

Tribes come of age

Loaded with cash and political savvy, casino tribes acquire the clout they've coveted to continue their path toward prosperity

By Ioana Patringenaru

The long, winding road making its way through the barren hills between the city of Riverside and the Arizona border is officially called State Route 10. But it could rightfully be called "Casino Row."

Ten years ago, all that travelers could feast their eyes on were some saguaro cactus bushes and tumbleweeds. Today the landscape is punctuated by the bright lights of casinos owned by the four Indian tribes whose reservations are located in this desolate wilderness on the far reaches of the Inland Empire. For the Agua Caliente, Cabazon, Morongo and San Manuel tribes — as for most of the 41 California tribes running their own casinos — gaming has dramatically altered more than just the desert landscape.

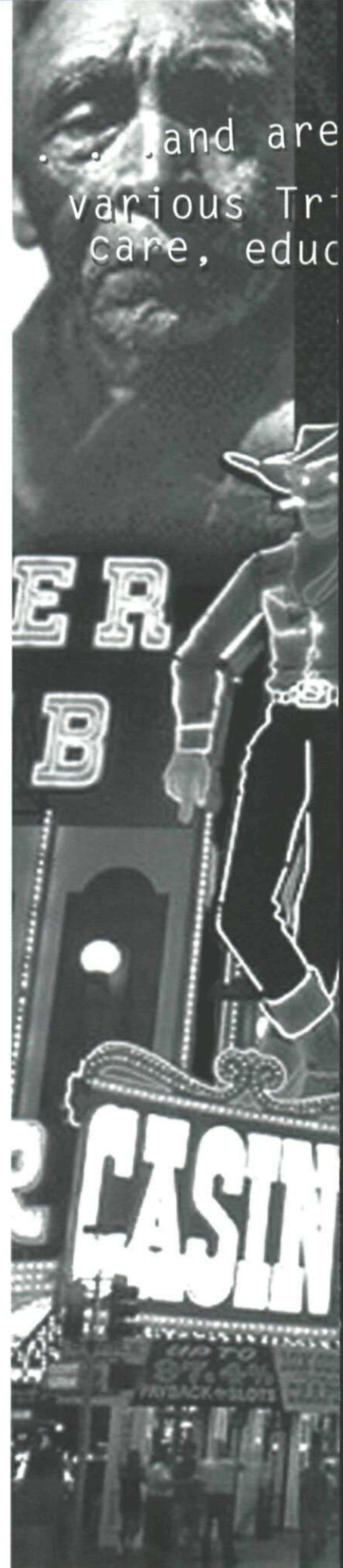
Through their gaming riches, tribes are providing for their members what no federal program ever could. The millions they earn from slot machines have paved roads, lit street-lights, improved health care and lifted many out of dead-end poverty.

