

ASSEMBLY JOINT RESOLUTION NO. 5—ASSEMBLYMEN
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MARCH 17, 2023

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to revise provisions relating to lotteries and the sale of lottery tickets. (BDR C-986)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

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:

1 As ratified in 1864, the Nevada Constitution prohibited the State from
2 authorizing a lottery and also prohibited lottery tickets from being sold. (Nev.
3 Const. Art. 4, § 24 (1864)) Nevada’s constitutional provisions regarding lotteries
4 were modeled after provisions in the California Constitution of 1849, which were
5 also similar to constitutional provisions adopted in several other states. (*State ex*
6 *rel. Murphy v. Overton*, 16 Nev. 136, 146-52 (1881); *Ex parte Pierotti*, 43 Nev.
7 243, 247-52 (1919)) Such constitutional provisions were: (1) adopted to prohibit
8 state legislatures from granting special charters to organizations, institutions,
9 corporations or other entities authorizing them to operate lotteries and sell lottery
10 tickets to the public; and (2) intended to protect the public from the harm caused by
11 such chartered lotteries which were prevalent in our Nation’s early history and
12 which were plagued by fraud, corruption, mismanagement and abuse because they
13 were largely unregulated by state governments. (*Stone v. Mississippi*, 101 U.S. 814,
14 818 (1879); *State ex rel. Murphy v. Overton*, 16 Nev. 136, 146-52 (1881); *Ex parte*
15 *Pierotti*, 43 Nev. 243, 247-52 (1919); *Poppen v. Walker*, 520 N.W.2d 238, 243
16 (S.D. 1994) (“These lotteries were the principal evil which led to their prohibition
17 in state constitutions.”), *superseded on other grounds by constitutional amendments*
18 *to S.D. Const. Art. III, § 25 (1994)*)

19 Under its existing provisions, the Nevada Constitution prohibits the State from
20 authorizing a lottery, it also prohibits the State and its political subdivisions from
21 operating a lottery and it also prohibits the sale of lottery tickets, but with certain
22 exceptions for charitable lotteries. Specifically, in 1990, Nevada’s voters approved
23 constitutional amendments allowing the Legislature to provide by law for the
24 operation and regulation of charitable lotteries, with certain restrictions, conducted



25 by charitable or nonprofit organizations in the form of raffles or drawings on their
26 own behalf. (Nev. Const. Art. 4, § 24) Following the 1990 constitutional
27 amendments, the Legislature enacted laws providing for comprehensive regulation
28 of charitable lotteries to ensure that those lotteries are operated honestly and free
29 from criminal and corruptive elements and that the proceeds of those lotteries are
30 expended to benefit the activities of charitable or nonprofit organizations in this
31 State. (Chapter 462 of NRS)

32 This joint resolution proposes to amend the Nevada Constitution to allow the
33 Legislature to provide by law for the operation and regulation of modern lotteries,
34 in addition to charitable lotteries, including authorizing lottery tickets to be sold for
35 such modern lotteries. However, this joint resolution prohibits the Legislature from
36 enacting laws which grant a special charter or similar organizational or governing
37 document to any person or other entity to operate lotteries or sell lottery tickets, and
38 this joint resolution prohibits political subdivisions of this State from operating
39 lotteries or selling lottery tickets. Finally, this joint resolution ensures that the
40 operation of any charitable lotteries must comply with the existing provisions
41 governing charitable lotteries that were added to the Nevada Constitution by the
42 1990 constitutional amendments.

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

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

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

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

24 WHEREAS, As a result of the well-known and scandalous cases
25 of wrongdoing by chartered lotteries, there was a nationwide
26 backlash against such lotteries and, by 1860, a majority of states had



1 adopted constitutional provisions prohibiting the authorization of
2 lotteries and the sale of lottery tickets, including provisions in the
3 California Constitution of 1849, which stated that “[n]o lottery shall
4 be authorized by this State, nor shall the sale of lottery tickets be
5 allowed.” (Cal. Const. Art. IV, § 27 (1849)); and

6 WHEREAS, Because the California Constitution of 1849 served
7 as the model for the Nevada Constitution, the delegates to the
8 Nevada State Constitutional Convention of 1864 adopted
9 California’s constitutional provisions regarding lotteries, without
10 additional discussion or debate, so that the Nevada Constitution, as
11 ratified in 1864, stated that “[n]o lottery shall be authorized by this
12 State, nor shall the sale of lottery tickets be allowed.” (Nev. Const.
13 Art. 4, § 24 (1864); *State ex rel. Murphy v. Overton*, 16 Nev. 136,
14 146-47 (1881)); and

15 WHEREAS, Courts have recognized that constitutional provisions
16 regarding lotteries are intended to protect the public from the harm
17 caused by past chartered lotteries which were prevalent in our
18 Nation’s early history and which were plagued by fraud, corruption,
19 mismanagement and abuse because they were largely unregulated
20 by state governments (*Stone v. Mississippi*, 101 U.S. 814, 818
21 (1879); *State ex rel. Murphy v. Overton*, 16 Nev. 136, 146-52
22 (1881); *Ex parte Pierotti*, 43 Nev. 243, 247-52 (1919); *Poppen v.*
23 *Walker*, 520 N.W.2d 238, 243 (S.D. 1994) (“These lotteries were
24 the principal evil which led to their prohibition in state
25 constitutions.”), *superseded on other grounds by constitutional*
26 *amendments to S.D. Const. Art. III, § 25 (1994)*); and

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

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

44 WHEREAS, Amending the Nevada Constitution to prohibit the
45 Legislature from enacting laws which grant a special charter or



1 similar organizational or governing document to any person or other
2 entity to operate lotteries or sell lottery tickets will continue to
3 protect the public from the harm caused by past chartered lotteries;
4 and

5 WHEREAS, Amending the Nevada Constitution to allow the
6 Legislature to provide by law for the operation and regulation of
7 modern lotteries, in addition to charitable lotteries, will ensure that
8 such modern lotteries are operated honestly and free from criminal
9 and corruptive elements and that the proceeds of those lotteries are
10 expended to benefit the general welfare of the residents of this State;
11 now, therefore, be it

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

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

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

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

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

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

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



1 And be it further
2 RESOLVED, That this resolution becomes effective upon
3 passage.

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