

ARKANSAS

LOTTERY

The More You Look at it, the Worse it Looks.

**Legally Flawed
State-Run Gambling
False Hope
Economic Losses
Unjust to the Poor**

*An Analysis of the Proposed
State Lotteries Amendment*



Arkansas State-Run Lotteries Amendment

The More You Look at it, the Worse it Looks!

The proposed State Lotteries Amendment would amend the Arkansas Constitution by repealing the current ban on lotteries. It allows the state of Arkansas to run lotteries. After the awarding of prizes and paying operating expenses, any remaining lottery funds would go for college scholarships. This measure will appear on the November 4th General Election Ballot. A vote "AGAINST" the proposed amendment will prevent state-run lotteries in Arkansas. This analysis consists of five reports that focus on several reasons people are opposing the state-run Lotteries Amendment.

Legally Flawed

This amendment legalizes multiple state-run lotteries. No one knows how many lotteries this amendment legalizes. Tennessee legalized lotteries in 2002. Now they have 5 state-run lotteries.

The word "lotteries" is not defined. Since this amendment contains no definition of a lottery, voters cannot know what they are approving. Courts in other states say lotteries can be any type of gambling.

The amendment could lead to state-run casinos. Nothing in this amendment would prevent the state of Arkansas from building and operating casinos in any city or town.

State Run Gambling

It will increase the size of government. This amendment puts the state of Arkansas in the gambling business, and it will require more state employees and the formation of a state lottery department.

It will bring gambling to every city and town in Arkansas. Based on other states our size, we can expect 2,500-3,000 lottery outlets in cities and towns all over Arkansas.

It will change state government from protector to predator. This amendment turns our state government into a predator that entices its own citizens to gamble and lose as much money as possible.

Out-of-state gambling corporations will corrupt our state government. GTECH, a company known for scandals, manages lotteries for 26 states. Imagine the lobbying and corruption they can bring!

False Hope

False hope of winning a jackpot: Believing they might win, millions of people are certain to lose their money on lotteries in Arkansas.

False hope of more money for education: With lotteries for scholarships, lawmakers are tempted to reduce public funding for colleges and spend that money on other government programs.

False hope of economic growth through more college graduates: We don't have enough jobs for our current number of graduates. More graduates won't help our economy unless we provide jobs.

Economic Loss

Arkansas Business has been a critic of the State Lotteries Amendment because they recognize that draining \$300 - \$400 million out of the economy each year won't be good for the people of Arkansas.

Since poor people play lotteries more than anyone else, they are the ones driven into deeper economic depression. This creates a need for more welfare services.

This amendment won't keep all the lottery dollars in Arkansas. Arkansans will still play lotteries in states around us because those states have greater populations and will offer larger prizes. Even the Arkansas lottery jackpot may end up going to an out-of-state winner.

This amendment does not guarantee any money for scholarships. It specifies that scholarships will get what is left after advertising is paid for, prizes are awarded, and lottery employees and contractors are paid.

Unjust to the Poor

A Duke University study proves that poor, unemployed, and less-educated people gamble on lotteries more and spend a greater percentage of their income on lotteries than anyone else. The same has been proven by studies done in Tennessee, Texas, and Georgia.

Legal Flaws

The Proposed Arkansas State-Run Lotteries Amendment

Summary: The proposed amendment does not include adequate legal definitions to allow Arkansas' voters to know what will be implemented if they approve the amendment.

1. Multiple lotteries are authorized. By authorizing the legislature to establish state lotteries, the proposal not only opens the door for more than one lottery, but arguably, multiple *types of lotteries*. The state can operate a power-ball lottery, a lotto, pick-3 or pick-4 lotteries, scratch-off lotteries, and a multitude of other types of lotteries.

2. The words lottery or lotteries are not defined. The key word in the proposal, lotteries, is not defined. This omission was brought to the attention of the proponents by the Attorney General.¹ The proponents redrafted the proposed amendment and resubmitted it to the Attorney General for his review. Even though other changes were made to the proposal, the proponents failed to include a definition of lotteries.