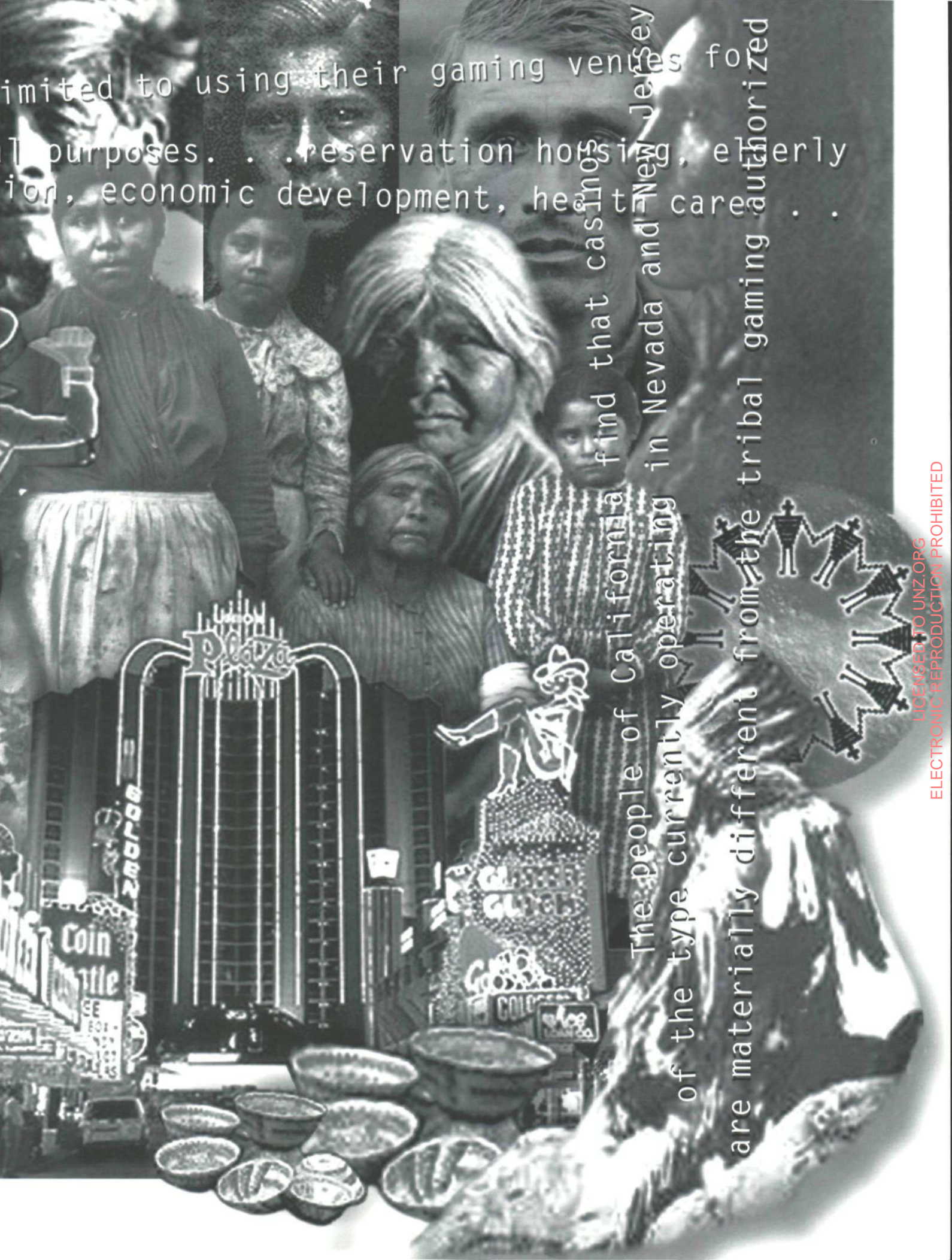
But gaming has changed the political landscape as well.

After sitting for decades on the political sidelines, California tribes have come of age. Many are now adept at wheeling and dealing with politicians and political consultants, and contribute regularly — and generously — to federal, statewide and legislative candidates. As campaign givers, they have far surpassed the state's traditional special interest heavy hitters — doctors, teachers and trial lawyers.

Tribes have come to understand that playing politics, rather than fighting futile court battles, is the key to obtaining what they want — running their lucrative gaming casinos on their own terms and, in the bigger picture, achieving recognition as sovereign nations.

"Politics is a non-stop process. Indians are more and more used to the way the system works," said Richard Temple, a GOP political consultant





limited to using their gaming venues for
purposes. . . reservation housing, elderly
care, economic development, health care . . .

The people of California find that casinos in Nevada and New Jersey
of the type currently operating in Nevada and New Jersey
are materially different from the tribal gaming authorized

who works with several tribes.

Powwow turns political

How deeply politics permeated the California Indian culture was apparent last year when the Cabazon Band of Mission Indians held its traditional powwow on the tribe's reservation in Indio, a 30-minute drive from Palm Springs. The celebration typically draws dozens of Native Americans from all over the country who gather to perform traditional songs and dances. Vendors sell a variety of tribal items, from dream catchers and wool ponchos, to Indian fry bread and tapes of Indian chants.

But the powwow became something of a political summit when, for the first time ever, the state's top three statewide officials came to pay their respects. The appearances of newly elected Governor Gray Davis, Lieutenant Governor Cruz Bustmante and Attorney General Bill Lockyer turned the powwow into a small, post-election celebration, attracting tribal leaders from all over the state.

Their presence signaled the profound change that has taken place among tribes politically.

