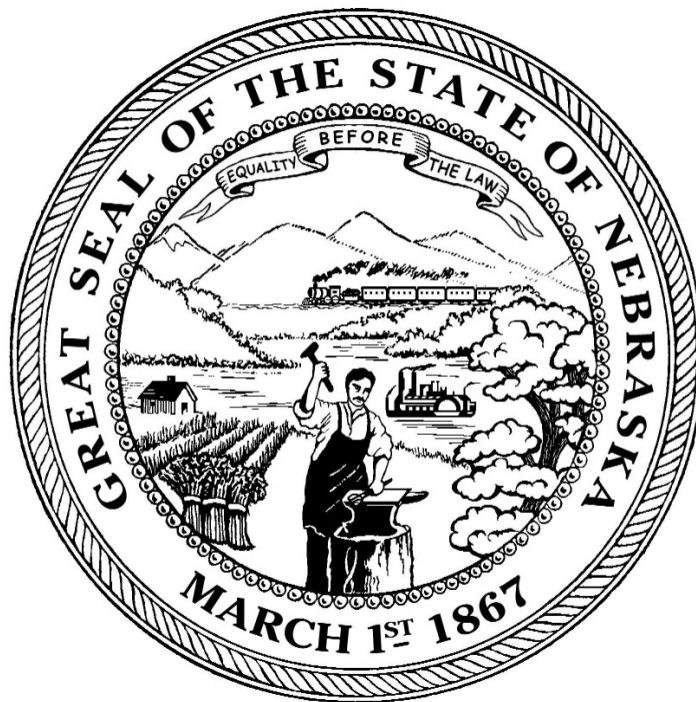


**INFORMATIONAL PAMPHLET
ON
INITIATIVE MEASURES
APPEARING ON THE 2004 GENERAL ELECTION BALLOT**



**JOHN GALE
SECRETARY OF STATE**

This pamphlet is intended to provide the voters of Nebraska with some additional information on measures proposed by the Initiative Petition process that will appear on the ballot on November 2, 2004.

Each measure contains three portions, the actual text of the measure, the ballot language which will appear on the ballot in November, and arguments supporting and opposing the measure. The arguments are derived from information received from supporters and opponents of the measures provided to the Secretary of State.

Additional copies of this pamphlet may be obtained through local election officials or the Office of the Secretary of State. This pamphlet may also be reproduced in whole or in part without prior permission.

INITIATIVE MEASURE 417

Proposed Constitutional Amendment Language (bold and underlined language indicates added language.)

Article III Section 24 of the Nebraska Constitution shall be amended by adding Subsection (5) as shown:

(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection 3 of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5) This section shall not apply to laws enacted by the people by initiative measures by which the people may, contemporaneously with the adoption of this subsection or at any time thereafter, provide for the authorization, operation, regulation, and taxation of all forms of games of chance.

BALLOT LANGUAGE FOR INITIATIVE MEASURE NUMBER 417

A vote “FOR” will amend the Nebraska Constitution to provide that the people may enact laws by initiative measure to provide for the authorization, operation, regulation, and taxation of all forms of games of chance.

A vote “AGAINST” will not cause the Nebraska Constitution to be amended in such manner.

Shall the Nebraska Constitution be amended to provide that the people may enact laws by initiative measure to provide for the authorization, operation, regulation, and taxation of all forms of games of chance?

For

Against

ARGUMENTS FOR AND AGAINST INITIATIVE 417

Supporters Contend:

This 46-word amendment to the constitution clarifies that the people of Nebraska have the right to vote on gambling laws in our state through a statewide initiative.