What is meant or intended by the proponents? How will the term "lotteries" be interpreted by the legislature or the courts? There is no way for the Arkansas voters to know. The proponents could have defined the term and made it clear to the legislature, the courts, and the voters of Arkansas what was intended. The proponents could have included language that limited "lotteries" to traditional lottery games and specifically *excluded* video lottery terminals or casino-type games. Since the omission was brought to the attention of the proponents and they failed to make any changes, it is logical to assume that the proponents want an unrestricted definition of lotteries. This opens the door for video lottery terminals and casino games in Arkansas.

3. Arkansas Supreme Court has interpreted lottery to include games of chance.

When interpreting Arkansas' current ban on lotteries, the Supreme Court has ruled that 3 elements are needed to be a lottery: consideration, chance and a prize.² With such a broad definition, many games, including casino-type games, have been banned from Arkansas because they were controlled by chance and thus could be considered a lottery.

4. The amendment will likely lead to converted slot machines known as "video lottery terminals."

In other states with similar language, the courts have ruled that video lottery terminals are included in the definition of lotteries.³ Video lottery terminals look like and operate much like a slot machine, but are included by states as a "lottery."

5. The proposed amendment could lead to casinos in Arkansas. Although not widely accepted, the courts in at least one state ruled that "lotteries operated by the state," did include the operation of a casino.⁴ Will the voters of Arkansas be approving casino gaming if they vote for the proposed lotteries amendment? No one knows for sure, because the proponents intentionally left the legal door wide open.

6. Many crucial decisions left to the discretion of the legislature. Arkansas voters won't know who will receive scholarships, what schools will be approved, or even how much money will be available for scholarships, because the proponents left all of those decisions to the legislature. The legislature will establish criteria to determine who is eligible to receive the scholarships and grants. Will it be based on financial need, academic merit, or other criteria? What schools can the scholarship recipients attend? How much money will be available? Proceeds from the lotteries are to be used to pay the operating expenses, including all prizes, and to fund scholarships or grants. What if 95% of the proceeds are "needed" for operating expenses? No **minimum** amount is **required** to be used for scholarships and thus there is no guarantee. The legislature will be free to change the conditions and terms of the lottery every two years as they choose.

¹ Attorney General Opinion No. 2007-268 issued October 4, 2007.

² Burks v. Harris, 91 Ark. 205, 120 S.W. 979 (1909); Masterson v. State ex rel. Bryant, 329 Ark. 443, 949 S.W.2d 63 (1997)

³ Dalton v. Pataki, 5 N.Y.3d 243, 835 N.E.2d 1180 (2005); State v. W.V. Economic Dev. Auth., 214 W.Va. 277, 588 S.E.2d 655 (2003)

⁴ In Re. Advisory Opinion to Governor, 856 A.2d 320 (R.I. 2004)

State-Run Gambling

The Proposed Arkansas State-Run Lotteries Amendment

Summary: Supporters of Arkansas' proposed state-run lotteries amendment fail to point out that this constitutional amendment would put our state government in the gambling business. Our form of government is based on the idea that government is the servant of the people. This proposed constitutional amendment would turn our state government into a predator that would entice its own citizens to gamble and lose as much money as possible on state-run lotteries. Here is why the state government of Arkansas should not be in the gambling business.

1. State-run lotteries would increase the size of State government and would increase the number of government workers. In Iowa, a state roughly the size of Arkansas, 117 people work for the state lottery.¹ Most of these employees perform sales jobs that involve persuading local businesses to sell lottery tickets. This does not include the number of contract employees employed by the lottery management company that runs the lottery in Iowa.

2. A State-run lotteries would bring gambling to every city and town in Arkansas. The state of Iowa now has over 2,600 businesses that sell lottery tickets.² At that rate, there would be multiple locations in every city and town in Arkansas where people would gamble on the lottery.

3. State-run lotteries would change the role of our state government from servant to predator. Under this amendment, the state of Arkansas would employ scores of people whose jobs would be:

- To develop and run lottery ads on TV, radio, in newspapers, and elsewhere. These ads would be for the sole purpose of encouraging the people of Arkansas to bet and lose as much money as possible on the Arkansas lottery.
- To establish as many state lottery outlets as possible in convenience stores, gas stations, grocery stores, and other businesses.
- To contract with national or international lottery management companies such as GTECH, an Italian owned company that is one of the worlds leading state lottery management companies.³

4. State-run lotteries will corrupt our state government. Politicians, organized gambling, and lottery dollars are a recipe for corruption in any state. Across the country, governments have been impacted by the corrupting influence of mixing state governments with gambling.

