability for their gambling operations.

Given these provisions compared to existing compacts, we would expect many tribes to request amendments under this measure. In this case, tribes would be able to add additional slot machines and other games to their operations. Consequently, tribal gambling across the state under this measure would likely be higher than otherwise would have been the case.

Estimated Gambling Revenues. Although the measure could lead to an increase in overall gambling in the state, it is unclear what impact that would have on payments to the state. This is because, as noted above, the payments for any given level of gambling activity would tend to be lower than under current law. If the increase in gambling income were to more than offset the lower payments, the state would experience an increase in annual payments. On the other hand, if the increase in gambling income did not offset the lower payments, the state would experience a reduction in annual payments.

The change in revenues from current law would depend on a variety of factors including (1) the extent to which tribes agreed to the measure's provisions, (2) the extent to which new slot machines and games were added at gambling establishments, (3) the income generated from gambling, and (4) how the state enforced the collection of required payments based on the net income of each tribe. The change in payments—whether an increase or decrease—could be in the tens of millions to over a hundred million dollars annually.

Payments to Local Governments. To the extent that tribes opted to accept this measure's provisions rather than those of the 2004 compacts, they would not be subject to the requirement for negotiations with local governments concerning community impacts. As a result, local governments would likely receive less in payments from tribes. The amount of any such reduction is unknown but would likely be in the millions of dollars annually.

TRIBAL GAMING COMPACTS. EXCLUSIVE GAMING RIGHTS. CONTRIBUTIONS TO STATE. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

ARGUMENT in Favor of Proposition 70

California Indian Tribes have come forward with this initiative and volunteered to pay millions of dollars from their gaming revenues to help California taxpayers. We want to pay our fair share, which means we would pay the same as any other business pays in state taxes.

We would not pay any more or any less—just the same as everybody else. We think that is fair, even though the law exempts Indian tribes from paying taxes on income from gaming activities on Indian lands. We want to pay our fair share to help California out of the financial problems that our political leaders have created.

When California Indians were rounded up and forced onto land that nobody wanted, they were given the sovereignty to run their own affairs without interference. Now, after decades of hardship, many tribes have been able to achieve some success. Gaming revenues have finally allowed many tribes to provide education, housing, and health care for their members.

As history has sadly shown, however, there are some who now want to take the good fortune away from the successful Indians.

We are very thankful that the people of California voted time and again to respect Indian sovereignty and support Indians' rights to conduct gaming operations on tribal lands.

Now we are once again forced to go directly to the voters and bypass the politicians in Sacramento. After mispending the State surplus, they are trying to get California Indian tribes to make up the difference. They want to come onto our reservations and tell us how to run our businesses. They won't negotiate with Indian tribes

one-by-one, but insist that we all accept a deal that was only negotiated by a few.

Our initiative is very simple and straightforward: We will pay millions of dollars to the State; in return, we want to be able to run our tribal businesses like any other businesses.

This Proposition will continue the ban on new tribal casinos that are NOT on Indian Reservations, unlike Proposition 68, which would result in casinos throughout California.

This Proposition will lead to new agreements allowing each tribe to decide for itself how many casinos and what types or how many games it wishes to operate on its tribal lands. Tribes would get to make these decisions, like other businesses, without government interference. Market forces would determine the best decisions.

Under the new agreements, tribes would prepare environmental impact reports and develop a good-faith plan to mitigate any significant adverse environmental impacts after consultation with the public and local governments.

And just like any other business that has the right to decide what kind of business to operate, Indian tribes would pay on their gaming revenues the equivalent of what other businesses pay as an income tax. This is basically a win-win for everyone.

That's why California's Indian tribes need your help once again to stand up for what's fair. Together, we will be living up to the promises made to California's Indians.

RICHARD M. MILANOVICH, *Tribal Chairman*
Agua Caliente Band of Cahuilla Indians

REBUTTAL to Argument in Favor of Proposition 70

More than 60 California Indian tribes operate casinos, but just one tribe is sponsoring Proposition 70. It says it wants to be treated like other businesses, but what other business can't be audited by the state to determine their taxable income? What other business is granted a 99-year casino gaming agreement?

Proposition 70 is full of loopholes:

- No provision to ensure tribes pay their fair share
- Keeps the state in the dark about the amount of money Indian casinos earn

Governor Schwarzenegger's negotiated agreements with several gaming tribes will add \$1 billion to the state's bottom line this year alone and hundreds of millions more every year. Proposition 70 effectively destroys these agreements.