While the amendment specifically relates to the people’s right to authorize, regulate and tax gambling, the larger issue involved is that it guarantees a basic principle of our democratic system. The authority of the people to pass laws through the ballot box is a fundamental principle of our state’s democracy and a fundamental right of all Nebraskans. Because this amendment itself does not authorize gambling, but instead ensures the rights of Nebraska’s voters to control gambling activity, proponents and opponents alike could support this measure. (114 words)

Opponents Contend:

This proposal would amend the Nebraska Constitution to allow gambling within the state if it is authorized by a statute enacted through the initiative process. Examples of such statutes are contained in Initiative Measures 419 and 420.

By allowing gambling proposals through the initiative process, the result is provisions crafted without public input, but instead solely by the limited number of sponsors of the initiative.

It is poor public policy to allow gambling within the State of Nebraska. Numerous studies have identified a variety of undesirable social consequences that are connected to gambling.

There are also detrimental economic impacts, not only to individuals who become addicted to gambling, but also to communities located near gambling establishments.

INITIATIVE MEASURE 418

Proposed Constitutional Amendment Language (**bold and underlined language** indicates added language.)

Article III Section 2 of the Nebraska Constitution shall be amended by adding the language as shown:

The first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. This power may be invoked by petition wherein the proposed measure shall be set forth at length. If the petition be for the enactment of a law, it shall be signed by seven percent of the registered voters of the state, and if the petition be for the amendment of the Constitution, the petition therefor shall be signed by ten percent of such registered voters. In all cases the registered voters signing such petition shall be so distributed as to include five percent of the registered voters of each of two-fifths of the counties of the state, and when thus signed, the petition shall be filed with the Secretary of State who shall submit the measure thus proposed to the electors of the state at the first general election held not less than four months after such petition shall have been filed. The same measure, either in form or in essential substance, shall not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once in three years. If conflicting measures submitted to the people at the same election be approved, the one receiving the highest number of affirmative votes shall thereby become law as to all conflicting provisions. The constitutional limitations as to the scope and subject matter of statutes enacted by the Legislature shall apply to those enacted by the initiative. Initiative measures shall contain only one subject. **The Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, contemporaneously with the adoption of this initiative measure or at any time**

thereafter, except upon a vote of at least two-thirds of all the members of the Legislature.

BALLOT LANGUAGE FOR INITIATIVE MEASURE NUMBER 418

A vote “FOR” will amend the Nebraska Constitution to provide that the Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, except upon a vote of at least two-thirds of all members of the Legislature.

A vote “AGAINST” will not cause the Nebraska Constitution to be amended in such manner.

Shall the Nebraska Constitution be amended to provide that the Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, except upon a vote of at least two-thirds of all the members of the Legislature?

For

Against

ARGUMENTS FOR AND AGAINST INITIATIVE 418

Supporters Contend:

This 44-word amendment to the Constitution prevents a simple majority of the legislature from overriding the will of the people as expressed in a statewide initiative vote. The amendment would require a 2/3rds vote of the legislature to modify or override a statute passed by statewide initiative. That is the same margin the legislature requires of itself to end a filibuster.

Currently the only way to protect a vote of the people from being overridden by a simple majority of the legislature is to amend Constitution and clutter the Constitution with needless details. This amendment makes it more practical to use the fundamental right of

Initiative to pass statutes that do not amend the constitution by giving such statutes a reasonable measure of protection.

Opponents Contend:

Proposed Initiative Measure 418 would require a super majority 2/3 vote of the Legislature to amend or repeal an initiated law.

Requiring 33 votes within the Legislature is an unreasonable standard to apply in this situation. Super majority vote requirements are and should only be used in extraordinary situations such as gubernatorial veto overrides.

This proposal also disrupts the equality that exists between the Legislative process and the initiative and referenda process. Courts in Nebraska have put the legislative and initiative process as co-equals. The requirement of a supermajority vote to amend upsets this balance.

INITIATIVE MEASURE 419

Proposed Initiative Petition Language to Amend Nebraska Statute:

A BILL

FOR AN ACT relating to gaming; to provide a state license fee and tax on gaming as prescribed; and to define terms.

