PROPOSITION

68

Non-Tribal Commercial Gambling Expansion. Tribal Gaming Compact Amendments. Revenues, Tax Exemptions. Initiative Constitutional Amendment and Statute.

OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

Non-Tribal Commercial Gambling Expansion.
Tribal Gaming Compact Amendments. Revenues, Tax Exemptions.
Initiative Constitutional Amendment and Statute.

- Authorizes Governor to negotiate tribal compact amendments requiring that Indian tribes pay 25% of slot machine/gaming device revenues to government fund, comply with multiple state laws, and accept state court jurisdiction.
- If compacted tribes don't unanimously accept required amendments within 90 days, or if determined unlawful, authorizes sixteen specified non-tribal racetracks and gambling establishments to operate 30,000 slot machines/gaming devices, paying 33% of net revenues to fund government public safety, regulatory, social programs.
- Provides exemption from specified state/local tax increases.

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

- Increased gambling revenues—potentially over $1 billion annually. The revenues would be provided primarily to local governments throughout the state for additional child protective, police, and firefighting services.
- Depending on outcome of tribal negotiations, potential loss of state revenues totaling hundreds of millions of dollars annually.

ANALYSIS BY THE LEGISLATIVE ANALYST

Background

The California Constitution and state statutes specify the types of legal gambling that can occur in California. For instance, current law allows wagering on horse races and certain games in licensed card rooms. In addition, Indian tribes with tribal-state gambling compacts can operate slot machines and certain other casino-style gambling in California.

Card Rooms and Horse Racing

Card Rooms. The state allows card rooms to conduct card games where the card room operator has no stake in the outcome of the game. The players play against each other and pay the card room a fee for the use of the facilities. Typical card games include draw poker, 7-card stud, and poker pai gow. Certain games—such as twenty-one—are prohibited. There are 96 licensed card rooms in the state. Local governments approve card rooms, as well as establish the hours of operation, the number of tables, and wagering limits. Current state law limits the expansion of both the number of card rooms and the size of existing card rooms until January 2010.

Horse Racing. The state issues licenses to racing associations that then lease tracks for racing events. In California, there are 6 privately owned racetracks, 9 racing fairs, and 20 simulcast-only facilities. (These latter facilities do not have live racing; instead, they allow betting on televised races occurring elsewhere in the world.)

Gambling on Indian Land

Federal law and the State Constitution govern gambling operations on Indian land. Tribes that enter into a tribal-state gambling compact may operate slot machines and engage in card games where the operator has a stake in the outcome, such as twenty-one. Currently, 64 tribes have compacts and operate 53 casinos with a total of more than 54,000 slot machines. Any new or amended compact must be approved by the

ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

Legislature, the Governor, and the federal government. As sovereign nations, tribes are largely exempt from state and local taxes and laws, including California environmental laws.

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 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, tribes make a specified payment annually to the state, with additional payments for each slot machine added to their facilities. As additional tribes sign similar compacts, payments to the state are expected to total in the 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, which amends the State Constitution and state statutes, sets up two possible scenarios regarding new state gambling revenues.

- The first scenario would occur only if all Indian tribes with compacts agree to specified revisions to their existing compacts.
- The second scenario would be triggered if the tribes do not agree to the revisions. In this case, 5 existing racetracks and 11 existing card rooms would be allowed to operate slot machines.

These two scenarios are discussed below.

Revision of Current Tribal-State Compacts

Under the first scenario, all compact tribes would be required to agree with the Governor to terms required by this measure within 90 days of its passage. Specifically, the measure requires that all tribes with compacts agree to (1) pay 25 percent of their "net win" to the Gaming Revenue Trust Fund (GRTF, a state fund established by the measure) and (2) comply with certain state laws, including those governing environmental protection, gambling regulation, and political campaign contributions. Net win is defined as the wagering revenue from all slot machines operated by a tribe after prizes are paid out, but prior to the payment of operational expenses. Under federal law, the federal government would have to approve the revised agreements.