GTECH, with headquarters in West Greenwich, R.I., is the world's leading supplier of lottery technology and services. It runs 86 lottery systems in 48 countries and 26 American states.⁴ GTECH has a history of scandals spanning several years and reaching from Washington, D.C. to Texas. The farthest-reaching scandal sent a former top executive to prison and helped scuttle a nomination to the U.S. Supreme Court. In 1996, J. David Smith, GTECH's national sales director, went to prison for taking almost \$170,000 in kickbacks from lobbyists in **New Jersey**.

Smith's conviction led the **Texas** Lottery Commission to investigate GTECH's operations in that state. The Texas probe revealed ties between GTECH and State Lottery Commissioner Nora Linares, and she was fired. Other questionable activities by GTECH in Texas included hiring two former aides to then-Gov. George W. Bush as lobbyists, and hiring former Lt. Gov. Ben Barnes. In 1996, public pressure led to Barnes' contract being bought out for \$23 million.⁵

George W. Bush nominated former Texas Lottery Commissioner Harriet Miers to the U.S. Supreme Court, but Miers backed out of the nomination after widespread criticism of her qualifications, as well as published reports that predicted she would face grilling at her confirmation hearing over the controversies at the Texas Lottery.⁶ In **Missouri**, GTECH awarded a former gubernatorial aide a 10-year, \$80,000-a-year consulting contract after GTECH won that state's business.⁷

¹ Iowa Lottery website, miscellaneous, frequently asked questions.

² <http://www.ialottery.com/FAQs/miscellaneous.html>

³ Ibid.

⁴ Lottomatica Subsidiary GTECH Corporation to Acquire St Enodoc Holdings Limited, Reuters News, April 3, 2008.

⁵ The Westchester Journal News, Company Running N.Y. Lottery Games Has History of Scandal. January 30, 2007

⁶ The Westchester Journal News, GTECH Scandal Reached From N.J. to Texas to White House, January 30, 2007

⁷ The Westchester Journal News, GTECH Scandal Reached From N.J. to Texas to White House, January 30, 2007

FALSE HOPE

The Proposed Arkansas State-Run Lotteries Amendment

Summary: State-run lotteries hold out false hope on a number of levels. There is the false hope that players will win the jackpot, but the odds of winning are millions-to-one. There is the false hope that there will be more money for higher education, but the experience of other states has been when lotteries go in, other state funds that had previously been dedicated to education get pulled away to something else, reducing the education budget and forcing the state addiction to lottery money. There is the false hope that the lottery will lift the economy of Arkansas by producing more college graduates, but Arkansas doesn't have enough jobs for its current graduates; this is why they leave Arkansas to go work in other states. There is the false hope that more of our citizens will have college degrees, but studies indicate that this won't happen.

1. False Hope of Winning the Jackpot. Lotteries, like all gambling where bets are made against "The House," are designed to ensure that the majority of bettors lose much more than they ever win, so that "The House" can turn a profit. It's no secret the games are always designed to ensure that the majority of gamblers lose. It's an industry of empty promises for the majority of players. We might expect this from profit-driven Vegas casino owners who are in the business of quickly separating people from their money, but not the Arkansas state government.

2. False Hope of More Money for Education. It's incorrect to say "all lottery proceeds will go for scholarships." First of all, on average, only 30 cents from every dollar gambled will ever make it to a student. In many cases, education sees no gain at all. When public schools or colleges start receiving lottery money, lawmakers see this as a chance to move funding previously dedicated to education to other state budget items. According to a recent study by The Tax Foundation, "Lottery revenues do not always benefit the programs for which they are earmarked, and voters may feel deceived when they approve lotteries for education only to find that legislators shuffle funds and their states' public education systems do not benefit significantly."¹

3. False Hope of Increasing the Number of College Graduates Living in Arkansas. Proponents of bringing state-run lotteries to Arkansas give as their number one reason the fact that more money for scholarships would mean more college graduates living in Arkansas, and somehow that leads to a better economy. The obvious problem, of course, is that there must be competitive employment in Arkansas for those with a college degree. Even current college graduates in Arkansas are struggling to find jobs that match salaries in other states. Until Arkansas becomes home to more business and industry, we won't see an increase in the number of college graduates living in our state.

