



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

WILLIAM L. WEBSTER
ATTORNEY GENERAL

P. O. Box 899
(314) 751 3321

January 13, 1988

OPINION LETTER NO. 69-88

The Honorable Roy D. Blunt
Secretary of State
State Capitol Building
Jefferson City, Missouri 65101

Dear Secretary Blunt:

This letter is in response to your request for our review under Sections 116.332 and 116.334, RSMo 1986, for sufficiency as to form of an initiative petition relating to the amendment of Article III, Section 39(b) of the Missouri Constitution, which section concerns the state lottery. A copy of the initiative petition and the proposed amendment which you submitted to this office on January 5, 1988, are attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. See Moore v. Brown, 165 S.W.2d 657 (Mo. banc 1942). Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General

Enclosure

It is a class A misdemeanor for anyone to sign any initiative petition with any name other than his own, or knowingly to sign his name more than once for the same measure for the same election, or to sign a petition when he knows he is not a registered voter.

INITIATIVE PETITION

To the Honorable Roy D. Blunt, Secretary of State for the state of Missouri:

We the undersigned, registered voters of the state of Missouri and of _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 1988, and each for himself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI
COUNTY OF _____

I, _____, a Missouri registered voter and a resident of the state of Missouri, being first duly sworn, say (print or type names of signers)

	Name (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS		ZIP CODE	CONGR. DIST.	NAME (Printed or typed)
			(Street) Town or Village)	(City,			
1.	_____	__/__/	_____	_____	_____	_____	_____
2.	_____	__/__/	_____	_____	_____	_____	_____
3.	_____	__/__/	_____	_____	_____	_____	_____
4.	_____	__/__/	_____	_____	_____	_____	_____
5.	_____	__/__/	_____	_____	_____	_____	_____
6.	_____	__/__/	_____	_____	_____	_____	_____
7.	_____	__/__/	_____	_____	_____	_____	_____
8.	_____	__/__/	_____	_____	_____	_____	_____
9.	_____	__/__/	_____	_____	_____	_____	_____
10.	_____	__/__/	_____	_____	_____	_____	_____
11.	_____	__/__/	_____	_____	_____	_____	_____
12.	_____	__/__/	_____	_____	_____	_____	_____
13.	_____	__/__/	_____	_____	_____	_____	_____
14.	_____	__/__/	_____	_____	_____	_____	_____
15.	_____	__/__/	_____	_____	_____	_____	_____
16.	_____	__/__/	_____	_____	_____	_____	_____
17.	_____	__/__/	_____	_____	_____	_____	_____
18.	_____	__/__/	_____	_____	_____	_____	_____
19.	_____	__/__/	_____	_____	_____	_____	_____
20.	_____	__/__/	_____	_____	_____	_____	_____

signed this page of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant
(Person obtaining signatures)

Subscribed and sworn to before me this _____ day of _____, A.D., 19__.

Signature of Notary

Notary Public (Seal)

My commission expires _____.

INITIATIVE PETITION TO AMEND ARTICLE III OF THE CONSTITUTION OF MISSOURI

--TITLE--

SHALL, Article III, Section 39(b), of the Missouri Constitution be amended to create in the State Treasury the "Missouri Lottery Fund for Education" to which proceeds from the Lottery will be transferred for subsequent appropriation by the General Assembly for support of education.

To amend article III of the Constitution of Missouri by repealing section 39(b) thereof relating to the state lottery and adopting one new section in lieu thereof relating to the same subject.

BE IT RESOLVED BY THE PEOPLE OF THE STATE OF MISSOURI THAT THE CONSTITUTION OF MISSOURI BE AMENDED AS FOLLOWS:

Section 1. Section 39(b) of article III of the Constitution of Missouri is repealed and one new section adopted in lieu thereof to be known as section 39(b), to read as follows:

Section 39(b). 1. There is hereby created and established as a governmental instrumentality of the State of Missouri, the "Missouri State Lottery Commission", which shall constitute a body corporate and politic.