Expansion of Gambling if Compacts Are Not Revised

As noted above, if the current compacts are not revised under the first scenario, the measure would allow slot machines on non-Indian lands. Specifically, under the second scenario, the measure allows specified racetracks and card rooms located in Alameda, Contra Costa, Los Angeles, Orange, San Diego, and San Mateo Counties to operate up to 30,000 slot machines (see Figure 1). The measure would allow the sale or sharing of slot machine licenses in certain circumstances. The measure also makes permanent the limit on the expansion of both the number of card rooms and the size of existing card rooms (due to expire in January 2010 under current law).

Net Win Payments. Racetracks and card rooms would pay 30 percent of the net win from their slot machines to the GRTF. They would also pay 2 percent of their net win to the city and 1 percent to the county in which the gambling facility is located. The measure specifies that the payments to the GRTF be in place of any state or local gambling-related taxes or fees enacted after September 1, 2003.

The five racetracks also would be required to pay annually an additional 20 percent of the net win on their slot machines. These funds would be administered by the California Horse Racing Board and used to benefit the horse racing industry, including the increase of race purses.

Distribution of Gambling Revenues

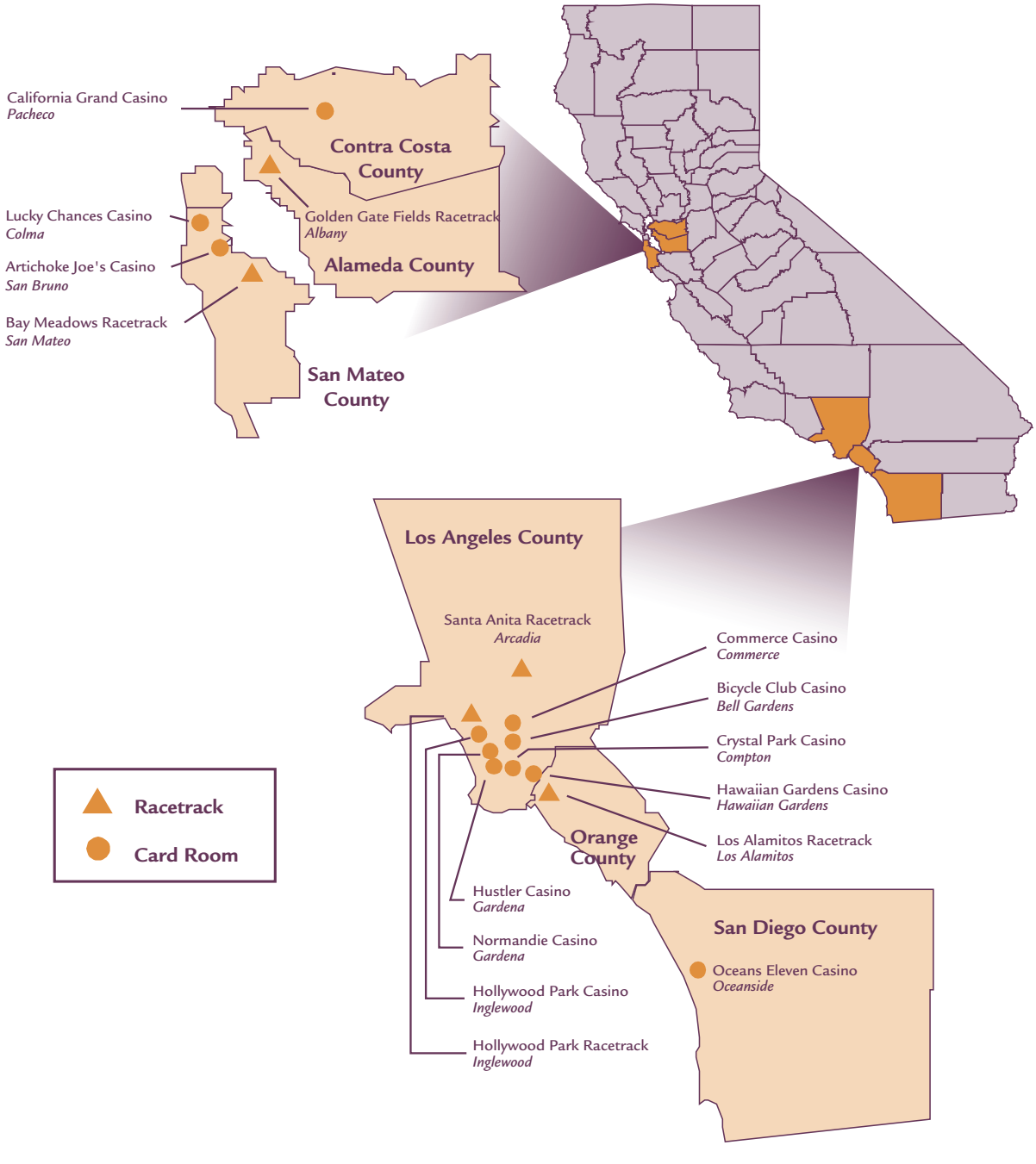
Payments based on net win would be made to the GRTF under either scenario—whether tribes revised their compacts or racetracks and card rooms operated slot machines. In either case, slot machine operators