Don't be misled by this self-serving measure that's been drafted by one lone Indian gaming tribe. Governor Schwarzenegger, leaders in law enforcement, labor, the environmental community, and seniors all say VOTE NO on Proposition 70.

Additional reasons Californians should VOTE NO on Proposition 70:

- Gives tribes a 99-year casino gaming agreement
- Wouldn't require tribes to pay taxes other companies pay, such as property and income taxes
- Allows tribes to own an unlimited number of casinos with no size limits
- Paves the way for UNLIMITED casino gaming in major urban and suburban areas across California

Governor Schwarzenegger's agreements are a winner for tribes and taxpayers. These agreements keep California's promise to Indian tribes while ensuring they pay their fair share.

VOTE NO ON PROPOSITIONS 68 & 70.

DAVID W. PAULSON, *President*
California District Attorneys Association

JACK GRIBBON
California UNITE HERE!

JOHN T. KEHOE, *President*
California Senior Action Network

**TRIBAL GAMING COMPACTS.
EXCLUSIVE GAMING RIGHTS. CONTRIBUTIONS TO STATE.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

PROP

70

ARGUMENT Against Proposition 70

Message from Governor Arnold Schwarzenegger: "I am officially opposed to Propositions 68 & 70, and I strongly urge you to VOTE NO."

This measure is not what it seems, which is why Governor Schwarzenegger is asking you to *VOTE NO*. The wealthy Indian gaming tribes behind Proposition 70 want you to believe this measure will force tribes to "pay their fair share." *The truth is that it gives these Indian gaming tribes a 99-year monopoly on gambling without ever having to pay their fair share in revenues to the state.* If Prop. 70 passes, it will be almost impossible to change.

For years Indian gaming tribes have paid almost nothing to state or local governments. But now, **GOVERNOR SCHWARZENEGGER HAS NEGOTIATED NEW AGREEMENTS WITH MANY TRIBES THAT ARE A WINNER FOR TRIBES AND TAXPAYERS.**

UNFORTUNATELY, PROPOSITION 70 EFFECTIVELY DESTROYS THESE NEW AGREEMENTS. Prop. 70 claims that tribes will pay a percentage of their net profits to the state, but it does not provide the state any auditing vehicle to determine those profits. Without a state audit, taxpayers will never know if they are getting a fair deal or a raw deal.

Unlike the new agreements Governor Schwarzenegger has negotiated, this measure will allow tribes to massively expand gambling by operating an unlimited number of casinos. **PROPOSITION 70 ENCOURAGES TRIBES TO PUT CASINOS IN OUR STATE'S MAJOR CITIES, INCREASING CRIME AND TRAFFIC CONGESTION PROBLEMS.**

Governor Schwarzenegger's agreements promote cooperation between tribes and local governments to deal with the impact on law enforcement, traffic congestion, and road construction while providing needed environmental protections. Proposition 70 will undo these agreements. **PROPOSITION 70 PROVIDES NO MONEY FOR LAW ENFORCEMENT, ENVIRONMENTAL IMPACTS, OR TRANSPORTATION.**

WORKING CALIFORNIANS OPPOSE PROPOSITION 70:
"Responsible Indian tribes have already negotiated and signed agreements with Governor Schwarzenegger that are good for employees and casino customers plus provide a significant boost to the California economy. The compacts already in place will create more than 25,000 new jobs. Most important, the compacts provide stability and predictability for governments, tribes, and local communities."

Bob Balgenorth, President

State Building and Construction Trades Council of California

LAW ENFORCEMENT GROUPS ALSO OPPOSE PROPOSITION 70:

"Casinos can be a magnet for crime. Unfortunately, Proposition 70 provides no funds to local law enforcement agencies to help fight crime in the communities surrounding Indian casinos. Please vote NO on this measure."

Chief Jerry Adams, President

California Peace Officers' Association

PROPOSITION 70 IS A BAD DEAL FOR CALIFORNIA. Responsible Indian tribes have already negotiated and signed agreements with Governor Schwarzenegger that benefit both tribes and taxpayers. The tribes pay their fair share while agreeing to follow important environmental and public safety laws. Proposition 70 effectively eliminates these protections and gives tribes a 99-year casino gaming agreement that California will never be able to change without another constitutional amendment.