This year, when the Cabazons' gathering occurred on the same weekend as the state Democratic Party's annual convention, most tribal leaders chose to attend the political pow-wow in Sacramento rather than the traditional one back home.

The rite of passage that turned many tribal leaders into full-fledged players in California's political game was the 1998 campaign for Proposition 5, a November ballot initiative sponsored by a handful of wealthy casino tribes to expand the video slot machines that have brought them unprecedented wealth. Tribes poured more than \$70 million into an aggressive TV, radio and mail campaign that succeeded in winning 63 percent of the vote.

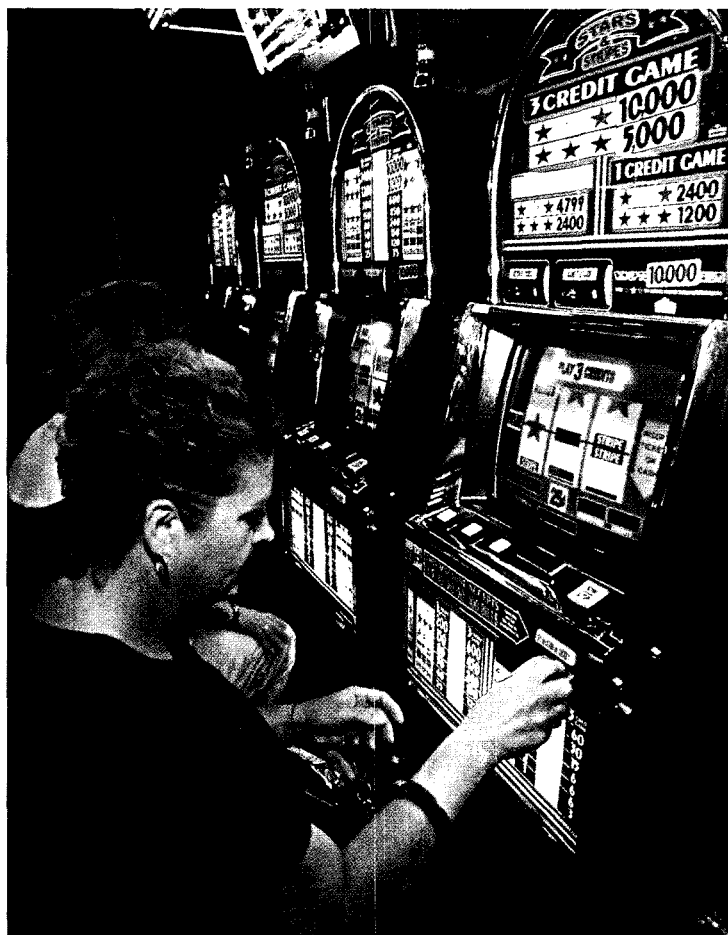
Although in late August the state Supreme Court struck down Proposition 5, saying it violated the state's constitutional ban on Nevada-style gambling, the tribes' political clout was by then well established. Even before the court's ruling, tribes had launched another multi-million-dollar campaign, hiring consultants, pollsters and signature-gatherers to bring a new version of Proposition 5 before voters, this time as a constitutional amendment.

Fueling the fire

The financial jackpot that underwrites these efforts comes from gambling, which has exploded across the country in recent years. According to the National Gambling Impact Study Commission, Americans spent an estimated \$51 billion in 1997 on all types of gambling at state lotteries, on river boats, at racetracks, in Las Vegas and Atlantic City casinos, and on tribal reservations. Of that total, an estimated \$6.7 billion in revenue went to Indian tribes running legalized gambling in 31 states.

In California, the 41 tribes that operate casinos earned an estimated \$1.4 billion on some 15,000 video slot machines in 1997.

Those revenues have been the fuel that has fed the fires of their campaign giving, elevating them to the stature of



Slot machine players at Jackson Rancheria

significant players in California politics. No one is happier about this change than Andrew Masiel, a tribal council member of the Pechanga Band of Luiseno Indians in Temecula, who chairs the Democratic Party's Native American Caucus. The caucus, which first convened at the party's state convention last spring, has 200 members, including legislators, tribal members and party officials. According to caucus founder Raven Lopez-Workman, the caucus wants to educate Indians about politics while educating the party about Indian concerns. "It's all about coalition-building," she said.