For text of Proposition 68 see page 130.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

FIGURE 1

Sites for Slot Machines at Racetracks and Card Rooms[a]



[a] Under measure's second scenario (see text).

ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

would be required to pay for annual audits of their reported net win and payments made to the GRTF. The measure establishes a five-member board appointed by the Governor to administer the GRTF. Figure 2 describes how funds in the GRTF would be distributed. The bulk of the funds would be distributed to local governments throughout the state for additional child protective, police, and firefighting services.

FIGURE 2

DISTRIBUTION OF FUNDS FROM THE GAMING REVENUE TRUST FUND

✓ First, payments would be made for three specific purposes:
- Up to 1 percent of the funds for administrative costs of the initiative.
- $3 million annually for "responsible gambling" programs.
- Supplemental payments to tribes that do not operate slot machines or operate fewer than 350 machines.

✓ Second, remaining funds would be distributed to local governments throughout the state as follows:
- 50 percent would be allocated to counties to provide services for abused and foster care children. The amount allocated to a county would be based on the number of child abuse referrals.
- 35 percent to local governments (based on population) for additional sheriffs and police officers.
- 15 percent to local governments (based on population) for additional firefighters.

The measure also specifies that these funds could not replace funds already being used for the same purpose.

Related Provisions in Proposition 70

Proposition 70 on this ballot also contains provisions affecting the number of slot machines authorized in the state. That measure would allow tribes entering a new or amended compact to expand the types of games authorized at casinos. It would also eliminate the existing limits on the number of slot machines and facilities a tribe can operate. In exchange for the exclusive right to these types of gambling, tribes would pay the state a percentage of their net income from gambling activities. 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

The fiscal effect of the measure on state and local governments would depend on whether current compacts are revised or if racetracks and card rooms operate slot machines. The fiscal effect under each scenario is discussed below.

Revision of the Current Tribal-State Compacts

Net Win Payments. While tribes do not publicly report information on their slot machine revenues, it is estimated that the machines are generating net win of over $5 billion annually in California. If the tribes agree to this measure's provisions, tribes would pay 25 percent of their slot machines' net win to the GRTF—potentially over $1 billion annually. These payments would be provided primarily to local governments to increase funding for child protective, police, and firefighting services.

Existing Payments to the State. As described above, tribes under the 1999 and 2004 compacts pay hundreds of millions of dollars annually to the state for both specific and general purposes. This measure does not specifically address whether these payments would continue or cease under the compact revision process. As a result, it appears that the continuation of the payments would be subject to negotiation between the tribes and the Governor. If the revised compacts do not include a continuation of these payments, the state would experience a reduction in payments—potentially totaling hundreds of millions of dollars annually.

