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EDITORIAL

## Play fair with Indian casinos

The Supreme Court declines to take up California's appeal of a ruling in favor of the Rincon Band of Luiseño Indians, preserving a principle of fairness in the Indian Gaming Regulatory Act.



Gamblers try their luck at slot machines at Harrah's Rincon Casino. The tribe has sued the governor, alleging his plan will destabilize Indian gaming. (Glenn Koenig / Los Angeles Times)

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Not long after he took office in 2003, former Gov. Arnold Schwarzenegger offered Indian tribes a deal his administration believed was a win for both sides: They could add hundreds of slot machines to their casinos if they paid a double-digit percentage of their earnings to the state's general fund. Although some tribes leaped at the offer, generating about \$350 million a year for the state, the Rincon Band of Luiseño Indians argued that it amounted to an unlawful tax.

The U.S. 9th Circuit Court of Appeals agreed last year, and on Monday the Supreme Court declined to hear the state's challenge to that ruling. The court's move could exacerbate California's budget problems, but it's a narrow and appropriate reading of the law.

The states' power to regulate gambling on sovereign Indian reservations derives from the [Indian Gaming Regulatory Act](#), a 1988 federal law that required most tribes to seek permission from state government before offering casino-style gambling. The law orders states to bargain in good faith, and it explicitly forbids them from imposing taxes or fees beyond what's needed to defray the cost of regulating the casinos.

California negotiated compacts with numerous tribes in 1999 to allow limited casino-style gambling in exchange for a portion of the revenue, to be paid into two special funds directly related to tribal economic development and the costs imposed by the casinos. State voters validated the compacts in 2000 when they passed Proposition 1A, which legalized casino gambling only on tribal lands.

When the Rincon Band sought to amend its compact to add more slot machines, the Schwarzenegger administration offered a deal that was, by the state's own calculation, heavily tilted in its favor: Of the \$40

million in annual revenue generated by the 900 additional slot machines, \$38 million would go to the state. The only "concession" offered by the administration was a promise that the Rincon Band wouldn't have to compete with non-tribal casinos, a guarantee the state Constitution already provided.

In declining to take the case, the Supreme Court preserved a principle of fairness that the 9th Circuit laid out in its [ruling](#): States can demand a piece of a tribe's gaming revenue, but they have to give something meaningful in return.

California will now have two months to negotiate a deal with the Rincon Band, or the dispute will go to binding arbitration. Meanwhile, several other tribes are seeking to renegotiate their compacts in light of the 9th Circuit's decision. Gov. Jerry Brown should use the opportunity to explore how gaming revenue can be used to address a broad range of local and regional needs near the reservations, including better infrastructure, public safety and workforce development — all of which the tribes should willingly support. Those needs, and not the state's yawning budget gap, are what Congress had in mind in 1988 when it enacted the Indian Gaming Regulatory Act.