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State Ballot Question Issue Brief #1
SQ 705 and SQ 706: Oklahoma Education Lottery

In A Nutshell

SQ 705 and SQ 706 would create the Oklahoma Education Lottery and Education Lottery Trust Fund. At least 35% of lottery revenue would be transferred to the trust fund for expenditure on education-related purposes. The measures contain language intended to ensure that lottery revenue does not supplant existing education spending and to prohibit Class III gaming such as video lottery terminals. There is no official estimate of the lottery’s fiscal impact.

Current Law

The State of Oklahoma does not currently run any type of lottery.

The Proposal

The Education Lottery proposal is outlined in HB 1278 and SJR 22, which were approved in the 2003 legislative session. The proposal calls for two separate ballot provisions. SQ 705, authorized by HB 1278, asks voters to approve the creation of the Oklahoma Education Lottery Act and the Oklahoma Lottery Commission. The Commission would be responsible for overseeing the operations of the lottery. SQ 706, authorized by SJR 22, asks voters to amend Article 10 of the Constitution to add a section creating the Oklahoma Education Lottery Trust Fund, which would receive monies from the Oklahoma Education Lottery. *Both* measures specify the purposes for which lottery revenues can be spent and require that lottery funds be used to enhance rather than supplant existing spending for education.

Allocation of Funds

The statutory amendment outlined in HB 1278 sets forth the *distribution* of gross revenue derived from the lottery. At least 35% would be dedicated to education (except in the first two years, when part of the revenue would be used to pay off a \$10 million bond issued for start-up costs). At least 45% would go for prizes and up to 20% would cover administrative costs.

Table 1: Distribution of Gross Sales of the Oklahoma Education Lottery (HB 1278/SQ 705)

<i>Prize money</i>	At least 45%
<i>Administration</i>	At most 20%
<i>Net Proceeds</i>	At least 35% (30% in the first two years)
K – 12 funding, including early childhood programs	45% (of net proceeds)
Higher Education Tuition Assistance Capital projects (all levels of education) Technology improvement (all levels of education) Endowed Chair Professorships for Higher Education School for the Deaf and Blind	45% (of net proceeds)
School Consolidation Fund	5% (of net proceeds)
Teacher’s Retirement Fund	5% (of net proceeds)

Students and educators from early childhood through post-secondary levels appear poised to benefit most from the lottery as designed. The authorizing legislation specifies that funds must be allocated between four categories of expenditures in set percentages: 45% of net proceeds shall go to common education and early childhood education for purposes including teacher pay and benefits (including retirement benefits); pre-kindergarten and full-day kindergarten programs; 45% shall go for post-secondary education and for capital outlay projects and technology improvements at all levels of education; 5% shall go to the School Consolidation and Assistance Fund and 5% shall go to the Teachers' Retirement System. *The constitutional amendment specifies the same purposes for which the funds can be spent, but does not specify the percentages of net proceeds that must go to each of the broad categories.* The Legislature will decide on appropriations.

The first \$500,000 in unclaimed prize money shall go to the Department of Human Services for compulsive gambling disorder treatment and educational programs.

Fiscal Impact

There is currently no official estimate of projected revenues from the Oklahoma Education Lottery. The Governor's office estimated when it first proposed the lottery that it could raise \$300 million in net proceeds. Since then, the Legislature added a prohibition against video lottery machines, which raise the lion's share of revenue in states that allow them. The latest estimates of net proceeds have, as a result, dropped to between \$100 and \$150 million. The Legislature for FY '05 appropriated \$2.007 billion to the Department of Common Education, \$802 million to the Regents for Higher Education and \$124 million for Career and Technology Education.

One independent revenue estimate, produced by Alexander Holmes for Oklahoma 21st Century, used different statistical techniques and arrived at projections ranging from \$95.4 million to \$97.1 million in net state proceeds for the Oklahoma lottery. It is possible that if the state question on gaming (SQ 712) passes as well, lottery revenues would be dampened by the expansion of racetrack and casino gaming as alternative activities to playing the lottery.

Studies have found that unlike other state revenue sources, lotteries have proven to be an unstable and uncertain source of tax revenues even during good economic times. Nearly half of the 37 states with lotteries experienced revenue decline at least once between 1997-98, 1998-99, and 1999-2000. Five states (Minnesota, Nebraska, Ohio, Vermont, and Virginia) experienced revenue decline in each of the three time periods, reaching a maximum cumulative decline of over 40% in Vermont.

Proposal Details

The State Board of Equalization (BOE) will be charged with monitoring the requirement that lottery revenue be used to enhance rather than supplant existing education funding. The BOE will compare all non-lottery education revenue to the total amount of revenue appropriated for education in the year prior to the lottery (the "base budget"). Non-lottery revenue appropriated for the upcoming year must at least equal the base budget amount. The lottery trust fund money is added to the base budget spending. If the BOE determines that total education spending *is less than* the base budget plus lottery trust fund appropriations, then no trust fund money may be appropriated until the trust fund has been replenished from another funding source in an amount equal to the amount channeled to the base budget.