4. False Hope that More People Will Obtain College Degrees. A study by the University of Georgia on that state's HOPE lotteries scholarship program found that only 4 out of 100 recipients of the HOPE Scholarship funds would not have been able to obtain a college education without the HOPE program. 96% said they could have afforded college tuition without the HOPE Scholarship money.² A recent study in Tennessee found that a whopping 70% of recipients of lottery scholarship funds dropped out before their fourth year of college.³ It is clear that funding is not the primary barrier to obtaining a college degree, as proponents of the Arkansas lotteries would have us believe.

Conclusion: Few new students receiving college degrees; a small fraction of jackpot winners; no greater number of graduates living in Arkansas; and most of money never making it to the students; these are the results other states have experienced with state-run lotteries.

¹ "Gambling with Tax Policy: States' Growing Reliance on Lottery Tax Revenue," Background Paper, Alicia Hanson July 2007, Number 54, p. 1.

² "HOPE Scholarship Affects Where, Not Whether, Students Attend College," Chris Cornwell and David B. Mustard, Public Policy Research Series, Vol. 2, No. 10, Dec. 2001, Carl Vinson Institute of Government, University of Georgia, p. 2.

³ "Scholarships Hard to Keep," Sherri Drake, Memphis *Commercial-Appeal*, March 9, 2008, <http://www.commercialappeal.com/news/2008/mar/09/scholarships-hard-to-keep/?printer=1/>

Economic Loss

The Proposed Arkansas State-Run Lotteries Amendment

Summary: Supporters of Arkansas' proposed state-run lotteries amendment say the economy of Arkansas will improve if people have more money to pay for college. They maintain that this will result in more college graduates living in Arkansas and that this will improve the standard of living in Arkansas. These assumptions are seriously flawed. The negative economic impact of state-run, predatory gambling—like state-run lotteries—is far-reaching.

1. A state-run lottery would drain \$300 - \$400 million from Arkansas' economy each year. According to *Arkansas Business*, if Arkansas' lottery is to live up to Lt. Governor Halter's projected \$100 million per year in college scholarships, Arkansans would have to gamble and lose approximately \$400 million on the lottery annually.¹ Based on averages from other state-run lotteries, the Arkansas lottery can be expected to devote only 25%-30% of its income to college scholarships. The other 70%-75% would go to out-of-state lottery management companies, state lottery employees, advertising, prizes, and retailers who sell tickets.

2. A state-run lottery will impact the economy by pushing the poor into deeper economic depression. According to *Arkansas Business*, the negative effects lotteries have on the poor will be more pronounced in Arkansas than they are elsewhere.² Arkansas has a higher-than-average percentage of families living below the poverty line. This will magnify the lottery's deficiencies, making it especially harmful to Arkansans. A state-run lottery will decrease the already weak purchasing power of the poor, and increase their need for public assistance that will likely be funded through higher taxes on all Arkansans.

3. Scholarship funds won't improve Arkansas' economy without jobs for graduates. As stated previously, Arkansas doesn't have enough jobs for our current number of college graduates. This is why they are taking jobs out of state. Unless we reform our tax laws, improve our K-12 public education system, take other steps, businesses and industries will continue to locate elsewhere.

4. A state-run lottery won't prevent Arkansans from buying lottery tickets out-of-state. Proponents of the lottery say that Arkansas is losing millions of dollars to lotteries in surrounding states.³ However, even if we implement a lottery, that money will continue flowing out-of-state as long as every surrounding state offers larger prizes—something almost certain, considering that their populations are all greater than Arkansas'. Even the Arkansas lottery jackpot may end up going to an out-of-state winner.

5. State-run lotteries cannot guarantee more money for colleges. The Arkansas General Assembly can set state tax funding for colleges at any amount they choose. The current state-run lotteries proposal specifies that lottery dollars will "supplement" any tax dollars appropriated for colleges. However, the Arkansas Legislature is not required to appropriate *any* money for scholarships. If a state-run lotteries amendment passes, the Arkansas Legislature will be free to reduce scholarship-funding as much as they choose. Other states with lotteries for education have reduced public funding for schools, and simply spent the money on other state-funded programs. Why would Arkansas be any different?