Expansion of Gambling at Card Rooms and Racetracks

Net Win Payments. If the tribes do not agree to revise their compacts within the time required, specific card rooms and horse racing tracks would be authorized to operate up to 30,000 slot machines. These entities would pay 30 percent of the net win to the GRTF. The amount of these payments would depend on the number of slot machines in operation and their net win. These revenues could potentially be over $1 billion annually. These revenues would be provided primarily to local governments to increase funding for child protective, police, and firefighting services.

Additional Payments to Local Governments. Also under this scenario, the cities in which these establishments are located would collectively receive payments in the high tens of millions of dollars (2 percent of the net win). Counties in which these establishments are located would collectively receive payments of half of this amount (1 percent of the net win). The use of these funds is not restricted.

Increased Taxable Economic Activity. If the tribes do not agree to the requirements of this measure, the expansion of gambling at card rooms and racetracks could result in an overall increase in the amount of taxable economic activity in California. This would occur if, over time, there was a large diversion of gambling activity and associated spending from other states to California. This would also be the case to the extent that the gambling authorized by this measure replaced existing tribal gambling activities (since much tribal activity is exempt from state taxation). This additional gambling-related activity would lead to an unknown increase in state and local tax revenues.

For text of Proposition 68 see page 130.

PROP 68

NON-TRIBAL COMMERCIAL GAMBLING EXPANSION. TRIBAL GAMING COMPACT AMENDMENTS. REVENUES, TAX EXEMPTIONS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

ARGUMENT in Favor of Proposition 68

Can we share some straight talk?

Indian casinos are earning between $5 Billion and $8 Billion per year through a monopoly granted to them by the state of California. Under this monopoly, only Indian casinos can operate slot machines in California. But while the rest of us pay taxes on what we earn, the tribes pay almost nothing on their Billions of earnings—even though they use the same roads, schools, police, and fire and emergency medical services that we all pay for.

Last year, one Indian Casino alone had a slot machine profit of over $300 million and paid no taxes.

It's time Indian Casinos paid their Fair Share.

In Connecticut and New York, Indian casinos pay the state up to a 25% Fair Share of their winnings in exchange for keeping their monopolies.

Proposition 68 says to the Indian Tribes: *You can keep your monopoly on slot machines, but only if you pay a 25% Fair Share like the Indian Casinos in Connecticut and New York.*

The 25% Fair Share would go to pay for local police and fire services and local programs for abused, neglected, and foster children. The Tribes would also be required to comply with the same political campaign contribution and environmental protection laws that all of us already must comply with.

Proposition 68 actually gives the Indian casinos a choice: If they pay their Fair Share, they keep their monopoly on slot machines. But if they don't, the state will also grant rights to a limited number of locations where gaming already exists.

The Indians would keep operating their slots, but they'd get a little competition. A limited number of card clubs and horseracing tracks *where gaming already exists* would be allowed to add slot machines to their existing games.

These card clubs and horseracing tracks are located in the cities of: Arcadia, Bell Gardens, Commerce, Compton, Cypress, Gardena, Hawaiian Gardens, Inglewood, and Oceanside in Southern California and in the cities of Albany, Colma, Pacheco, San Bruno, and San Mateo in Northern California. Unlike Indian casinos, the card clubs and racetracks would pay 33% of their revenues from the slot machines to local government.

With California's current budget crisis, we need the money.

According to the state's former Legislative Analyst, Bill Hamm, Proposition 68 will generate nearly $2 Billion every year—monies that will be sent directly to all local governments around the state with all communities benefiting equally.

It isn't fair that the tribes can build casinos wherever they want and make Billions of dollars through a monopoly granted by the state without paying taxes or a Fair Share like the rest of us.

But Proposition 68 is fair. It doesn't take any rights away from the Indian Casinos. But it says that if Indian Casinos won't pay a Fair Share to support local public services like all of us, then they can't keep a state monopoly to themselves. You can't have it both ways.

