GAMBLING IN SOUTH CAROLINA

A SPECIAL EDITION

By Holley Hewitt Ulbrich

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Dr. Ulbrich is a Senior Scholar at the Strom Thurmond Institute and Alumni Distinguished Professor Emerita of Economics, Clemson University.

Introduction

The last three decades have been marked by three significant developments in gambling in the United States. One was the growth of state lotteries, starting with New Hampshire in 1964. Today 37 states and the District of Columbia have lotteries. South Carolina does not, but the issue will not go away. It surfaces every election year. The article beginning on page 5 in this special issue looks at the facts and myths of state lotteries.

The second development was the extremely rapid spread of casino gambling outside Nevada and casino gambling machines outside casinos in seven states, including South Carolina. New Jersey and Mississippi have extensive casino gambling, and riverboat casinos are popular in states along the Mississippi River. Gambling today is more accessible to more people than ever. Nowhere is access more free than in South Carolina, with 30,000 video gambling machines in convenience stores, gas stations, bars, restaurants, and free-standing video parlors. The article beginning on page 3 looks at the consequences of South Carolina's lack of a coherent policy toward video gambling.

The third development was the successful legal challenge to gambling limitations by several Native American tribes that resulted in the Indian Gaming Act. While the Pequots of Connecticut are the most impressive success story, about 20 tribes have seen a significant influx of cash to fund other economic development projects and improve the welfare of their members. The Cherokee in North Carolina have just recently entered the casino business and appear to be quite successful, with no serious competition between New Jersey to the north and Mississippi to the south. In South Carolina, there is only one recognized tribe, the Catawbas. After lengthy negotiations with the state, the Catawbas have opened a large, attractive bingo parlor and hope that they are poised for similar success. The article beginning on page 7 deals with the Catawbas and the development of tribal sponsorship for gambling enterprises.

Most states that have any significant legal gambling activity have created a gambling or gaming commission with powers of oversight and responsibility for developing and implementing appropriate policies that ensure consumers are treated fairly, payout ratios are enforced, problems of gambling addiction are addressed, and the state receives a fair share of the revenue. South Carolina has not chosen to take that step. As a result, the state has a patchwork of charitable and Catawba bingo, an incredible number of free-standing video gambling machines, and a large number of citizens playing the Georgia lottery or gambling either on the Internet or illegally. We can do better. The first step is an informed public debate that defines the issues in legalized gambling, acknowledges a changed environment, and begins to explore some of the policy options that face us. This special issue is intended to be a step in the direction of such a debate.

Holley Hewitt Ulbrich
holley@strom.clemson.edu

Video Poker Gets a Winning Hand

Sometimes the safest place to be is at the center of the seesaw. That’s the happy spot occupied by the owners of video gambling machines in South Carolina, known locally as video poker. With the ban-video-poker faction weighing in on one side of the seesaw, and the tax-and-regulate faction on the other side, machineowners and the thousands of retail outlets (gasstations, convenience stores, bars, bowling alleys,restaurants) that house these 31,000 machines are the beneficiaries of a stalemate. As long as neither side is willing to give, video gambling will continue to sit pretty on the stable middle of the seesaw, lightly taxed and scarcely monitored, as it has since the machines officially became legal more than a decade ago. Once again, the state’s General Assembly has adjourned for the year without coming to grips with this situation.

Why all the fuss about video poker in SouthCarolina? More than half the states in this country have casinos that contain video gam-bling ma-chines, and at least half a dozen other states be-sides South Carolina permit these machines out-side casinos. All of these states have had to ad-dress the many conflicting con-cerns about gam-bling. There is the problem of addiction (especially among teens), although defenders of the industry are quick to point out that, unlike other addictive pursuits, gambling at least is no threat to the heart, lungs, brain or liver, just the wallet. There is the issue of the freedom of adults to amuse themselves as they please, particularly in ways that cause no harm to others. There is the issue of ensuring that ma-chines are giving consumers a fair payout ra-tio. There is the understandably desire to generate state revenue from gambling, a source much less painful than taxation. And finally, there is a mat-ter of whether the state should be somehow pro-tecting the poorest, least educated citizens who are the most likely players in both video gam-bling and state lotteries. If these states have been able to balance these issues and come up with a workable policy toward video gambling, why is there a prob-lem in South Carolina? Is the state truly unique in how it deals with video gambling machines? You can bet your bottom dollar that the answer is “yes!”

