

Assembly Joint Resolution No. 5—Assemblymen
C.H. Miller and Monroe-Moreno

FILE NUMBER.....

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to revise provisions relating to lotteries and the sale of lottery tickets.

Legislative Counsel’s Digest:

As ratified in 1864, the Nevada Constitution prohibited the State from authorizing a lottery and also prohibited lottery tickets from being sold. (Nev. Const. Art. 4, § 24 (1864)) Nevada’s constitutional provisions regarding lotteries were modeled after provisions in the California Constitution of 1849, which were also similar to constitutional provisions adopted in several other states. (*State ex rel. Murphy v. Overton*, 16 Nev. 136, 146-52 (1881); *Ex parte Pierotti*, 43 Nev. 243, 247-52 (1919)) Such constitutional provisions were: (1) adopted to prohibit state legislatures from granting special charters to organizations, institutions, corporations or other entities authorizing them to operate lotteries and sell lottery tickets to the public; and (2) intended to protect the public from the harm caused by such chartered lotteries which were prevalent in our Nation’s early history and which were plagued by fraud, corruption, mismanagement and abuse because they were largely unregulated by state governments. (*Stone v. Mississippi*, 101 U.S. 814, 818 (1879); *State ex rel. Murphy v. Overton*, 16 Nev. 136, 146-52 (1881); *Ex parte Pierotti*, 43 Nev. 243, 247-52 (1919); *Poppen v. Walker*, 520 N.W.2d 238, 243 (S.D. 1994) (“These lotteries were the principal evil which led to their prohibition in state constitutions.”), *superseded on other grounds by constitutional amendments to S.D. Const. Art. III, § 25 (1994)*)

Under its existing provisions, the Nevada Constitution prohibits the State from authorizing a lottery, it also prohibits the State and its political subdivisions from operating a lottery and it also prohibits the sale of lottery tickets, but with certain exceptions for charitable lotteries. Specifically, in 1990, Nevada’s voters approved constitutional amendments allowing the Legislature to provide by law for the operation and regulation of charitable lotteries, with certain restrictions, conducted by charitable or nonprofit organizations in the form of raffles or drawings on their own behalf. (Nev. Const. Art. 4, § 24) Following the 1990 constitutional amendments, the Legislature enacted laws providing for comprehensive regulation of charitable lotteries to ensure that those lotteries are operated honestly and free from criminal and corruptive elements and that the proceeds of those lotteries are expended to benefit the activities of charitable or nonprofit organizations in this State. (Chapter 462 of NRS)

This joint resolution proposes to amend the Nevada Constitution to allow the Legislature to provide by law for the operation and regulation of modern lotteries, in addition to charitable lotteries, including authorizing lottery tickets to be sold for such modern lotteries. However, this joint resolution prohibits the Legislature from enacting laws which grant a special charter or similar organizational or governing document to any person or other entity to operate lotteries or sell lottery tickets, and this joint resolution prohibits political subdivisions of this State from operating lotteries or selling lottery tickets. Finally, this joint resolution ensures that the operation of any charitable lotteries must comply with the existing provisions governing charitable lotteries that were added to the Nevada Constitution by the 1990 constitutional amendments.



If this joint resolution is passed by the 2023 Legislature, it must also be passed by the next Legislature and then approved and ratified by the voters in an election before the proposed amendments to the Nevada Constitution become effective.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

WHEREAS, From our Nation’s early colonial period until the mid-1800s, the proceeds from lotteries were used in America to fund and build infrastructure, to establish and endow universities like Harvard and Yale and to help finance the American battle for independence during the Revolutionary War; and

WHEREAS, In some states during this period, state legislatures would enact legislation which granted special charters to organizations, institutions, corporations or other entities authorizing them to operate lotteries and sell lottery tickets to the public for a period of years, but the state governments overseeing such chartered lotteries generally were not involved in the actual operation or regulation of the lotteries; and

WHEREAS, Because there was inadequate government oversight and regulation of such chartered lotteries, some of them were plagued by fraud, corruption, mismanagement and abuse which resulted in several well-known and scandalous cases of wrongdoing by chartered lotteries, including an infamous case in New York that “involved not only individuals of the state in ruin, but was the occasion of serious embarrassment to the state government itself.” (*State ex rel. Murphy v. Overton*, 16 Nev. 136, 147 (1881) (quoting *Report of the Debates in the Convention of California on the Formation of the State Constitution of 1849*, at 92 (J. Ross Browne off. rep. 1850) (statement of Delegate H. W. Halleck)); and