VOTE NO ON PROPOSITION 70.

ARNOLD SCHWARZENEGGER, Governor
State of California

LARRY McCARTHY, President
California Taxpayers' Association

SHERIFF BILL KOLENDER, 1st Vice President
California State Sheriffs' Association

REBUTTAL to Argument Against Proposition 70

The opponents of Proposition 70 have their facts wrong.

Proposition 70's agreements will require Indian tribes that engage in gaming operations to pay the State the **SAME AMOUNT** that every corporation pays in state income taxes. No more, no less—**WHAT COULD BE FAIRER?**

Under Proposition 70, **THE STATE** is not prohibited from agreeing to audits of the Tribes' records to ensure their fair share is paid.

And Proposition 70 will mean that tribal gaming can occur **ONLY** on Indian land and **NOWHERE ELSE**. It will **NOT** lead to increased gambling **OFF** Indian lands.

California Indians sponsored this "Indian Fair Share Initiative" because we knew we had to turn directly to the voters, who have more sense than the politicians.

We've seen the political games that continue to be played by special interest groups, who want Indians to lose their right to conduct gaming so they can take it over.

If Proposition 70 doesn't pass, California will lose billions of dollars in revenue from gaming tribes. Unless the existing compacts are changed, tribes would not be obligated to pay any more for the next 17 years.

Governor Schwarzenegger has proposed his own compacts, but they were so flawed that only about 4% of the state's tribes signed them. No other tribes will sign those agreements because they unfairly take away Indians' rights.

Only this initiative will keep Indian gaming on reservations and provide billions of dollars to California in a way that is **FAIR TO BOTH INDIANS AND TAXPAYERS.**

VOTE YES on PROPOSITION 70.

RICHARD M. MILANOVICH, Tribal Chairman
Agua Caliente Band of Cahuilla Indians

Proposition 69 (cont.)

county for each program authorized pursuant to paragraph (3) of subdivision (b) of this section. The Department of Justice shall make the reports publicly available on the department's Web site.

(d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint, Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant to this section and any additional appropriation approved by the Legislature for purposes related to implementing this measure.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall loan the Department of Justice General Fund in the amount of \$7,000,000 for purposes of implementing that act. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time the loan is made. Principal and interest on the loan shall be repaid in full no later than four years from the date the loan was made and shall be repaid from revenue generated pursuant to this section.

SEC. V. General Provisions

(a) Conflicting Measures: If this measure is approved by the voters,

but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this measure shall be self-executing and be given the full force of the law.

(b) Severability: The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(c) Amendment: The provisions of this measure may be amended by a statute that is passed by each house of the Legislature and signed by the Governor. All amendments to this measure shall be to further the measure and shall be consistent with its purposes to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime-solving and exonerating the innocent.

(d) Supplantation: All funds distributed to state or local governmental entities pursuant to this measure shall not supplant any federal, state, or local funds that would, in the absence of this measure, be made available to support law enforcement and prosecutorial activities.

Proposition 70

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends the California Constitution and adds a section to the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE INDIAN GAMING FAIR-SHARE REVENUE ACT OF 2004

SECTION 1. Title

This act shall be known as the "Indian Gaming Fair-Share Revenue Act of 2004."

SEC. 2. Findings and Purpose

The people of the State of California hereby find and declare as follows:

(a) The purpose of the people of the State of California in enacting this measure is to provide a means for California Indian tribes to contribute their fair share of gaming revenues to the State of California. Both the people of California and California Indian tribal governments desire for tribes to assist in restoring financial integrity to the state by contributing an amount that is equivalent to what any private California corporation pays to the state on the net income it earns from its lawful business activities.

(b) In March 2000, the people of the State of California adopted Proposition 1A, which authorized the Governor to negotiate tribal-state gaming compacts with federally recognized Indian tribes for the operation of slot machines and certain casino games on tribal lands in California in accordance with federal law. Proposition 1A was enacted by the people in recognition of the fact that, historically, Indian tribes within the state have long suffered from high rates of unemployment and inadequate educational, housing, elderly care, and health care opportunities, while typically being located on lands that are not conducive to economic development in order to meet those needs.