Video gambling in South Carolina is unique in a number of ways. First of all, the state got into the business somewhat by accident. While permit-ting casinos and/or video gambling outside casi-nos has been a deliberate legislative decision in other states, the arrival of these machines in South Carolina resulted from a state Supreme Court de-cision. In 1984, the court ruled that these machines did not constitute an illegal lottery because the payoff was not made by the machine itself. That issue is again before the Court. While waiting for a final ruling, the General Assembly has debated but not acted, hoping that the Court will take this touchy issue out of their hands. Few legislators facing reelec-tion wants to go on record with a vote when there is pressure from vocal opponents of gambling on moral grounds but public polls (in-cluding the 1994 county-by-county referendum) that favor allowing the machines.

Second, South Carolina has far more ma-chines in non-casino locations than any other state. With more than 30,000 machines in conve-nience stores, bars, restaurants, bowling alleys, gas sta-tions and other locations, video gambling is more accessible to South Carolinians than to residents of any other state except perhaps Nevada. While states with casinos may have more machines, ac-cess by minors is more tightly controlled. Even states with video gam-bling machines outside casi-nos usually permit them in a limited number of locations that are not frequented by minors, suchas bars and racetracks.

Third, as a result of the stalemate between pro- and anti-gambling forces, South Carolina has not thus far provided any substantial regula-tory oversight or collected significant revenue from video gambling. The flat fee of $2,000 per ma-chine generates $62 million in state revenue; a modest local fee generates a little additional rev-enue to cities and counties. All but one of the other states with video gambling monitor all machines via a central computer that not only keeps track of gross revenues in order to impose a percentage tax but also ensures a fair payout to players based on legislated payout ratios. By delaying the develop-ment of such monitoring, South Carolina has no only foregone substantial state revenue but also ailed to protect consumers as other states do. The law passed in 1993 calls for monitoring the ma-chines to ensure an 80% payout ratio by the end of this year, but does not impose additional taxes. If South Carolina taxed video gambling at rates com-monin other states, the Treasury would be receiv-ing more than $200 million instead of $62 million a year.

No one is suggesting that either the gover-nor (who favors a ban) or the pro-video gambling forces in the General Assembly are deliberately stalling any resolution of this issue to benefit video gambling interests. But regardless of intent, the ef-fect is to put the gaming interests in the catbird seat at the expense of the consumer and the state Treasury.

Playing the Lottery: Myths and Realities

A state lottery ranks with the Confederate flag and video poker as one of those issues that the South Carolina body politic can neither spit out nor swallow. With an active and successful lottery in the neighboring state of Georgia and perhaps as much as $80 million each year in South Carolina funds flowing across the Savannah River to support education in Georgia, it was inevitable that the lottery question should be raised again. Citizens support a lottery in the state by a margin large enough to pass the necessary constitutional amendment should it be put on the ballot as a referendum item.

Like other states, South Carolina shows support for a lottery by more than 60 percent of its citizens. Legislators and the current governor, however, are reluctant to pose that question at the polls. This paper attempts to dispel some of the myths and confirm some of the truths about state lotteries.

Myth: the state lottery is a 20th century invention. Fact: Historians of gambling can identify lotteries back as early as Roman times. From colonial times until the late 1890s, Americans used lotteries for a variety of public purposes (but mainly public works) in most states, including South Carolina. Roads, bridges and canals were popular objects of lotteries. They tended, however, to be onetime events rather than the daily and weekly drawings that are characteristic of present-day state lotteries. The use of lotteries by states came to an abrupt end in the 1890s with a scandal in the Louisiana lottery. In South Carolina, that event coincided with the drafting of the state's 1895constitution (still in effect, although much amended), and the revulsion against lotteries resulted in a strongly worded gambling prohibition in that document that reads as follows: "No lottery shall ever be allowed or be advertised by newspapers, or otherwise, or its tickets be sold in this State." Not until New Hampshire revived the state lottery in 1964 were Americans able to play this old and popular game of chance legally. Today, 37 states and the District of Columbia have lotteries, with the proceeds dedicated to a variety of public purposes ranging from senior citizens to economic development to education. Lottery fever is worldwide with games in many countries,particularly Europe and South America.

Myth: state lotteries are a bait-and-switch game. They promise more funding for education or other purposes, but then cut back on general funds for the same purpose. Fact: It depends on the state. Some states, such as New York, dedicated the proceeds of the lottery to education but never promised it wouldn't at least partly replace monies from the General Fund. Other states, such as Georgia, segregate the lottery funds so that they go to special programs that get all their funding, and their only funding, from the lottery. HOPE scholarships and pre-kindergarten programs are the product of the Georgia lottery. It ís possible to design a lottery so that it isn't just equivalent to a tax increase, but the experience of these states and others suggest that such an approach needs to be part of the lottery proposal from the beginning.