In the public's mind, it may seem that all that matters to Indians is gaming. But their interests are as varied as their geography. Some are more concerned about their non-casino business interests, while others are focused on their water rights. But, as former Democratic Assemblyman Phil Isenberg says, "gambling is the tribes' one rallying cry."

It is one measure of the tribes' growing understanding of California politics that they have turned to Isenberg, an expert on water policy who is respected on both sides of the political aisle — and who has clout with the governor, having served as Davis' transition advisor early in his administration. Isenberg is a policy consultant to the Alliance of California Tribes, which works on non-gaming tribal issues, such as securing a share of future statewide water bonds.

In the nearly 10 years since they began raking in huge



Rumsey Casino, photo by Tom Meyers Photography

amounts from their lucrative gaming operations, California's largest and most prosperous casino tribes have contributed about equally to the Democratic and Republican parties, with a tendency to lean Republican in contested races, according to state campaign finance reports. Of the top ten donors to state legislative campaigns during the 1997-98 election year, three were California tribes — Agua Caliente, Morongo and the San Manuel Band of Mission Indians, who contributed a combined \$36 million, according to Common Cause, a political watchdog group.

Proposition 5's legacy

Although Proposition 5 galvanized most of California's gaming tribes and brought them together with a common purpose, each has its own idea of how much political involvement it needs or wants.

The Pechanga Band of Luiseno Indians in Temecula, for example, intend to be full-fledged players in California politics, under the influence of tribal council member and political activist Masiel. The tribe opened a casino only two years ago and relies mostly on gaming revenues to provide for its 1,200 members.

Under Masiel's influence, the Pechanga tribe wants to weigh in on legislative races and would like to have the governor's ear on broader topics, such as welfare and education. The tribe is particularly concerned about those issues because Native Americans have some of the highest poverty and school dropout rates in the nation.

Masiel is well-versed in politics. His grandmother was a tribal chairwoman and an important early influence. He studied political science at the University of California, Davis, worked as an adviser for small businesses and landed a spot as minority adviser on the state's Public Utilities Commission under Governor George Deukmejian. He eventually became treasurer of the California Nations Indian Gaming Association, which allowed him to channel an increasing flow of Indian gaming campaign contributions to state and federal races.

The gaming association was founded by the tribes in the late 1980s and has its own political action committee. It was the main channel through which tribes funneled their political contributions — until Proposition 5 when many tribes began giving to candidates on their own.

Although Masiel is no longer treasurer, he still is involved in doling out campaign contributions. Last year, the tribe joined with Don Novey, president of the California Correctional Peace Officers Association, to form a political

CJ Background Briefing: Proposition 5's legal woes in a nutshell

When the state Supreme Court threw out Proposition 5 in late August, it did so because the state constitution forbids the Nevada-style type of casino gambling authorized by the proposition. It was that simple. Proposition 5 proposed and — upon voter approval — created a new statute, or law. But state law is trumped by the state constitution — and in the event of a successful court challenge, the California Constitution always wins.


Now if you can't beat the constitution, so to speak, you can always join it. Proposition 5's backers knew they

had enough public support last year — that is, signed petitions — to meet the higher signature threshold needed to upgrade their measure to propose amending the constitution. So why didn't the tribes just put their money on the jackpot of a constitutional amendment? One prosperous casino tribe is doing so now — and has readied a version of Proposition 5 for the March 2000 ballot in the form of a proposed constitutional amendment.

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If you think that wraps up the issue in a nice, neat little package, take a closer look. Other legal pitfalls

lie in wait for Proposition 5 backers, ready to trip them up again.

A number of legal experts, including California Attorney General Bill Lockyer, believe both versions of Proposition 5 — the original and the turbo-engined constitutional amendment — may violate federal law. The law in question requires tribes to negotiate with the governor what type and size of casino they may operate. There also is a concern that the proposition might violate the governor's constitutional authority and that it constitutes a special-interest contract, not a law. 

— California Journal editors

action committee that includes several other tribes. The Native American Correctional Peace Officers PAC contributed about \$500,000 to Gray Davis' campaign for governor, mostly paying for phone banks and polling services. Pechanga counted on Novey to direct its funds to races where it could help elect sympathetic legislators. The tribe also hired the services of CCPOA's lobbyist, Paula Treat.

