Business World / *By Holman W. Jenkins Jr.*

America's Pathetic Affair with State Gambling

Unless a U.S. senator on the Judiciary Committee abdicates to his silliest staff member, next month's hearings on Harriet Miers won't feature an inquisition into her tenure as chairwoman of the Texas Lottery Commission. That's too bad. Her story might not support the preoccupations of certain bloggers who insist the lottery episode is the Rosetta Stone of all Bush "scandals." But it does throw a useful light on America's rush to embrace state-sponsored gambling.

Here's what really happened. States fell in love with lotteries in the 1970s and 1980s, and now 41 have them. Big money, politicians in control, and a fixed number of customers up for grabs—the invitation to sleaze was always going to be high as the battle for these contracts played out. At the center was Gtech, a Rhode Island company that is the industry's most successful player.

Its recent history is nothing to linger over on a weak stomach. The *pièce de résistance*, however, was the federal conviction in 1996 of Gtech's national sales manager, David Smith—the man in charge of winning state lottery deals for the company. He paid large fees to lobbyists to win and keep the New Jersey lottery contract, with some of the money kicked back to him personally.

Prosecutors did not mince words in saying similar activity had gone on in other states, including Texas, where local luminary Ben Barnes, a former lieutenant governor, had a contract that put several million dollars annually of Texas lottery proceeds right into his pocket. To add to her headaches, Ms. Miers soon found that the lottery's long-serving director had been dating a man who had also received "consulting" fees from Gtech (he later went to jail in an unrelated fraud case, and she married him).

The Texas lottery scandal to this point was an all-Democratic affair. A replacement director was hired, Lawrence Littwin, who ordered a rebidding of Gtech's contract. Gtech sued. Mr. Littwin further stirred up a hornet's nest with a freelance investigation of Gtech's donations to mostly Democratic state legislators. Even more unforgivably in the lottery world, he publicized a new mandate from the Democratic Legislature to reduce prize payouts to increase the state's share of lottery sales. He was fired after barely four months.

It's not clear whether Ms. Miers and her fellow commissioners understood the role played by Mr. Littwin's former employer, Automated Wagering International, Gtech's main competitor. AWI had originally hired private detectives to develop evidence about Gtech skullduggery and deliver it to prosecutors. In any case, not for nothing was Mr. Bush known for his conciliatory attitude toward the waning but still powerful Texas Democrats. Ms. Miers effectively quelled the mess by giving Gtech back its contract, paying off a lawsuit by one fired lottery director and taking a backseat while Gtech settled another brought by Mr. Littwin.

But here's what excites the fever swamp denizens. In his lawsuit, Mr. Littwin had claimed that Gtech was given back the contract because its lobbyist, Mr. Barnes, had secretly helped the young George Bush get his coveted National Guard slot.

This rumor had been all over Texas politics for years, but as an explanation of the state's lottery flip-flop, it doesn't pass the laugh test. Just next door, Arizona had yanked its own lottery from scandal-plagued Gtech and given it to Automated Wagering. Embarrassment promptly ensued, including a software bug that shut down most of the lottery terminals across the state. Gtech was reinstated after just seven months. Texas was in no hurry to repeat this fiasco. As a Fortune magazine investigation summed up: "However questionable its methods in landing lottery contracts, [Gtech] runs those lotteries with tremendous skill."

Harriet Miers

It should be said that Gtech has cleaned up its act since then. It's now run by a former Smith Barney gaming analyst, Bruce Turner, whom Donald Trump once called a "moron." A better recommendation you'll not find.

What really needs investigating is the bird-flu-like spread of state-sponsored gambling. Lottery tickets are what economists call an "inferior good"—demand grows as you go down the income scale. They are also highly taxed: At least 40% goes to the state, unless you think a lottery ticket itself is a tax on stupidity, in which case the tax is 100%.

Lotteries don't solve fiscal problems: The Texas proceeds go into a "Foundation School Fund," but that hasn't stopped legal and political wars over education funding from being the nemesis of the past three Texas governors. Studies increasingly conclude that lotteries don't add to state revenues in the long run. They just shift the burden of taxation from higher-income households to lower-income lottery players.

The ultimate refinement of this insight might have been a 1997 paper by economist Sam Papenfuss, which showed a strong correlation between lottery adoption and welfare spending. He concluded that lotteries operate as a mechanism by which taxpayers are able to reclaim some of the money they're forced to spend on welfare programs.

Lotteries advanced on the same wave of voter frustration that led various states in recent decades to adopt balanced budget amendments, property tax caps and requirements for legislative supermajorities to enact tax hikes. Lotteries are but a symptom of a growing standoff between the beneficiaries of federal transfer programs and the taxpayers called to support them.

Come to think of it, maybe this is a subject not for Ms. Miers's confirmation hearing but for Ben Bernanke's. If his tenure lasts as long as Alan Greenspan's did, he can expect this entitlement war to turn white hot on his watch as the Baby Boom demands its promised Social Security and Medicare benefits.

Mr. Jenkins edits "Political Diary," the editorial page's daily e-mail newsletter with commentary, analysis and gossip on Washington, D.C. and state politics. With John Fund. Subscribe at www.politicaldiary.com.