Myth: lotteries are a tax on the poor. Fact: Different studies reach different conclusions. Certainly the extensive work of Charles Clotfelder of Duke University, author of Selling Hope, strongly suggests that the poor represent a disproportionate share of players. A recent study in California, however, finds that the lottery has two subcategories, those who play scratch-off games and those who play variants of Lotto, the numbers game with daily or weekly drawings. Scratch-off players do tend to be low income, young, and poorly educated, but Lotto players tend to be older, more educated, and more affluent. To some extent, the location of retail outlets, the types of games offered, and the kind of advertising or promotion that the state does will have an impact on who plays and who passes. on who plays and who passes.

Fact: the lottery is a tax on people who are bad at math. This bumper-sticker slogan contains a real insight. The payout ratio in the lottery is much lower than in other forms of gambling. The payout ratio is the percentage of gambling dollars returned to players in the form of winnings; the rest goes to overhead or to whatever public purposes the lottery supports. These ratios vary from state to state, with the highest payout ratio in Massachusetts (60 percent). Overhead takes anywhere from 6 percent to 15 percent (advertising, printing tickets, vendor commissions,etc.), with the balance of 35-55 percent going to the state. Even in South Carolina, the only state that does not regulate the payout ratio for video gambling, 71 percent of the quarters put into these machines come back as winnings. For casino gambling, the typical payout ratio is in the 85-90 percent range. Casinos make their money on volume and repetitive play.

Myth: we could fund education out of a lottery and cut out the property tax for schools. Fact: In South Carolina, recent estimates suggest that a lottery would raise $218 million a year. We spend about $3 billion of federal, state, and local funds for K-12 education. A lottery would raise about 7 percent of that sum. At the local level, about $1.4 billion is raised from local property tax funds for education. A lottery could replace perhaps 15percent of local education funds if it was dedicated to that purpose. In other words, a lottery isn't enough to fund any major state or local purpose; it is supplementary funding. In states with lotteries, the lottery typically raises about 2-4 percent of the General Fund budget. The money is nice, and relatively painless, but it ís not a serious replacement for any major state or local revenue source. The current thinking in states that have most recently adopted the lottery is that lottery revenues should be special project money rather than depending on these funds for basic services.

Myth: States that adopt lotteries get an initial rush of money, and then it drops off. Fact: There is some limited truth in this belief. Twelve states had a big first year, followed by a drop in net revenues from the lottery in the second year. Other states saw lottery revenues grow at a steady pace. But states with long term lotteries seem to do pretty well. Fifteen states with lotteries in 1982 raised just over $1.5 billion. All 15 saw increases in revenue over the next 10 years. These same 15 states had $4.8 billion in revenue in 1992. The compounded annual revenue growth rate for net lottery revenues for these 15 states was over 12 percent a year, much higher than the growth rate of most other state revenue sources.

Making a decision about having a state lottery and how any lottery proceeds should be usedis an important question for South Carolina. That decision should be based on good information, on fact not myth, on the experience of other states that have had lotteries for as long as 35 years. Whether or not South Carolina ultimately joins Georgia and other states in having a state lottery, the question at least needs to be posed and answered in a timely manner.

Catawba Bingo and the Indian Gaming Act

Until recently, most Americans thought of Indian tribes as people who played the wrong side in old Western movies and were poor people liv-ing on obscure reservations in the West. But at least some tribes are making a comeback, includ-ing South Carolina's Catawbas. About 20 tribes across the country have been able to spend large sums on building housing, sending their children to college, and investing in their future. The source of all this prosperity? Gambling. This new tribal revenue source has been nicknamed " the new buf-falo."

Of the 557 recognized tribes, 200 tribes in 24 states had ventured into gambling by 1996, with more tribes in other state poised to come on line. (Only two tribes, the Navajos and the Hopi, re-jected gambling on moral grounds.) North Caro-lina (the Cherokee casino) and South Carolina (Cat-awba bingo) were among those states with tribes waiting in the wings.