Political players

"We're moving California tribes to full political empowerment," Masiel said. "Fairness, equality, that's all we ever asked." Pechanga had a keen interest in the campaign for Proposition 5, to which it funneled more than \$9.7 million, according to state campaign finance records. Not all of California's major gaming tribes share Pechanga's deep interest in state politics and policy.

By contrast, the Cabazon Band of Mission Indians largely wants to be left alone to run its casino and various other business enterprises, which include an electric power plant and a recently opened bowling alley.

The tribe, located in the desert community of Indio, prides itself on operating as a self-sufficient government. In addition to an elected tribal council, Cabazon has its own tribal court, a planning and development department, a tribal services department for health care and education, as well as what its CEO, Mark Nichols, describes as a "fairly sophisticated political shop." Unlike many other tribes, they don't employ any outside lobbyists and political consultants, but have their own on staff.

The tribe chose not to participate extensively in the battle for Proposition 5, contributing a relatively modest \$460,000. But since 1995, Cabazon has poured about \$700,000 into political races.

Rather than covering its bets by contributing to candidates from both parties, as professional consultants advise, the tribe has given mostly to Democratic candidates in state Assembly and Senate races. About \$190,000 went to Gray Davis' 1998 gubernatorial bid.

However, at the federal level, it contributed more evenly to both Democratic and Republican candidates. Cabazon gave \$125,000 in soft money to the Democratic National Committee for the 1997-98 election cycle and \$107,000 to the National Republican Party in 1997-96, according to the Center for Responsive Politics, a Washington, D.C.-based political watchdog group.

"We don't give people money to change their minds," said Nichols. "We give money to support them because they support our principles."

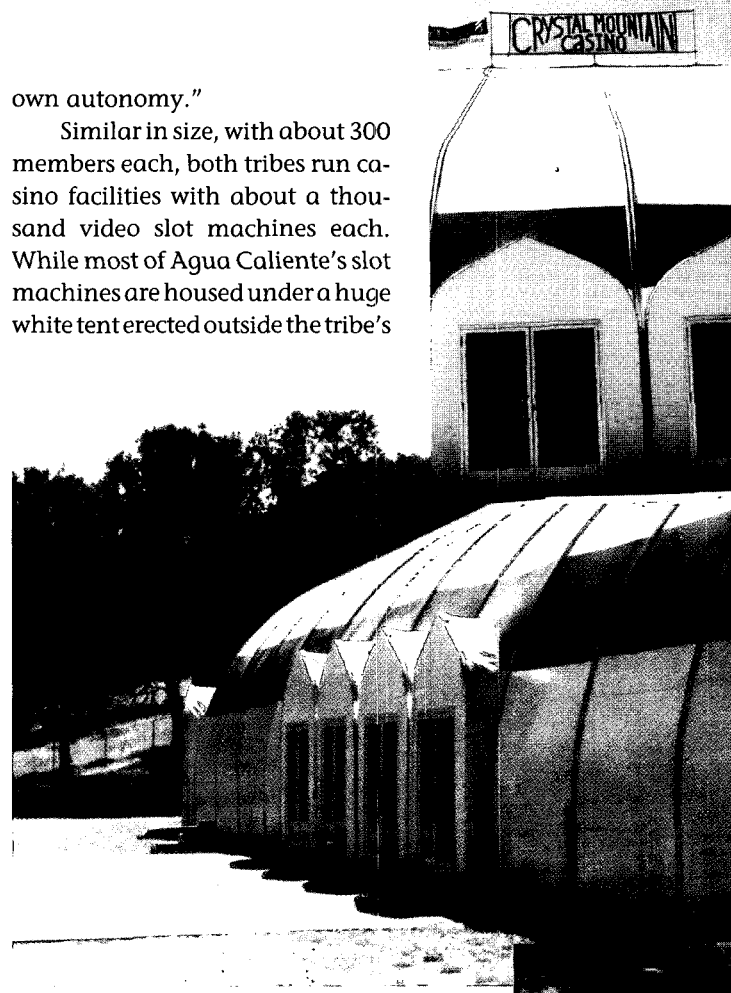
More than just gaming

While gaming has given these tribes the cash to pursue political influence, it also has given them more freedom to pursue economic independence.