Be it enacted by the people of the State of Nebraska,

Section 1. For the purposes of this act:

- (1) Authorized operator means a person or entity authorized to operate games of chance;
- (2) Casino means a hotel in this state which has no less than five hundred hotel rooms and which has at the same location a gaming area of at least fifty thousand square feet where any games of chance may be operated;
- (3) Community means a county, city, or village in this state;
- (4) Dollar amount won means the amount which is equal to the total dollar amount wagered by players of such games of chance less the total dollar amount returned to such players;
- (5) Games of chance means any games which have the elements of chance, prize, and wager, including any wager to a slot machine, table game, counter game, or card game. Games of chance shall not include any game the operation of which at a casino is prohibited by the laws of the United States;

(6) Gross gaming revenue means the dollar amount won by an authorized operator from operation of all games of chance as computed pursuant to applicable rules and regulations less the amount of all federal taxes, other than income taxes, imposed upon the operation of such game of chance; and

(7) Permitted location means a location in this state where an authorized operator operates games of chance.

Section 2. There shall be an annual gaming tax imposed by the State of Nebraska on gross gaming revenue generated at permitted locations by authorized operators from the operation of all games of chance, except for games of chance authorized under Chapter 2 or Chapter 9, as follows:

(1) With respect to the operation of all games of chance operated by an authorized operator at a permitted location, a gaming tax equal to thirty-six percent of the first fifteen million dollars of the gross gaming revenue thereof and twenty percent of the gross gaming revenue thereof in excess of fifteen million dollars;

(2) Of the gaming tax so imposed on gaming revenue at a casino, seventy-five percent thereof shall be payable to the General Fund and twenty-five percent thereof shall be payable to the community which authorized such games of chance at such casino; and

(3) Of the gaming tax so imposed on gaming revenue at any other permitted location, twenty-five percent thereof shall be payable to the General Fund and seventy-five percent thereof shall be payable to the community, or the communities, pro rata, which authorized such games of chance at such permitted location.

Section 3. There shall be an annual gaming license fee imposed by the State of Nebraska of one hundred dollars imposed on each authorized operator per permitted location. All of such gaming license fees so imposed shall be payable to the General Fund.

Section 4. The gaming taxes and the gaming license fees authorized in sections 2 and 3 of this act shall be in lieu of all other taxes, fees, franchise payments, occupation taxes or excise taxes levied or imposed by the State of Nebraska, but shall not be in lieu of such other fees, income taxes, sales taxes, or property taxes levied or imposed against the public generally.

BALLOT LANGUAGE FOR INITIATIVE MEASURE NUMBER 419

A vote “FOR” will enact a statute which: (1) establishes an annual tax on gross gaming revenue generated at permitted locations (defined as locations where authorized operators operate games of chance, including casinos, strategic premises, racetracks, and on-premises establishments) of 36% of the first \$15 million of gross gaming revenue and 20% of gross gaming revenue in excess of \$15 million; (2) distributes 75% of gaming tax revenues from casinos to the State General Fund and 25% to the community

authorizing such casino gaming; (3) distributes 25% of gaming tax revenues at other permitted locations to the State General Fund and 75% to the authorizing community or communities, pro rata; and (4) establishes an annual gaming license fee of \$100 on each operator per permitted location.

A vote “AGAINST” will not cause such a statute to be enacted.

Shall a statute be enacted which: (1) establishes an annual tax on gross gaming revenue generated at permitted locations of 36% of the first \$15 million and 20% of gross gaming revenue exceeding \$15 million; (2) distributes 75% of gaming tax revenues from casinos to the State and 25% to the community authorizing such gaming; (3) distributes 25% of gaming tax revenues at other permitted locations to the State and 75% to the authorizing community or communities; (4) establishes a \$100 annual gaming license fee on each operator per permitted location?