It's time for the Indian Casinos to pay their Fair Share.

We urge you to Vote YES on Proposition 68.

LEE BACA, *Sheriff*
County of Los Angeles
LOU BLANAS, *Sheriff*
County of Sacramento
ROY BURNS, *President*
Association of Los Angeles Deputy Sheriffs (ALADS)

REBUTTAL to Argument in Favor of Proposition 68

Proposition 68's promoters—card clubs and racetracks—are using a bait-and-switch scheme. They want voters to think 68 is about "making the Indian tribes pay their fair share." It's not.

It's really a deceptive attempt to change California's Constitution to create huge Las Vegas-size commercial casinos on non-Indian lands throughout California.

In fact, the very organizations Prop. 68 promoters claim to help, overwhelmingly reject this deceptive measure:

- Taxpayer groups OPPOSE Prop. 68 because IT WILL HURT—NOT HELP—THE STATE'S BUDGET—not one dollar will go to reduce the state's deficit, and 68 exempts its promoters from paying any future state and local tax increases.
- The California Police Chiefs Association, California State Firefighters Association, the California District Attorneys Association, and more than 30 County Sheriffs OPPOSE because Prop. 68 means MORE CRIME AND HIGHER LAW ENFORCEMENT COSTS. Prop. 68 would place HUGE NEW CASINOS on non-Indian lands in our cities and suburbs—30,000 new slot machines NEAR MORE THAN 200 SCHOOLS.
- Education leaders and child advocates OPPOSE because Prop. 68 WILL END UP COSTING OUR SCHOOLS MILLIONS, hurting our kids.
- Public safety and local government leaders OPPOSE because Prop. 68 means MORE TRAFFIC CONGESTION on already overcrowded freeways and surface streets.

Please join Governor Schwarzenegger, law enforcement, firefighters, educators, parents, Indian tribes, business, labor, seniors, local government, environmentalists, and taxpayer groups, and VOTE NO ON 68.

STOP THE DECEPTIVE GAMBLING PROPOSITION. It's a bad deal for all Californians.

Please VOTE NO on PROPOSITION 68.

CARLA NIÑO, *President*
California State PTA
DAVID W. PAULSON, *President*
California District Attorneys Association
MIKE SPENCE, *President*
California Taxpayers Protection Committee

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

ARGUMENT Against Proposition 68

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

This measure is not what it seems. While proponents claim the measure will force Indian gaming tribes to pay their fair share to the state, Proposition 68 does nothing of the sort.

Proposition 68 is not a guaranteed source of revenues for California from Indian gaming tribes. Instead it authorizes 16 new Las Vegas-style casinos to be built in urban areas throughout California.

Governor Schwarzenegger has a vision for California that does NOT include making our state the next pot of gold for commercial casino gambling interests. Governor Schwarzenegger believes casino gaming should be limited to Indian lands.

THE NEW AGREEMENTS GOVERNOR SCHWARZENEGGER NEGOTIATED WITH MANY INDIAN GAMING TRIBES ARE A WINNER FOR TRIBES AND TAXPAYERS. These agreements keep California's promise to Indian tribes while making them pay their fair share. They promote cooperation between tribes and local governments to deal with the impact on law enforcement, traffic congestion, and road construction. Unfortunately, Proposition 68 could destroy these new agreements.

The 16 new casinos authorized by Proposition 68 are located in urban areas of California. They will be near 200 schools and major streets and freeways in Los Angeles, the San Francisco Bay Area and San Diego, further congesting our crowded roads.

NOT A SINGLE PENNY FROM THIS INITIATIVE CAN BE USED TO HELP BALANCE THE STATE BUDGET. Further, the promoters of Proposition 68 have written it so they are exempt from paying any future increases in state and local taxes.

