

exemptions for gambling: Horse racing by parimutuel or certificate method; nonprofit lotteries, gifts, raffles, gift enterprises intended solely as business promotions or proceeds which are used solely for charitable purposes; and licensing of bingo games. Those are the three particular exemptions. Now, the Nebraska State Supreme Court has ruled specifically on the issue of pinball machines in a 1953 decision, Baedero, in that particular decision, the Baedero decision, stated two things. Number one, it stated that pinball machines were games of chance. The second thing that it stated was that awarding of free games is, in fact, a game of chance, a violation of the Nebraska Constitution. Now what, in fact, did the Johnson amendment do? The Johnson amendment provided, it stated, that portion stated that gambling was illegal, he left that portion in, and then it stated that gambling is illegal except for the mechanical devices, and then he left in gaming devices, a number of different terms that can be used for video lottery, video slot machines. At the time I questioned whether, in fact, this was proper. The Baedero case, that the Attorney General said applies specifically to this particular amendment, stated that, as I stated, it had a particular test on the Baedero v. Caldwell case and on the second, on the first page it stated that the test of the character of a game is not whether it contains elements of chance or elements of skill, but which of these is the dominating element which determines the result of the game. They then apply it to the pinball machines and they state that the Supreme Court of Nebraska determined that an ordinary pinball machine which awarded free games was a game of chance prohibited by the constitutional provision. They go on to state that a player must win one or more free games as... is the inducement to play. Anything affording necessary lure to indulge the gambling instincts and appeal to the gambling propensities of man is, in fact, a gambling device. Now what I am telling you today isn't something that the Supreme Court or the Attorney General or myself feel is immoral or improper. What they are referring to is the Nebraska Constitution which we all abide by. The Nebraska Constitution prohibits gambling in this manner and as a result the attachment of the amendment severely jeopardizes the bill. What I am proposing today to do is to bracket the bill until next year, strike the amendment at the early part of next year and have LB 523 advanced into law at the beginning of January. If we choose not to do this, we are jeopardizing the entire bill to a constitutional challenge. We are jeopardizing the bill for a constitutional challenge. Now maybe what will happen is the court will say we're not going to pay any attention to all the gambling statutes and we're going