

June 3, 1991

LB 849

LR 24

this amendment, as the Clerk indicated, is on 2045. LB 849, as it was introduced, or at least somewhere along the line had the severability clause. What this amendment does is reverses, it's a reverse severability clause. You'll see that if any portion of the act is declared unconstitutional, then the entire act is invalid. The reason for it is very simple. There is a provision in the act, and most of the presentation has been that in the event that...oh, the act does not take effect unless the constitutional amendment that is proposed in LR 24 is approved, that is that portion of LR 24 that deals with the lottery, authorization of a lottery. And the reason for doing this is there are those, of course, who believe that it's conceivable, under the existing Constitution, that a lottery could be enacted, whether or not the one in 849 is the one or not, I'm not sure. But nevertheless there are those who argue that, and it would seem to me we'd look pretty foolish if this is enacted, and then if the constitutional amendment, for some reason, was not adopted, and then someone took it to court and got the...through the severability clause in the provision in the law that its enactment depended upon the approval, we would find that we had a lottery act approved in any event. I do not see how it helps. It essentially, by taking this out, at least gives you grounds to argue to people who are concerned that the act would not take effect unless the public have approved the constitutional amendment or at least would not inadvertently take effect unless the citizens had approved the constitutional amendment authorizing the act. That's the purpose of it. I move its adoption.

PRESIDENT MOUL: Thank you, Senator Warner. I'll now recognize senators wishing to address the Warner amendment. Senator Moore. Senator Smith.

SENATOR SMITH: Thank you, Madam President. Members of the body, I rise to support the Warner amendment, and I have two reasons for doing that, and I'll be very brief. The first reason is that in the event that that portion of the bill delaying the start up of the state lottery, until after an affirmative vote of the people, should be determined to be unconstitutional, we want to make sure that we do have a provision in the bill. And, secondly, because of my support that hinges on the stance that's embodied in LR 24CA that the people shall determine if they do or if they don't want a state run regulated lottery, and for that reason I certainly...I firmly support the inclusion of Senator Warner's inseverability