

June 5, 1991

LB 849

LR 24

do not believe there is any doubt that Lotto America is specifically forbidden by the constitutional amendment we passed this morning. There are those who have asked me why I believe this to be true, and these are the reasons. Unlike other states which have authorized lottery activity, Nebraska has a constitutional proposal, LR 24CA, which, if passed, mandates that the state must operate the lottery. If you read LR 24CA it appears to simply say that the Legislature may authorize and regulate a lottery, which is the way all the other states have done their lottery activity when they do it in their Constitution. But if you read further, it says the Legislature may only authorize and regulate pursuant to subsection (3). Then what does subsection (3) say? It says that the Legislature can only authorize and regulate that lottery if the State of Nebraska operates the lottery. This means that the State of Nebraska must operate and regulate the lottery. I have researched the Constitution since the passage of 24CA, and this, if passed, would be the only place in the Constitution which mandates that the Legislature must, that the state must operate and regulate any entity. We frequently authorize, we license, we control, but this would be the only instance where we would both operate and regulate. This means that the entire lottery operation would need to be operated from the state. It means that the state would, of course, need to set up an agency that would have to hire hundreds of people. It would have to rent space. It would have to buy equipment. If, in fact, the state chose to operate video lottery equipment, for example, it would then be in the position of needing to buy or lease large amounts of equipment. It is good that the A bill did not follow this proposal because it would be, ladies and gentlemen, in the tens of millions of dollars. In any case, that may be the way it should be. I'm not saying that we do not want the state to operate it, but I do not believe that is what was intended, because the language in 849, according to my reading of it, contradicts the language in the constitutional amendment. I would just want to say this. South Dakota, for example, has a lottery and South Dakota operates their lottery differently. They operate the lottery, but they contract for certain activities. In Nebraska, under 24CA, the state must operate the lottery. I want to point out for the official record that if this proposed statutory proposal is more broad than 24CA, which I believe it is, then it is void on its face for what it purportedly authorizes. Madam President, with that, I ask permission to withdraw the amendment.