GOVERNOR SCHWARZENEGGER JOINS MORE THAN 400 PUBLIC SAFETY, TAXPAYER, AND OTHER LEADERS IN SAYING:

VOTE NO ON 68

California Police Chiefs Association, California State Firefighters' Association, California Coalition of Law Enforcement Associations, California District Attorneys Association, More than 50 California Indian Tribes, State Treasurer Phil Angelides, State Controller Steve Westly, Superintendent of Public Instruction Jack O'Connell, Crime Victims United of California, Peace Officers Research Association of California, Sierra Club California, California School Boards Association, The Seniors Coalition, Prevent Child Abuse California, California Taxpayer Protection Committee.

AND 34 COUNTY SHERIFFS:

• *Sheriff* James Allen • *Sheriff* Terry Bergstrand • *Sheriff* Virginia Black • *Sheriff* Ed Bonner • *Sheriff* Bob Brooks • *Sheriff* Bill Cogbill • *Sheriff* Anthony Craver • *Sheriff* John Crawford • *Sheriff* Jim Denney • *Sheriff* Bob Doyle • *Sheriff* Robert Doyle • *Sheriff* Bill Freitas • *Sheriff* Curtis Hill • *Sheriff* William Kolender • *Sheriff* Dan Lucas • *Sheriff* Ken Marvin, Ret. • *Sheriff* Scott Marshall • *Sheriff* Rodney Mitchell • *Sheriff* Bruce Mix • *Sheriff* Daniel Paranick • *Sheriff* Clay Parker • *Sheriff* Gary Penrod • *Sheriff* Charles Plummer • *Sheriff* Jim Pope • *Sheriff* Ed Prieto • *Sheriff* Michael Prizmich • *Sheriff* Perry Reniff • *Sheriff* Richard Rogers • *Sheriff* Warren Rupf • *Sheriff* Robert Shadley, Jr. • *Sheriff* Gary Simpson • *Sheriff* Gary Stanton • *Sheriff* Mark Tracy • *Sheriff* Dean Wilson.

PROP. 68 WOULD RESULT IN A HUGE EXPANSION OF CASINO GAMBLING ON NON-INDIAN LANDS.

It's a sweetheart deal for the gambling interests behind it, another broken promise to Indian tribes, and a bad deal for the rest of us.

VOTE NO ON 68. STOP THE DECEPTIVE GAMBLING PROPOSITION.

ARNOLD SCHWARZENEGGER, *Governor*
State of California
JEFF SEDIVEC, *President*
California State Firefighters' Association
WAYNE QUINT, JR., *President*
California Coalition of Law Enforcement Associations

REBUTTAL to Argument Against Proposition 68

"[Arnold Schwarzenegger] wants to renegotiate gaming compacts with casino-operating Indian tribes in the hopes of getting tribes to share revenue with the state. He noted tribes pay Connecticut 25 percent of their revenues, and said such an arrangement could pay for 'thousands of police officers, thousands of teachers.' "

—Sacramento Bee, Sept. 24, 2003

We agreed then and we agree now. It makes zero sense for the overwhelming majority of Indian casinos—a $6–$8 billion industry—to operate in California while paying virtually nothing to support the common good.

It's time for these immensely profitable Indian casinos to give something back to the state that has given them the most lucrative gaming monopoly in history. It's time for the people of California to get their fair share.

Proposition 68 isn't a blank check for the politicians in Sacramento. It requires a real and meaningful fair share payment that must be used to hire local police and sheriffs, keep local fire stations open, and fund proven educational programs for abused and neglected children.

To make sure it's truly fair, we give the Indian casinos the final choice. They choose to make this 25% contribution—just as they do in New York and Connecticut. Otherwise, the state will allow limited and highly regulated competition with an even bigger financial return to California's communities.

Before you make your decision, please read the initiative. We think you'll agree: it's time the Indian casinos did the right thing. And pay their fair share.

LEE BACA, *Sheriff*
County of Los Angeles
LOU BLANAS, *Sheriff*
County of Sacramento
ROY BURNS, *President*
Association of Los Angeles Deputy Sheriffs (ALADS)