The Agua Caliente Band of Cahuilla Indians and the Viejas Band of Kumeyaay Indians are good examples. "For us sovereignty is not the fact that we're our own government," said Anthony Pico, Viejas tribal chairman. "We're not about that. We're about continuing to live (under) our

own autonomy."

Similar in size, with about 300 members each, both tribes run casino facilities with about a thousand video slot machines each. While most of Agua Caliente's slot machines are housed under a huge white tent erected outside the tribe's



Crystal Mountain Casino in Shingle Springs

hotel and spa resort in Palm Springs, the Viejas have erected a permanent, concrete building packed with card tables and slot machines.

One of California's first tribes to open a casino in 1992, the Viejas have since acquired an RV park, purchased the Borrego Springs National Bank for an estimated \$5 million in 1996, shelled out \$30 million to build a 40-store factory outlet mall and earlier this year bought a commercial TV station in San Diego. More recently, it announced plans to retrofit a \$14 million cruise ship that will offer gambling cruises between San Diego and Mexico.

Agua Caliente opened its casino only four years ago, but its location in the heart of Palm Springs has allowed the tribe to prosper quickly. Tribe members had been profitably leasing a portion of their land to owners of a hotel spa complex, but in 1992 purchased the buildings for themselves, added a tented casino and invested \$1.5 million in renovations. Earlier this year, the tribe acquired a golf course on the outskirts of Palm Springs. Like other casino tribes, they recognize that it pays to contribute politically.

And while Agua Caliente's chairman is a registered Republican and the Viejas leadership clearly leans Democratic, both tribes employ Republican political consultants. According to campaign spending reports, Agua Caliente contributed more to Republican candidates last



Mark Nichols, Cabazon Band of Mission Indians



Lining up at Jackson Rancheria



Anthony Pico, Tribal Chairman,
as Band of Kumeyaay Indians

year, while Viejas divided its campaign contributions evenly between Democrats and Republicans.

Doling out the dollars

Agua Caliente gave about \$1.6 million to candidates and elected lawmakers this last election cycle, a vast majority of it to Republican candidates for state Senate and Assembly, according to state and federal campaign finance reports. The tribe gave \$15,000 in soft

money in the last election cycle to the National Republican Party.

Since 1994, Viejas has contributed about \$600,000 directly to legislative and statewide candidates. Initially, the tribe gave overwhelmingly to Democratic candidates, under the supervision of veteran Democratic consultant Richie Ross. But its contribution pattern changed in 1996, a year after it decided it needed some Republican perspective and brought GOP political consultant Temple on board.

Over the same period, Viejas also gave about \$200,000 to the California Indian Nations PAC. The committee redirected Viejas contributions, as well as those of many other tribes, to legislative races on both sides of the aisle, but with an emphasis on races in districts where Indian casinos are located, reports show.

To protect their casino interests, both tribes contributed to Proposition 5. Viejas gave \$11 million while Agua Caliente tribal leaders contributed a more modest \$2.3 million because political consultants warned them the ballot measure had legal flaws. When that proved true, and the court threw out Proposition 5, the Agua Caliente were already well underway with a backup plan, spending millions on a massive signature-gathering effort to qualify a new version of Proposition 5.

Even tribes with no gaming operations are playing the political game.

The Pala Band of Mission Indians, with about 850 members and a 40 percent unemployment rate, has been lusting for gaming since 1984. But the tribe was never able to secure the kind of financial backing necessary to open a gaming operation, in part because it is located in San Diego County, a competitive market where three other tribes have opened casinos in the past 10 years.

Negotiating with governors

After 16 months of arduous negotiations with Governor Pete Wilson, the Pala tribe eventually signed a gaming agreement that was intended to be a model for all tribal casinos. The Pala compact placed strict restrictions

on the type and number of video slot machines that would be allowed on tribal casinos. It also allowed non-Indian tribal casino employees to unionize, and required that tribes adhere to state and local environmental standards.