Permitted games will include games of chance, such as instant tickets. Games such as poker, card games, slot machines, or electronic or video gambling will be prohibited. HB 1278 explicitly states that the enactment of a lottery shall not be construed to allow the operation of any other form of Class III gaming. (Class III gaming refers generally to "casino-style" games such as slot machines, black jack, roulette, and craps.) If any court with binding jurisdiction issues a ruling that cannot be appealed that the operation of a

lottery *does* allow the operation of other types of Class III gaming, the Oklahoma Education Lottery Act shall cease to have the effect of law. In other words, no court will be able to subvert the intent of the legislature to run only a lottery under the provisions of HB 1278.

All lottery tickets must be purchased with cash. Retailers will be paid a commission of at least 2% of gross sales to participate in the lottery network. They will also be required to pay \$100 per year to the Fidelity Revolving Fund, which will be created to pay for costs associated with the investigation and auditing of participating retailers.

Additional oversight of the lottery will be provided by the Oklahoma Lottery Commission Legislative Oversight Committee, which will be made up of members of the House Revenue and Taxation Committee and the Senate Finance Committee.

Some Pros and Cons of SQ 705& 706

Pros	Cons
<p>Passage of the Oklahoma State Lottery will allow the state to make new investments in education. Education budgets have suffered major cuts in recent years and have failed to keep pace with inflation and population growth. Revenue growth from existing tax sources is inadequate to address growing educational needs. Lottery funds will provide funding that will assist education initiatives from early childhood all the way to college and university.</p> <p>The state questions will constitutionally entrench the requirement that lottery revenues be used to enhance rather than supplant existing education funding. This provision addresses fears that education budgets will not fully benefit from new lottery revenue.</p> <p>Playing the lottery is a popular form of entertainment. Many people freely decide that the chance of becoming a millionaire is well worth the price of a ticket. Lotteries are a voluntary form of taxation, in that nobody is compelled to purchase tickets.</p> <p>Lotteries have been enacted in 37 states. Many Oklahomans are already playing the lottery in neighboring states, so it makes sense for Oklahoma to organize a lottery and collect a portion of the revenue.</p>	<p>Passage of the lottery may raise expectations and create a perception that education funding needs have been addressed. However, if the lottery generates \$100 million in additional revenue, this will be a virtual drop in the bucket compared to the \$3 billion already appropriated to common and post-secondary education. The funding would be stretched very thinly over the wide range of programs identified in the legislation.</p> <p>Of the tax revenue generated for the state by lottery sales, some portion will be offset by lost sales of other goods. The lottery may especially impact the revenue base of local governments, which will not have lottery revenues to compensate for lost sales tax revenues.</p> <p>The actual language requiring that new funding enhance existing education spending is confusing and will provide little guidance for making a determination on this issue. It is especially unclear what will happen when general revenues and lottery revenues decline from one year to the next.</p> <p>Lotteries have proven to be unstable revenue sources from year to year, with collections fluctuating and often declining. Yet is it likely that the state will choose to fund ongoing and growing education expenses with lottery revenue.</p> <p>Once enacted, the state will depend on the continued flow of lottery revenue. This will lead to state-sponsored advertising that actively encourages its citizens to gamble more and that exaggerates the</p>

	<p>chances of winning.</p> <p>As with other gambling, lotteries involve social costs on individuals and families associated with compulsive gambling, including increased personal debt and bankruptcy and job loss. The \$500,000 allocated to DHS for addiction programs may be insufficient to assist chronic gamblers.</p> <p>Virtually every study on existing lotteries concludes that lotteries are a regressive revenue source, in that low-income people spend a disproportionate portion of their income on lottery tickets.</p>
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State Question 705

This measure creates the Oklahoma Education Lottery Act. It creates the Oklahoma Lottery Commission. The Commission will be governed by a board of trustees. The commission will operate a state lottery. The board will write rules regarding the conduct of lottery games. At least 45% of the revenue from ticket sales will be returned as prizes. The net proceeds of the lottery will be used for education purposes. Net proceeds will equal at least 35% of ticket proceeds except for the first two years. The act contains provisions relating to the selection and regulation of retailers. This act would lose the force and effect of law under certain conditions. The act contains many other provisions relating to the conduct of a state lottery.

State Question 706

This measure amends the Oklahoma Constitution. It adds a new Section 41 to Article 10. This measure would create the Oklahoma Education Lottery Trust Fund. The trust fund shall consist of monies from the Oklahoma Education Lottery. The monies of the trust fund may only be used for certain purposes. All of the purposes for which the trust fund may be used relate to education. The monies in the trust fund may not be used to replace other state funds used to support education. The State Board of Equalization will determine if any of the monies in the trust fund are being used to replace state funding of education. If such a finding is made, the Legislature may not make any appropriations until the amount of replaced funding is returned to the trust fund. This measure would only become effective if voter approved the lottery contained in House Bill 1278.

These issue briefs are intended to help Oklahoma voters make informed decisions on the issues before them. For more information, contact Monica Barczak at (918) 382-3354 or mbarczak@captc.org
www.okpolicy.org

Community Action Project (CAP) is a comprehensive anti-poverty agency whose mission is to help individuals and families achieve economic self-sufficiency. CAP's public policy department aims to promote policies that will benefit low-income Oklahomans through research, education, and advocacy.