Conclusion: One can easily label state-run lotteries as among the most predatory forms of gambling. It causes the state to prey on its people economically, enticing them to lose money on a program that does more harm than good. It deflates the local economy by removing millions of dollars from circulation; it pushes the poor into even deeper economic depression; and it does virtually nothing to increase the number of college graduates living in the state. No Arkansan will be able to escape the economic damage state-run lotteries will do to the economy of Arkansas.

¹ Arkansas Business Editors. "Halting Halter." *Arkansas Business*. Sept. 24, 2007

² Ibid.

³ Craft, Dan. "Halter Pitches Lottery to Democrats." *The Morning News*. August 19, 2008.
<http://www.nwaonline.net/articles/2008/08/19/news/082008fzhalterlottery.txt>

Injustice to the Poor

The Proposed Arkansas State-Run Lotteries Amendment

Summary: Supporters of Arkansas' proposed state-run lotteries amendment say that poor people don't play lotteries any more than anyone else. They are incorrect. Virtually every credible study dealing with which categories of people play lotteries conclude that poor people play more often and are more severely impacted by state-run lotteries than anyone else. The watershed lottery report in 1999 by Duke University professors, Clotfelter and Cook showed that lower-income citizens are more heavily represented among lottery players than other categories. Other academic research confirms their findings.

1. Academic research continually shows that poor, unemployed, and less-educated citizens are over-represented in lottery play. "The education category with the highest per capita spending are those who did not complete high school, while college graduates have the lowest. The lower income categories have the highest per capita spending.lottery expenditures represent a much larger burden on the household budget for those with low incomes than for those with high incomes. ...high school dropouts and people in the lowest income category are heavily over represented among those who are in the top 20-percent of lottery players."¹ The poor spend "...a much larger share of their income on state lotteries. The poorly educated spend more on gambling than the better educated."²

2. Georgia: Poor people are the most active players. "HOPE (Georgia's lottery scholarship program) is a program financed out of the pockets of the poor."—Duke University professor Charles Clotfelter (2002)³

3. Tennessee: Low-income, less-educated play the most. "[Tennessee] lottery products are more disproportionately consumed by low-income, undereducated citizens."⁴

4. Texas: Less-educated, poor are the highest percentage of players. "In categories of education, those with less than a high school diploma spent the highest amount, on average, per month at \$40, while those with a high school degree or more spent \$15 on average."⁵

5. Income Level, Gender & Race: A study conducted by the University of Georgia predicts that less-educated, African-American males play the Georgia lottery 30 times more than non-African-American females with more than a high school education.⁶

6. Ohio: Lower-income play the most. "Any adult can play the lottery, but a [Columbus] *Dispatch* analysis found that the state makes most of its money in lower-income neighborhoods....Lottery sales last year [2007] in Ohio communities and neighborhoods where the median household income was less than \$38,000 were twice as high as those posted in areas where the median incomes exceeded \$60,000."⁷

Conclusion: Lottery proponents have tried to counter the academic research by quoting studies of their own, which are typically unscientific telephone questionnaire polls or reports by lottery ticket manufacturers. The best available research continually affirms that less-educated, low-income citizens are heavily over-represented among those who gamble on state-run lotteries. In a civilized society those, who are more fortunate bear a level of responsibility for those who are less fortunate. While opinions on how to best help the poor may vary, few would advocate a state-run ploy designed to move money from the pockets of the poor.

¹ State Lotteries at the Turn of the Century; Report to the National Gambling Impact Study Commission, Duke University, P. 13.

² "State Lotteries and Consumer Behavior," National Bureau of Economic Research, Melissa Kearney, NBER working paper No. 9330, November 2002.

³ "Holding on to Hope: 'Pockets of the poor' fund college dreams," Atlanta Journal-Constitution, Nov. 9, 2003, p. A12.

⁴ The Tennessee Lottery Education Scholarship and its Effect on Income Distribution, Katie Frink, Rhodes College, p.1

⁵ Demographic Survey of Texas Lottery Players, University of Houston Center for Public Policy, 2007, pp. 11, 16.