But the Pala compact was immediately rebuffed by most of the state's casino tribes. Convinced that Wilson's agreement would mean financial ruin, they launched Proposition 5, which became the most expensive ballot measure in the nation's history.

Tribes that were casino rivals suddenly became partners in fighting the potential loss of their lucrative gaming machines, which Wilson and federal authorities had deemed illegal and had won court approval to shut down. Without Proposition 5, the tribes would be forced to pull the plug on their gaming machines and begin operating under the restrictive terms of the Pala Compact.

Agua Caliente, fearing that Proposition 5 might lose, took out a political insurance policy. One month before the November 1998 election, it qualified a referendum for the March 2000 ballot that would nullify the Pala Compact, which had been signed by 11 tribes and ratified by the state Legislature after a bitter tussle.

Meanwhile, under Governor Davis, who won his election with considerable tribal backing, tribes began a new round of compact negotiations, attempting to strike a deal on gaming that would be far more palatable than what Wilson had proposed.

The most dramatic session occurred in late August when, like an 1800s treaty talk on the Great Plains, Davis sent his negotiator, retired federal judge William Norris, to sit down and negotiate with more than 300 tribal representatives. Unlike those long-ago sessions on Indian lands, these talks occurred in a downtown Sacramento convention center and the tribal leaders were accompanied by a retinue of lobbyists and lawyers. The sheer enormity of the undertaking was reflective of the nature of Indian negotiations.

A different mindset

Those who work with tribes say there are cultural characteristics that set them apart from other special interest groups. "They are the most frustratingly and impressively democratic people to deal with," said Isenberg. "You'd be astounded at the number of meetings they hold before reaching a decision. But you have to admire it. These are their governments and it's how they work."

Republican consultant Temple, who works with the Viejas tribe, said he often must present his point of view to as many as 50 tribal leaders, who often are "quite distrustful" because of the Indians' past history in dealing with white men and politicians whose word they couldn't always trust.

Although tribes often meet jointly to confer with a consultant, they guard their individual interests jealously and no tribe would hire a consultant working for another, according to one political consultant familiar with tribes.

If winning overwhelming support for Proposition 5 at the polls last year and stalling the Pala Compact's provisions until 2000 were the only yardsticks, Native Americans would appear to have achieved their political goals. But the more intriguing and important debate is how much progress they have made toward their broader goal of being recognized as sovereign entities by the state.

Given the 63 percent of voters who approved Proposition 5, tribes have clearly succeeded in educating the public and politicians about their history and about how impor-

tant gaming is to their economic survival. By contributing millions of dollars to state and federal races, they have earned access to politicians, who are now well acquainted with Native Americans attending fund-raisers and political rallies.

Politicians in Washington, D.C., already have a good understanding of the tribes, consultants say. In Congress, some 80 lawmakers belong to the bipartisan Native American Caucus, including Southern California representative Bob Filner (D-San Diego).

In Sacramento, legislators are gradually becoming more aware of how to handle Native American issues. "They're interested, curious and puzzled," said Isenberg of his former legislative colleagues. "They're coming to terms with Indians as governments, in the same way the federal government has."

Getting beyond gaming

Although sovereignty is at the heart of the Proposition 5 debate, it was downplayed during the campaign by tribal spokesmen, who focused instead on the notion of getting tribes off welfare, which their consultants considered an easier sell to voters. "The real issue is not gaming, and tribal leaders know this in a profound way," said Viejas chairman Pico. "The issue is that Native American tribes are governments and gaming is hooked up to the tribes' right to self-government."

That sentiment — that sovereignty is all-important — was never more vivid than when some 300 tribal representatives met in late August to hear the terms of Governor Davis' proposed gambling agreement. The terms, while not nearly as onerous to casino tribes as those of Davis' predecessor, former Governor Wilson, were still galling to tribes who believe that, as sovereign nations, they should have the final say on the size, scope and style of gambling.

At least one tribal leader walked out of those discussions in disgust.

The situation illustrated one of the classic dilemmas of modern-day casino tribes: While they want to exist as independent governments and run their casinos on their own terms, they must still work within guidelines set down by the federal government that call for negotiations between tribes and their governor. Once the fight for Indian gaming is over, tribal leaders envision a future in which they can focus on ensuring the prosperity of their people, give them a chance to attend college and to find jobs outside of casinos. Above all, they want the government, whether it's state, federal or local, to acknowledge and treat them as equals.

