

AMENDMENTS TO LB 999

1           1. Insert the following new section:

2           "Sec. 21. Section 9-701, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           9-701. (1) For purposes of this section:

5           (a) Gift enterprise ~~shall mean~~ means a contest, game of  
6 chance, or game promotion which is conducted within the state or  
7 throughout the state and other states in connection with the sale  
8 of consumer or trade products or services solely as business  
9 promotions and in which the elements of chance and prize are  
10 present. Gift enterprise ~~shall~~ does not include any scheme using  
11 the game of bingo or keno; any non-telecommunication-related,  
12 player-activated electronic or electromechanical facsimile of any  
13 game of chance; or any slot machine of any kind. A gift enterprise  
14 shall not utilize pickle cards as defined in section 9-315.  
15 Promotional game tickets may be utilized subject to the following:

16           (i) The tickets utilized shall be manufactured or  
17 imprinted with the name of the operator on each ticket;

18           (ii) The tickets utilized shall not be manufactured with  
19 a cost per play printed on them; and

20           (iii) The tickets utilized shall not be substantially  
21 similar to any type of pickle card approved by the Department of  
22 Revenue pursuant to section 9-332.01; and

23           (b) Operator ~~shall mean~~ means any person, firm,  
24 corporation, association, governmental entity, or agent or employee

1 thereof who promotes, operates, or conducts a gift enterprise.  
2 Operator ~~shall~~ does not include any nonprofit organization or any  
3 agent or employee thereof, except that operator includes any credit  
4 union chartered under state or federal law or any agent or employee  
5 thereof who promotes, operates, or conducts a gift enterprise.

6 (2) Any operator may conduct a gift enterprise within  
7 this state in accordance with this section.

8 (3) An operator shall not:

9 (a) Design, engage in, promote, or conduct a gift  
10 enterprise in connection with the promotion or sale of consumer  
11 products or services in which the winner may be unfairly  
12 predetermined or the game may be manipulated or rigged;

13 (b) Arbitrarily remove, disqualify, disallow, or reject  
14 any entry;

15 (c) Fail to award prizes offered;

16 (d) Print, publish, or circulate literature or  
17 advertising material used in connection with such gift enterprise  
18 which is false, deceptive, or misleading; or

19 (e) Require an entry fee, a payment or promise of payment  
20 of any valuable consideration, or any other consideration as a  
21 condition of entering a gift enterprise or winning a prize from the  
22 gift enterprise, except that a contest, game of chance, or business  
23 promotion may require, as a condition of participation, evidence of  
24 the purchase of a product or service as long as the purchase price  
25 charged for such product or service is not greater than it would  
26 have been without the contest, game of chance, or business  
27 promotion. For purposes of this section, consideration shall not

1 include (i) filling out an entry blank, (ii) entering by mail with  
2 the purchase of postage at a cost no greater than the cost of  
3 postage for a first-class letter weighing one ounce or less, or  
4 (iii) entering by a telephone call to the operator of or for the  
5 gift enterprise at a cost no greater than the cost of postage for a  
6 first-class letter weighing one ounce or less. When the only  
7 method of entry is by telephone, the cost to the entrant of the  
8 telephone call shall not exceed the cost of postage for a  
9 first-class letter weighing one ounce or less for any reason,  
10 including (A) whether any communication occurred during the call  
11 which was not related to the gift enterprise or (B) the fact that  
12 the cost of the call to the operator was greater than the cost to  
13 the entrant allowed under this section.

14 (4) (a) The Department of Revenue may adopt and promulgate  
15 rules and regulations necessary to carry out the operation of gift  
16 enterprises.

17 (b) Whenever the department has reason to believe that a  
18 gift enterprise is being operated in violation of this section or  
19 the department's rules and regulations, it may bring an action in  
20 the district court of Lancaster County in the name of and on behalf  
21 of the people of the State of Nebraska against the operator of the  
22 gift enterprise to enjoin the continued operation of such gift  
23 enterprise anywhere in the state.

24 (5) (a) Any person, firm, corporation, association, or  
25 agent or employee thereof who engages in any unlawful acts or  
26 practices pursuant to this section or violates any of the rules and  
27 regulations promulgated pursuant to this section shall be guilty of

1 a Class II misdemeanor.

2 (b) Any person, firm, corporation, association, or agent  
3 or employee thereof who violates any provision of this section or  
4 any of the rules and regulations promulgated pursuant to this  
5 section shall be liable to pay a civil penalty of not more than one  
6 thousand dollars imposed by the district court of Lancaster County  
7 for each such violation which shall accrue to the permanent school  
8 fund. Each day of continued violation shall constitute a separate  
9 offense or violation for purposes of this section.

10 (6) In all proceedings initiated in any court or  
11 otherwise under this section, the Attorney General or appropriate  
12 county attorney shall prosecute and defend all such proceedings.

13 (7) This section shall not apply to any activity  
14 authorized and regulated under the Nebraska Bingo Act, the Nebraska  
15 County and City Lottery Act, the Nebraska Lottery and Raffle Act,  
16 the Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery  
17 and Raffle Act.".

18 2. Renumber the remaining sections and correct internal  
19 references accordingly.

20 3. Correct the operative date and repealer sections so  
21 that the section added by this amendment becomes operative three  
22 calendar months after adjournment of this legislative session.