(c) Since the adoption of Proposition 1A, over 50 Indian tribes have entered into tribal gaming compacts with the State of California. These compacts and the gaming facilities they authorize have assisted Indian tribes throughout the state to move towards economic self-sufficiency by providing a much-needed revenue source for various tribal purposes, including tribal government services and programs such as those that address reservation housing, elderly care, education, health care, roads, sewers, water systems, and other tribal needs. Tribal gaming has also spurred new development, has created thousands of jobs for Indians and non-Indians alike, and has had a substantial positive economic impact on the local communities in which these facilities are located.

(d) Under the existing tribal gaming compacts, Indian tribes also pay millions of dollars each year into two state special funds that are used to provide grants to local governments, to finance programs

addressing gambling addiction, to reimburse the state for the costs of regulating tribal gaming, and to share gaming revenues with other Indian tribes in the state that do not operate gaming facilities. However, because Indian tribes are sovereign governments and are exempt from most forms of taxation, they do not pay any corporate income taxes directly to the state on the profits derived from their gaming operations.

(e) Given California's current fiscal crisis, the state needs to find new ways to generate revenues for the General Fund in the State Treasury. Indian tribes want to and should do their part to assist California in meeting its budget needs by contributing to the state a fair share of the net income they receive from gaming activities in recognition of their continuing right to operate tribal gaming facilities in an economic environment free of competition from casino-style gaming on non-Indian lands. A fair share for the Indian tribes to contribute to the state is an amount that is equivalent to the amount of corporate taxes that a private California corporation pays to the state on the net income it earns from its lawful business activities.

(f) Accordingly, in order to provide additional revenues to the State of California in this time of fiscal crisis, this measure authorizes and requires the Governor to enter into new or amended tribal gaming compacts under which the Indian tribes agree to contribute to the state a fair share of the net income derived from their gaming activities in exchange for the continued exclusive right to operate casino-style gaming facilities in California. In addition, in order to maximize revenues for the state and to permit the free market to determine the number and type of casino games and devices that will exist on tribal lands, this measure requires these new or amended compacts to allow each tribal government to choose the number and size of the gaming facilities it operates, and the types of games offered, that it believes will maximize the tribe's income, as long as the facilities are restricted to and are located in those areas that have been designated by both the State of California and the United States government as tribal lands. Under the new or amended compacts authorized by this measure, Indian tribes must also prepare environmental impact reports analyzing the off-reservation impacts of any proposed new or expanded gaming facilities, and they must consult with the public and local government officials to develop a good-faith plan to mitigate any significant adverse environmental impacts.

SEC. 3. Section 19 of Article IV of the California Constitution is amended to read:

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

Proposition 70 (cont.)

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of ~~lottery games and banking and percentage card games~~ any and all forms of Class III gaming by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, roulette, craps, ~~and banking and percentage card games~~, and any and all other forms of casino gaming are hereby specifically permitted to be conducted and operated on tribal lands subject to those compacts.

(g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

(h) Notwithstanding subdivisions (e) and (f), and any other provision of state law, within 30 days of being requested to do so by any federally recognized Indian tribe, the Governor is authorized, directed, and required to amend any existing compact with any Indian tribe, and to offer a new compact to any federally recognized Indian tribe without an existing compact, in accordance with the provisions of this subdivision. An "existing compact" means a gaming compact entered into between the State and an Indian tribe that was ratified prior to the effective date of the Indian Gaming Fair-Share Revenue Act of 2004. Any existing compact that is amended pursuant to this subdivision shall not require legislative ratification, but any new compact entered into pursuant to this subdivision shall be submitted to the Legislature within 15 days after the conclusion of negotiations and shall be deemed ratified if it is not rejected by each house of the Legislature, two-thirds of the members thereof concurring in the rejection, within 30 days of the submission of the compact to the Legislature by the Governor; except that if this 30-day period ends during a joint recess of the Legislature, the period shall be extended until the tenth day following the day on which the Legislature reconvenes. All compacts amended pursuant to this subdivision, and all new compacts entered into pursuant to this subdivision, shall include the following terms, conditions, and requirements:

(1) Any federally recognized Indian tribe requesting to enter into a new or amended compact pursuant to this subdivision shall agree under the terms of the compact to contribute to the State, on a sovereign-to-sovereign basis, a percentage of its net income from gaming activities that is equivalent to the amount of revenue the State would receive on the same amount of net business income earned by a private, non-exempt California corporation based upon the then-prevailing general corporate tax rate under the state Revenue and Taxation Code. This contribution shall be made in consideration for the exclusive right enjoyed by Indian tribes to operate gaming facilities in an economic environment free of competition for slot machines and other forms of Class III casino gaming on non-Indian lands in California. The compact shall provide that in the event the Indian tribes lose their exclusive right to operate slot machines and other forms of Class III casino gaming in California, the obligation of the Indian tribe to contribute to the State a portion of its net income from gaming activities pursuant to this subdivision shall cease. Contributions made to the State pursuant to this subdivision shall be in lieu of any and all other fees, taxes, or levies that may be charged or imposed, directly or indirectly, by the State, cities, or counties against the Indian tribe on its authorized gaming activities, except that a tribe amending an existing compact or entering into a new compact pursuant to this subdivision shall be required to make contributions to the Revenue Sharing Trust Fund and, if the tribe operated gaming devices on September 1, 1999, to the Special Distribution Fund, in amounts and under terms that are identical to those contained in the existing compacts.

(2) Any federally recognized Indian tribe requesting to enter into a new or amended compact pursuant to this subdivision shall agree under the terms of the compact to adopt an ordinance providing for the

preparation, circulation, and consideration by the tribe of an environmental impact report analyzing potential off-reservation impacts of any project involving the development and construction of a new gaming facility or the significant expansion, renovation, or modification of an existing gaming facility. The environmental impact report prepared in accordance with this subdivision shall incorporate the policies and objectives of the National Environmental Policy Act and the California Environmental Quality Act consistent with the tribe's governmental interests. Prior to the commencement of any such project, the tribe shall also agree (A) to inform and to provide an opportunity for the public to submit comments regarding the planned project, (B) to consult with local governmental officials regarding mitigation of significant adverse off-reservation environmental impacts and to make good-faith efforts to mitigate any and all such significant adverse off-reservation environmental impacts, and (C) to keep local governmental officials and potentially affected members of the public informed of the project's progress.

(3) Any federally recognized Indian tribe requesting to enter into a new or amended compact pursuant to this subdivision shall be entitled under the terms of the compact to operate and conduct any forms and kinds of gaming authorized and permitted pursuant to subdivision (f).

(4) Any federally recognized Indian tribe requesting to enter into a new or amended compact pursuant to this subdivision shall be entitled under the terms of the compact to operate as many slot machines and to conduct as many games as each tribal government deems appropriate. There shall likewise be no limit under the terms of the compact on the number or the size of gaming facilities that each tribe may establish and operate, provided that each and every such gaming facility must be owned by the tribe and operated only on Indian lands on which such gaming may lawfully be conducted under federal law.

(5) The initial term of any new or amended compact entered into pursuant to this subdivision shall be 99 years, and the compact shall be subject to renewal upon mutual consent of the parties. The terms and conditions of any new or amended compact entered into pursuant to this subdivision may be amended at any time by the mutual and written agreement of both parties.

(6) Any Indian tribe with an existing compact that wishes to enter into an amended compact pursuant to this subdivision shall not be required as a condition thereof to make any other amendments to its existing compact or to agree to any other terms, conditions, or restrictions beyond those contained in this subdivision and in its existing compact, except as the provisions of its existing compact may be modified in accordance with paragraphs (1) to (5), inclusive.

SEC. 4. Section 12012.80 is added to the California Government Code, to read:

12012.80. Indian Gaming Fair-Share Revenue Fund

(a) There is hereby created in the State Treasury a fund called the "Indian Gaming Fair-Share Revenue Fund" for the receipt and deposit of moneys received by the state from Indian tribes under the terms of tribal-state gaming compacts entered into or amended pursuant to subdivision (h) of Section 19 of Article IV of the California Constitution.

(b) Moneys in the Indian Gaming Fair-Share Revenue Fund shall be available for appropriation by the Legislature for any purpose specified by law.

SEC. 5. Inconsistency With Other Ballot Measures

The provisions of this act shall be deemed to conflict with and to be inconsistent with any other initiative measure that appears on the same ballot that amends the California Constitution relating to gaming by federally recognized Indian tribes in California. In the event that this act and another measure that amends the California Constitution relating to gaming by Indian tribes are adopted at the same election, the measure receiving the greater number of affirmative votes shall prevail in its entirety, and no provision of the measure receiving the fewer number of affirmative votes shall be given any force or effect.

SEC. 6. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this act that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this act are severable.