"Once the country understands that we have some hopes and dreams, and that we are responsible governments, we'll be on our way to take our rightful place in the mix of governments in this country," said Pico. 🏛️

Ioana Patringenaru, a Los Angeles Times intern, wrote this piece while a graduate student at the University of California, Berkeley, Graduate School of Journalism. Comments on this story may be e-mailed to edit@statenet.com.

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1999-2000 edition

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School bonds and the two-thirds vote

Some next year, it's likely there will be an initiative on the ballot to reduce the current two-thirds voter approval requirement for local school construction bonds to a simple majority vote. Those who support the change claim that the passage requirement on bonds must be lowered in order to raise adequate revenues for school construction. The facts, however, tell a different story.

First, the two-thirds requirement has not been an insurmountable obstacle for bond passage. Since 1986, a majority of local school bond measures have received the needed two-thirds voter approval. Indeed, in 1998 more than 60 percent of local school bonds received the requisite two-thirds vote.

The two-thirds requirement does, however, force local school districts to make a solid case to the public that bond money is really necessary. Are current tax dollars being well-managed by districts? Is there significant waste of tax money? Have other alternatives been considered and exhausted? For a bond to pass with a super majority, school officials must answer satisfactorily these and other critical questions. The two-thirds requirement, therefore, acts as an important incentive for school districts to operate efficiently and to account for their performance.

While the two-thirds vote requirement hasn't stopped the flow of school construction revenues, it has provided needed protection for property owners. Local school bonds are mostly paid for by property taxes. The two-thirds requirement prevents the general electorate from too easily increasing taxation on a minority of the population, in this case property owners.

Further, making it easier to pass local school bonds limits flexibility. Because bonds are paid back over time, taxpayers are committed to paying off the bond even if demographic changes occur that negate the need for extra facilities. Look, for example, at the projection changes in statewide public K-12 enrollment.

Today, there are approximately 5.7 million K-12 public school students in the state. In 1995, the California Department of Finance (DOF) projected that by the year 2004, total public K-12 enrollment would be nearly 6.4 million. In its most recent 1998 projection, however, DOF estimates that by 2004 total enrollment will be 6.05 million

— 350,000 less than the prior estimate.

The California Department of Education calculates new school construction needs based on a formula of \$12,000 per student plus land costs of \$3,000 per student. Using that formula, the difference of 350,000 students between the two DOF projections works out to a drop of \$5.25 billion in new construction needs. In other words, had local school bonds been approved based on the earlier DOF projection, the result would have been a

\$5.25 billion over-commitment of tax dollars. Yet, these bonds would still have to be paid back regardless of whether the facilities were needed after all.

It should be noted that increased reliance on property taxes for school construction doesn't necessarily help poor school districts. However, poor districts have less valuable property to tax than rich districts. Thus, making it easier to pass local school bonds won't guarantee that new construction money will reach poor districts.

Finally, one cannot ignore the politics behind why many state elected officials wish to change the passage rules for local school bonds. State lawmakers take less flak if they ask voters to pass a bond than if lawmakers enact a general tax increase. Further, by funding school facilities through bond revenues, lawmakers avoid including school construction in annual state budgets in a pay-as-you-go system. Kicking school-construction funding decisions down to local school districts and voters allows state lawmakers to avoid making tough annual decisions about spending priorities and gives them more freedom to spend annual budget dollars on their pet programs.

Eliminating the two-thirds vote requirement is an unfair and less effective way to build more classrooms. State funding through the budget process, reducing school construction regulations, eliminating prevailing wage requirements on school construction, and giving opportunity scholarships to parents so the private sector can absorb some of the student population increase are better and less costly alternatives.

State lawmakers
take less flak if
they ask voters to
pass a bond than
if lawmakers
enact a general
tax increase.

by Lance
T. Izumi



Contributing Editor Lance T. Izumi is a senior fellow at the Pacific Research Institute in San Francisco. Comments about this column may be e-mailed to edit@statenet.com. The views expressed do not necessarily reflect those of the California Journal.