For

Against

ARGUMENTS FOR AND AGAINST INITIATIVE 419

Supporters Contend:

This statute imposes one of the highest initial gambling tax rates in the nation. It guarantees that a substantial share of that tax revenue goes to local communities for local needs rather than just state government.

75% of casino revenues will go to state government and 25% to local government, while revenues from the additional gambling devices will be reversed with local communities receiving 75% and state government receiving 25%.

Because the tax rate is so high, the license fee is kept low. This lower license fee allows local, Nebraska-based companies to compete for their share of new gambling businesses while our state still reaps the benefits of a high tax rate. Because it is a statute, the Legislature can adjust the rates and fees.

Opponents Contend:

This proposed statute establishes the licensing fee and tax rates should gambling be allowed. While sold to the public as a way to generate tax revenues, gambling as a revenue source violates all the accepted public policy considerations. As a tax policy

gambling is regressive, it impacts those who can afford it the least, and it is variable as revenues will change as the amount of gambling changes.

In addition, many studies point out that any revenues from gambling taxation are far outpaced by increased social costs and losses to local businesses.

Also contained in this proposal is a licensing fee of \$100. This is miniscule when compared to other state's licensing fees which have been in the millions of dollars.

INITIATIVE MEASURE 420

Proposed Initiative Petition Language to Amend Nebraska Statute:

A BILL

FOR AN ACT related to gaming; to permit communities to authorize games of chance as prescribed; and to provide for regulation of games of chance by a gaming commission.

Be it enacted by the people of the State of Nebraska,

Section 1. Notwithstanding any other provision of law, and to the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of this initiative measure, a community may authorize the operation of games of chance under this act only at permitted locations, only subject to authorizing parameters, and only by authorized operators.

Section 2. For purposes of this act:

- (1) Authorized operator means a person or entity authorized by a community pursuant to this act to operate games of chance;
- (2) Casino means a hotel in this state which has no less than five hundred hotel rooms and which has at the same location a gaming area of at least fifty thousand square feet where any games of chance may be operated;
- (3) Community means a county, city, or village in this state;
- (4) Games of chance means any games which have the elements of chance, prize, and wager, including any wager to a slot machine, table game, counter game, or card game. Games of chance shall not include any game the operation of which at a casino is prohibited by the laws of the United States;
- (5) Gaming device means an electronic, mechanical, or other device, which plays a game of chance when activated by a player using currency, tokens, or other value;
- (6) Limited gaming device means an electronic gaming device which (a) offers games of chance, (b) does not dispense currency or tokens, and (c) does not have a cash winnings hopper, mechanical or simulated spinning reels, or side handle;
- (7) On-premises establishment means any premises at which it is lawful to sell alcoholic liquor for consumption on such premises;
- (8) Racetrack means a premises at which licensed live thoroughbred horseracing is conducted; and

(9) Strategic premises means a premises at which at least two hundred fifty gaming devices are authorized for operation pursuant to an agreement among all communities authorizing such operation of such gaming devices on such premises.

Section 3. For purposes of this act, permitted locations are as follows:

(1) Regarding a casino, any location which is within a city of the metropolitan class and which is within two miles of the border of this state;

(2) Regarding a strategic premises, any location which is not a racetrack and which is within a community which consents thereto, which location is within two miles of any highway which crosses this state from border to opposite border and which has at least fifty percent of its route through this state normally open to at least four paved traffic lanes, and which location is no closer than fifty miles from any other strategic premises and is no closer than fifty miles from any permitted location referred to in subdivision (1) of this section;

(3) Regarding an on-premises establishment, any on-premises establishment within a community which authorizes the operation of limited gaming devices at such on-premises establishment; and

(4) Regarding a racetrack, any racetrack which is within a community which consents to the operation of gaming devices at such racetrack and which is within a county where, during each of the four calendar years immediately preceding such consent, licensed live thoroughbred horseracing has been conducted at such racetrack or conducted for a like period at another location within the county at which such horseracing no longer is conducted.