2. The Commission is authorized to conduct a Missouri State Lottery, and shall, on a monthly basis, transfer the proceeds thereof to the State of Missouri and to the credit of the "Missouri Lottery Fund for Education", which is hereby created in the state treasury. Amounts in the "Missouri Lottery Fund for Education" shall not be transferred to

1988 JAN - 5 P 2:06
Roy D. Bryant
SECRETARY OF STATE

Case D. B. 10/24 RECEIVED



the general revenue fund, but shall be appropriated by the general assembly for purposes that the general assembly determines will enhance or support the quality of education in this state.

3. The Commission shall consist of five members appointed by the Governor. The advice and consent of the Senate shall not be required. At the time of his appointment, each member shall have been a resident of this state for a period of at least five years preceding his appointment. No more than three members of the Commission shall be members of the same political party. Members of the Commission shall have six-year terms except the initial members, one of whom shall be appointed for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, and one for a term of six years. No person shall be appointed as a Commissioner who has been convicted of a felony or gambling related offense. The Governor may remove any Commissioner for cause. Members of the Commission shall have no salary but shall receive their actual expenses incurred in the performance of their responsibilities. The Commission shall employ such persons as necessary, and shall be the sole authority to promulgate and implement rules, regulations and policies for the establishment and operation of a state lottery. The Commission shall have the authority to join other states and jurisdictions for the purpose of conducting joint lottery games.

4. The Commission shall select one of its members as Chairman and another as Vice Chairman and shall appoint a Secretary and a Treasurer, which offices may be combined, and who need not be members of the Commission.

5. The Commission is hereby granted and may exercise all powers necessary or appropriate to carry out and effectuate its purposes pursuant to this section, including, but not limited to, the following:

(1) To adopt an official seal;

(2) To maintain a principal office and such other offices within the state as it may designate;

(3) To sue and be sued;

(4) To make and execute leases, contracts, releases, compromises and other instruments necessary or convenient for the exercise of its powers or to carry out its purposes;

(5) To acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease, finance and sell equipment, structures, systems and projects in the exercise of its powers and to lease the same to any private person, firm, or corporation, or to any public body, political subdivision or municipal corporation;

(6) To acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder;

(7) To employ managers and other employees and retain or contract with architects, engineers, accountants, financial consultants, attorneys and such other persons, firms or corporations who are necessary in its judgment to carry out its duties, and to fix the compensation thereof;

(8) To receive and accept appropriations, bequests, gifts and grants and to utilize or dispose of the same to carry out its purposes pursuant to the provisions of this section; and

(9) To take such other action, enter into such agreements and exercise all other powers and functions necessary or appropriate to carry out its duties and purposes.

6. No part of the funds of the Commission shall inure to the benefit of or be distributable to its members or other private persons except that the Commission is authorized and empowered to pay reasonable compensation for services rendered.

7. Upon termination or dissolution, all rights and properties of the Authority shall pass to and be vested in the State of Missouri, subject to the rights of Commission creditors.

8. A minimum of 50 percent of the money received from the sale of Missouri Lottery tickets shall be used by the Missouri State Lottery Commission for the purpose of funding prizes. Other amounts may be used as the Missouri State Lottery Commission deems appropriate for compensation to sellers of Lottery tickets, administration, advertising and promotion.

9. The Commission is authorized to conduct advertising and promotions, and there shall be no other limitations imposed by law to restrict the scope or content of advertising and promotion. Advertising conducted by the Commission shall not be false or fraudulent.

10. The Commission shall employ an independent firm of accountants to conduct an annual audit of all accounts and transactions of the Lottery. The report of each audit shall be submitted to the Governor, the General Assembly, the Commissioner of Administration, the State Treasurer, Attorney General, and the State Auditor.

11. Revenues transferred to the State of Missouri from the State Lottery Commission shall not be part of the "total state revenues" as

defined in Sections 17 and 18 of Article X of this Constitution and the expenditures of such revenues shall not be an "expense of state government" under Section 20 of Article X of this Constitution.