WHEREAS, As a result of the well-known and scandalous cases of wrongdoing by chartered lotteries, there was a nationwide backlash against such lotteries and, by 1860, a majority of states had adopted constitutional provisions prohibiting the authorization of lotteries and the sale of lottery tickets, including provisions in the California Constitution of 1849, which stated that “[n]o lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.” (Cal. Const. Art. IV, § 27 (1849)); and

WHEREAS, Because the California Constitution of 1849 served as the model for the Nevada Constitution, the delegates to the Nevada State Constitutional Convention of 1864 adopted California’s constitutional provisions regarding lotteries, without additional discussion or debate, so that the Nevada Constitution, as ratified in 1864, stated that “[n]o lottery shall be authorized by this



State, nor shall the sale of lottery tickets be allowed.” (Nev. Const. Art. 4, § 24 (1864); *State ex rel. Murphy v. Overton*, 16 Nev. 136, 146-47 (1881)); and

WHEREAS, Courts have recognized that constitutional provisions regarding lotteries are intended to protect the public from the harm caused by past chartered lotteries which were prevalent in our Nation’s early history and which were plagued by fraud, corruption, mismanagement and abuse because they were largely unregulated by state governments (*Stone v. Mississippi*, 101 U.S. 814, 818 (1879); *State ex rel. Murphy v. Overton*, 16 Nev. 136, 146-52 (1881); *Ex parte Pierotti*, 43 Nev. 243, 247-52 (1919); *Poppen v. Walker*, 520 N.W.2d 238, 243 (S.D. 1994) (“These lotteries were the principal evil which led to their prohibition in state constitutions.”), *superseded on other grounds by constitutional amendments to S.D. Const. Art. III, § 25* (1994)); and

WHEREAS, At the general election in 1990, Nevada’s voters approved constitutional amendments allowing the Legislature to provide by law for the operation and regulation of charitable lotteries, with certain restrictions, conducted by charitable or nonprofit organizations in the form of raffles or drawings on their own behalf, and the Legislature has enacted laws providing for comprehensive regulation of charitable lotteries to ensure that those lotteries are operated honestly and free from criminal and corruptive elements and that the proceeds of those lotteries are expended to benefit the activities of charitable or nonprofit organizations in this State (Nev. Const. Art. 4, § 24; chapter 462 of NRS); and

WHEREAS, The comprehensive regulation of modern lotteries ensures that the public is protected from the harm caused by past chartered lotteries which were prevalent in our Nation’s early history and which were plagued by fraud, corruption, mismanagement and abuse because they were largely unregulated by state governments; and

WHEREAS, Amending the Nevada Constitution to prohibit the Legislature from enacting laws which grant a special charter or similar organizational or governing document to any person or other entity to operate lotteries or sell lottery tickets will continue to protect the public from the harm caused by past chartered lotteries; and

WHEREAS, Amending the Nevada Constitution to allow the Legislature to provide by law for the operation and regulation of modern lotteries, in addition to charitable lotteries, will ensure that such modern lotteries are operated honestly and free from criminal and corruptive elements and that the proceeds of those lotteries are



expended to benefit the general welfare of the residents of this State; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 24 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec: 24. 1. Except as otherwise provided in ~~subsection 2,~~ *this section*, no lottery may be authorized by this State, nor may lottery tickets be sold.

2. The ~~State and the~~ *Legislature may provide by law for the operation and regulation of lotteries, including, without limitation, authorizing lottery tickets to be sold, except that:*

(a) The Legislature shall not pass any laws which grant a special charter or similar organizational or governing document to any person or other entity to operate a lottery or sell lottery tickets or which otherwise authorize the exercise of such powers under a special charter or similar organizational or governing document.

(b) The political subdivisions ~~thereof~~ of this State shall not operate a lottery ~~or~~ sell lottery tickets.

(c) The operation of lotteries by persons engaged in charitable activities or activities not for profit must comply with the provisions of subsection 3.

3. The Legislature may authorize persons engaged in charitable activities or activities not for profit to operate a lottery in the form of a raffle or drawing on their own behalf. All proceeds of the lottery, less expenses directly related to the operation of the lottery, must be used only to benefit charitable or nonprofit activities in this State. A charitable or nonprofit organization shall not employ or otherwise engage any person to organize or operate its lottery for compensation. The Legislature may provide by law for the regulation of such lotteries.

And be it further

RESOLVED, That this resolution becomes effective upon passage.