Section 4. For purposes of this act, authorizing parameters are as follows:

(1) The operation of games of chance at a casino may be authorized only by a city of the metropolitan class, which city may authorize the operation of all, and not less than all, games of chance at not more than two casinos per three hundred thousand population;

(2) Except for gaming devices operated at a casino, the number of gaming devices which may be authorized by a city or village is limited to one per two hundred population or fraction thereof for the first three thousand of its population, one per five hundred population for its population greater than three thousand and less than or equal to fifty thousand, and one per one thousand population for its population greater than fifty thousand; and the number of gaming devices that may be authorized by a county is limited to one per three hundred population in the unincorporated area of such county;

(3) Limited gaming devices may be operated at all permitted locations. All other gaming devices may be operated only at casinos, racetracks, and strategic premises. All other games of chance may be operated only at casinos;

(4) The number of gaming devices in excess of six, the operation of which are authorized by a city or village with less than three thousand population, or by a county, may only be operated at a racetrack or at a strategic premises;

(5) The maximum number of gaming devices that may be operated (a) at a strategic premises is five hundred, (b) at a racetrack located within a city of the metropolitan class is one hundred fifty, (c) at all racetracks, in the aggregate, is seven hundred, and (d) at any other permitted location which is not a casino is three, except at one such other permitted location within a city is thirty;

(6) Nothing in this act shall prohibit the authorization by a community of the operation of any games of chance otherwise permitted under the Constitution of Nebraska; and

(7) Except for gaming devices (a) operated at strategic premises, (b) authorized by a county for operation at any racetrack, or (c) authorized by a city for operation at a racetrack located within the county in which such city is located, all games of chance authorized by a community may be operated only within such community's borders.

Section 5. Authorized operators and the operation of games of chance shall be subject to licensing and regulation as may be adopted by the Nebraska Gaming Commission. A community shall have the authority:

(1) To approve or deny applications for authority to operate games of chance; and

(2) To designate the authorized operator and the permitted location thereof.

Section 6. A city or village shall act under this act by or through a duly adopted ordinance. A county shall act under this act by or through a duly adopted resolution.

Section 7 (1) For the purpose of providing the necessary licensing and regulation of the operation of games of chance authorized pursuant to this act, the Nebraska Gaming Commission is created. The commission shall consist of five members appointed by the Governor, subject to confirmation by a majority of all the members of the Legislature. The members of the commission shall have terms of five years, except that the terms of office of the initial commission members shall commence upon appointment and shall be as follows: One for a term of one year; one for a term of two years; one for a term of three years; one for a term of four years; and one for a term of five years, as designated by the Governor. The Governor shall appoint initial members of the commission within sixty days of the enactment of this initiative measure.

(2) The commission shall have the power and duty to license and regulate the operation of all games of chance authorized pursuant to this act, including the power and duty to establish rules and regulations governing the operation of games of chance consistent with this act; to promote integrity, security, and honest administration in, and accurate accounting of, the operation of all games of chance; to make recommendations to a community authorizing games of chance regarding the suitability of an applicant for authority to operate such games of chance and the designation of a permitted location; to set licensing criteria that facilitates the ability of a community authorizing games of chance to designate an authorized operator and the permitted location thereof in a manner consistent with the public interest as determined by the community authorizing games of chance; to grant, deny, revoke, and suspend licenses for the operation of games of chance based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of the games authorized; to conduct background investigations into applicants for licenses; to establish a minimum age for participation consistent with prevailing criteria for adulthood and maturity regarding matters of gaming; to adopt rules and regulations for the standards of manufacture of gaming equipment; to test gaming equipment; to license manufacturers and distributors of gaming equipment; to inspect the operation of any licensed gaming facility for the purpose of certifying the revenue thereof and receiving complaints from the public; to call upon other administrative departments of the state, county and municipal