⁶ Who Plays the Georgia Lottery?, Joseph McCray and Thomas J. Paviak, Carl Vinson Institute of Government, University of Georgia (2002), pp. 2-3.

⁷ "Lottery Thrives in Poor Areas: Low-income more likely to buy ticket," Associated Press, as reported in the Columbus *Dispatch*, March 16, 2008.

What You Can Do

- Copy and distribute this lottery report to your church.
- Use the information in this report to write a letter to the editor.
- Make a generous financial contribution to the Family Council Action Committee.
- Call (501) 375-7000, and volunteer to serve as a campaign coordinator in your church or community.
- Organize an anti-lottery meeting at your church or community center, and invite someone from our staff to speak.
- Order Campaign Material: Yard Signs; Church Bulletin Inserts; Sunday School or Sermon Outlines
- E-mail your friends, and encourage them to visit our website and read this report.

Visit our website: www.VoteAgainstTheLottery.com

Family Council Action Committee 414 South Pulaski, Suite 3, Little Rock, AR 72201 (501) 375-7000

Popular Name, Ballot Title, and Text of the Proposed State Lotteries Amendment

--Provided by the Arkansas Secretary of State

Popular Name

A CONSTITUTIONAL AMENDMENT AUTHORIZING THE GENERAL ASSEMBLY TO ESTABLISH, OPERATE, AND REGULATE STATE LOTTERIES TO FUND SCHOLARSHIPS AND GRANTS FOR ARKANSAS CITIZENS ENROLLED IN CERTIFIED TWO-YEAR AND FOUR-YEAR COLLEGES AND UNIVERSITIES IN ARKANSAS

Ballot Title

An amendment to the Arkansas Constitution authorizing the General Assembly to enact laws to establish, operate, and regulate state lotteries; requiring lottery proceeds to be used solely to pay the operating expenses of lotteries, including all prizes, and to fund or provide for scholarships and grants to citizens of this state enrolled in public and private non-profit two-year and four-year colleges and universities located within the state that are certified according to criteria established by the General Assembly; requiring the General Assembly to establish criteria to determine who is eligible to receive the scholarships and grants; declaring that lottery proceeds shall not be subject to appropriation by the General Assembly; declaring lottery proceeds to be cash funds held in trust separate and apart from the state treasury to be managed and maintained by the General Assembly or an agency or department of the state as determined by the General Assembly; requiring lottery proceeds remaining after payment of operating expenses and prizes to supplement, not supplant, non-lottery educational resources; declaring that this amendment does not repeal, supersede, amend or otherwise affect Amendment 84 to the Arkansas Constitution or games of bingo and raffles permitted therein; prohibiting lotteries and the sale of lottery tickets except as herein specifically provided.

AMENDMENT: (Strike-through words are current language that would be deleted from the constitution should the amendment pass; underlined words are proposed new language).

Be it enacted by the people of the State of Arkansas:

Section 14 of Article 19 of the Constitution of the State of Arkansas is amended to read as follows:

§ 14. Lotteries ~~prohibited~~.

~~No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.~~

(a) The General Assembly may enact laws to establish, operate, and regulate State lotteries.

(b) Lottery proceeds shall be used solely to pay the operating expenses of lotteries, including all prizes, and to fund or provide for scholarships and grants to citizens of this State enrolled in public and private non-profit two-year and four-year colleges and universities located within the State that are certified according to criteria established by the General Assembly. The General Assembly shall establish criteria to determine who is eligible to receive the scholarships and grants pursuant to this Amendment.

(c) Lottery proceeds shall not be subject to appropriation by the General Assembly and are specifically declared to be cash funds held in trust separate and apart from the State treasury to be managed and maintained by the General Assembly or an agency or department of the State as determined by the General Assembly.

(d) Lottery proceeds remaining after payment of operating expenses and prizes shall supplement, not supplant, non-lottery educational resources.

(e) This Amendment does not repeal, supersede, amend or otherwise affect Amendment 84 to the Arkansas Constitution or games of bingo and raffles permitted therein.

(f) Except as herein specifically provided, lotteries and the sale of lottery tickets are prohibited.

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