In late 1997, South Carolina's Catawbas opened a new, sophisticated, attractive bingo par-lor in York County that has been successful in at-tracting many players and generating revenue for the tribe's development projects. The Catawbas hope to join the 20-odd tribes that have hit it big, drawing a large share of the estimated Indian gam-ing revenue pool of about $4 billion a year to seed other tribal ventures, reduce welfare, build hous-ing, and pay for education, health care, and other services. Some tribes, especially those located near large metropolitan areas, have had great success. Others are still poor.

Where did the new buffalo come from? The genesis has been traced back to a trailer fire in 1975 among the Oneidas in upstate New York in which two people died because the tribe had no fire protection. Tribal leaders decided to raise money for fire protection the old-fashioned way — bingo. However, their prize money exceeded the limits set by state law in New York, and the operation was shut down despite attempts to as-sert a claim of tribal sovereignty. Next to chal-lenge state gambling law on the grounds of past treaties with Uncle Sam were the Seminoles in Florida. Unlike the Oneida, the Seminoles won their point in Seminole Tribe v. Butterworth in 1981.

The key case that opened the door to In-dian- sponsored gambling was decided by the U.S. Supreme Court in 1987. The question in Califor-nia v. Cabazon Band of Mission Indians was: if states allow gambling, and tribes are sovereign on their reservations, why can't tribes also offer gam-bling? This argument wouldn't get Native Americans very far in states like Utah, where there is no legal form of gambling, but 37 states now have lotteries, an increasing number permit at least some casinos, and bingo has been endemic for decades. In those states, Native Ameri-can tribes had a legal stake in the national gam-bling fever. The new gold rush was on. Old tribes planned gambling meccas even as dormant tribes sought to rebuild their membership base and seek recognition.

The Court's decision caused a great deal of uproar, and Congress responded in 1988 with the Indian Gaming Act. This legislation defines three levels of gambling from tribal games through full-fledged casinos and allows recog-nized tribes t o offer the same level of gambling as the state allows elsewhere. A state lottery was defined as the equivalent of a casino, which left the field for gambling wide open in the majority of states. In each case, the state is required to negotiate in good faith with recognized tribes, and many states, most notably Connecticut, have managed to tap the In dian gambling bonanza to help fill the state trea-sury. Some states brokered in better faith than oth-ers. Indians in New Mexico had to take the gover-nor to court to get their plans approved.

There are plenty of success stories to cheer on South Carolina's Catawbas as they venture intobingo. The Oneidas who started it all back in 1975 opened a casino in 1993 that employs 1,500 people. The profits have not only provided fire protection but also built new housing for the elderly, sent their kids to college, built a health center, enlisted teach-ers to teach their children the Oneida language, and established a day-care center and recreation center. Like other tribes, the Oneida have invested some of their profits in the future, building a hotel, an RV park and a 12-pump gas station and buying land. The 1,100-member tribe, once owners of a mere 32 acres, now claims 4,000 acres of tribal land. Likewise the Pequots of Connecticut, whose tribe almost disappeared a decade or two ago, is now 350 members strong and became the owner of New England's only casino (Foxwoods) when it opened in 1992. Located in a state with a variety of legal gambling (including jai alai, track betting, and a state lottery), the Pequots and the state came to a mutually profitable agreement that gives 25 percent of slot-machine revenue to the state trea-sury while providing jobs, educa-tion, health care and other benefits to tribe members and even some spillover benefits to the surrounding community where casino jobs have offset some of the decline in manufacturing jobs in southeast Connecticut.

Casinos have been the most popu-lar choice for Native American tribes, but that wasn't an option for the Catawbas in South Caro-lina. South Carolina has no state lottery and does not permit casinos, although some might argue that 30,000 video gambling machines have turned the state into one big casino. But the Indian Gaming Act limited the Catawbas' options to level two gambling, which includes bingo but not casinos. After lengthy negotiations with the state, the tribe chose to open the largest bingo parlor on the East coast, with room for crowds up to 2,500. The Cat-awba tribe's agreement with the state included settlement of land claims and an agreement to pay 10 percent of gross revenue in taxes, or about $2 million this first year. Bingo has been a fixture in South Carolina for many decades. It is legal if sponsored by a charity, which has to receive a designated share of the profits. Bingo operations also pay taxes to the state. There have been scandals about sham charities and inadequate payments to legitimate charities that led to a state crackdown and new rules about how much of the profit must go to the char-ity. These issues don't figure in the Catawba bingo hall, however, because the tribe is both the operator and the "charity." With a great location in the suburbs of Charlotte, tight oversight by the tribe, and a mutually beneficial agreement with the state on how the proceeds are shared, Catawba bingo may prove to be a winner for everyone involved.