governments, county sheriffs, city police departments, village marshals, peace officers, and prosecuting officers for such information and assistance as the commission deems necessary for the performance of its duties; to issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers, or things, at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties; to administer oaths or affirmations as necessary in connection therewith; to investigate and report to the Attorney General, or the relevant county attorney, allegations of illegal gambling activity; to ask the Attorney General, or the relevant county attorney, to seek an injunction to restrain a violation of this act or enforce any provision hereof; to impose, subject to judicial review, administrative fines not to exceed the sum of twenty-five thousand dollars for each violation of this act or any rules and regulations adopted and promulgated pursuant to this act plus the financial benefit derived by the violator as a result of such violation; to promote treatment of gaming-related behavioral disorders; to establish procedures for the governance of the commission; to acquire necessary offices, facilities, counsel, and staff; to establish procedures for applicants for staff positions to disclose conflicts of interest as part of the application for employment; and to do all things necessary and proper for carrying into execution such powers and duties. The Legislature may delegate to the commission authority to regulate other games of chance.

(3) The compensation of the members of the Nebraska Gaming Commission shall initially be the same as that of the members of the Public Service Commission or as otherwise fixed by the Legislature.

(4) The Nebraska Gaming Commission may adopt and promulgate rules and regulations to carry out this act.

BALLOT LANGUAGE FOR INITIATIVE MEASURE NUMBER 420

A vote “FOR” will enact a statute which permits communities to: (1) authorize all games of chance including slot machines, table games, counter games or card games at casinos in hotels in metropolitan class cities within 2 miles of the Nebraska border; (2) authorize the use of electronic, mechanical or other gaming devices at casinos, strategic premises where at least 250 of such devices are operated, and racetracks; and (3) authorize the use of limited gaming devices which do not dispense currency or tokens and which do not have a cash winnings hopper, mechanical or simulated spinning reels or a side handle at casinos, strategic premises, racetracks and establishments which sell alcoholic liquor for consumption on the premises. The statute will also establish the numbers of such casinos and gaming devices which may be operated in various locations and establish a Nebraska Gaming Commission to regulate such gaming.

A vote “AGAINST” will not cause such a statute to be enacted.

Shall a statute be enacted which: (1) permits communities to authorize (A) all games of chance at casinos in hotels near the border in metropolitan class cities, (B) the use

of gaming devices at casinos, strategic premises where at least 250 of such devices are operated, and racetracks, and (C) the use of limited gaming devices at casinos, strategic premises, racetracks and establishments which sell alcoholic liquor for consumption on the premises; (2) establishes the numbers of such casinos and gaming devices which may be operated in various locations; and (3) establishes a Nebraska Gaming Commission to regulate such gaming.

For

Against

ARGUMENTS FOR AND AGAINST INITIATIVE 420

Supporters Contend:

This statute creates a limited expansion of gambling in Nebraska to stop the flow of dollars out of our economy into that of our neighboring states. This sensible plan guarantees local choice, local control and local benefits to every community in Nebraska.

This plan authorizes two casinos to directly compete against those put on Nebraska's borders by neighboring states and authorizes no more than 4900 additional gambling devices statewide under the direct control of local communities. Under the plan, every community in the state has the option to directly benefit.

Nebraskans already have easy access to casino-style gambling today right over our borders yet the state receives none of the benefits of that gambling. This will keep the money in Nebraska.

Opponents Contend:

This part of the initiative package contains the where and how many gambling establishments can be established. This proposal authorizes two casinos in a metropolitan class city. The only current metropolitan class city is Omaha. While there would not be casinos at other locations within the state, the proposal would allow almost 5000 more gambling machines throughout the state.

The societal costs of this gambling proposal can not just be measured in dollars and cents. While Nebraska business will feel the cost as dollars are spent in the casinos rather than their business, Nebraska families will also feel the costs associated with the addicted gambler, whether it is a family member, neighbor or co-worker. This expansion of gambling is not good for Nebraska.