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Floor Debate
March 20, 2009

[LB63 LB73A LB92 LB121A LB327 LB355 LB458 LB547 LB547A LR61]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-seventh day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Laura Miller from the Church of the Living God International, Omaha, Nebraska, Senator Council's district. Would you all please rise. []

PASTOR MILLER: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Pastor Miller. I call to order the forty-seventh day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

CLERK: A new resolution: LR61. That will be laid over. A report of registered lobbyists for this week as required by statute. And Mr. President, a series of reports received in the Clerk's Office will be on file and available for member review. That's all that I have, Mr. President. (Legislative Journal pages 792-793.) [LR61]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, we'll move to the first item under General File under senator priority bills, Lautenbaugh division. []

CLERK: Mr. President, LB547 is a bill by Senator Adams. (Read title.) Bill was introduced on January 21, referred to the Education Committee, advanced to General File. There are committee amendments pending. (AM365, Legislative Journal page 484.) [LB547]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Adams, you're recognized to give us a recap of your Education Committee amendment, AM365 to LB547. [LB547]

SENATOR ADAMS: Thank you, Mr. President and members of the body. In summary, from where we left off as we concluded yesterday, AM365, the amendment to the bill,

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becomes the bill. And what the bill does, in recap, is this. We already have in statute an existing loan forgiveness program for teachers that is funded through lottery dollars. It already exists. It's \$1 million. What this bill would do is to simply redistribute some of those dollars and create another category of loan program, and that would be for teachers who are currently teaching who want to get an advanced degree in an endorsed area. The process would be the same. They would have to teach for two years before the loan forgiveness would kick in. There would be a five-year amortization. If they bail out before that, they owe the state. The undergraduate program would still be there, wouldn't have as much money devoted to it, as much of that \$1 million. It would be about \$300,000 devoted to it, whereas there would be about \$600,000-plus devoted to the graduate side. The undergraduate side, the student would have to get a teaching credential in a high-need area. And we have a priority list of high needs: speech pathology, special education, science, and math. Whereas on the graduate side, the priority would be for the student to be getting their graduate degree in the area that they're endorsed in. If they're endorsed in mathematics, we want to see them get their degree in mathematics. If they're endorsed in speech path, we want to see the advanced degree in speech pathology. The exception to that would be if the administration of the school where that teacher is at, has said, we have a high need for someone to have an endorsement in another area; would the state be willing to pay for that? So in recap, the program already exists. It is a redistribution, pushing some of it over to the graduate level side--that's the new portion--and encourage teachers to stay in teaching, get their graduate degrees, be better teachers, and at the same time give them an opportunity to move over on the pay scale. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Adams. Members requesting to speak on the Education Committee amendment, AM365 to LB547, are Senator Gay, followed by Senator Wightman and Senator Pirsch. Senator Gay, you're recognized. [LB547]

SENATOR GAY: Thank you, Mr. President. I was following Senator Adams' opening and this makes sense to me. I had a few questions if he'd yield. [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes, I would. [LB547]

SENATOR GAY: Senator Adams, I remember when we were looking at school aid in the school aid formula, was there still that part of advanced degrees that if you have an advanced degree you get credits? [LB547]

SENATOR ADAMS: You're correct. You're thinking right. As part of TEEOSA there's still is what we have, what we call an adjustment, the teacher education adjustment which is designed to compensate schools that have faculties with a high percent of graduate degrees over a state level. [LB547]

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SENATOR GAY: Yeah. And the reason I asked that, I remember during our discussions on that, Papillion-La Vista school district was one of the largest recipients of that, and were very proud. They've worked hard to get a good...they encouraged that further education very much. The question I had on this, if we go ahead and do this, it makes sense to me where a person wants to continue their career or they're out, and that's that prime time where, what you're saying if you want to keep them, you keep them. But I guess the question would be, would this in any way hurt my teachers that...they can apply for these funds just like everyone else, correct? [LB547]

SENATOR ADAMS: Absolutely. Absolutely. [LB547]

SENATOR GAY: So this isn't a...if you were in a certain area, you get a leg up on someone else? [LB547]

SENATOR ADAMS: Not at all. [LB547]

SENATOR GAY: It's still open. You're just transferring funds, creating a new category for these funds. [LB547]

SENATOR ADAMS: That's exactly the way to describe it, Senator. We're just creating an additional new category of eligibility: graduate school. [LB547]

SENATOR GAY: Okay. That was a concern I had, because it makes sense to me and I like the idea. I was just a little concerned, as I knew we were going to bring this up again, and last night I figured, you know, that should be a question, because as you said earlier in your opening, it's hard to just take care of everything. This is a tough problem, especially now with the economy. But I do believe, you know, as you improve your career, you're obviously in those contract negotiations, you're getting paid more for these master's or doctorates or whatever it may. So I just want to make sure that no one would be penalized if they're already doing a good job promoting that but you can continue to do that. And then is there any, down the road...let's say this becomes very successful, which I hope it does, down the road how could you further fund this to create more opportunities? Have you ever thought of that? [LB547]

SENATOR ADAMS: You know, we...the Education Committee, when we "Exec-ed" on this bill we talked about that very issue, and we didn't come up with anything solid. But it...the very question you have raised was raised in Exec Session, and it caused us to start thinking, maybe down the road as we evaluate the success of the program, maybe there's something more we could do. [LB547]

SENATOR GAY: Yeah. Well, I always wondered. You see these foundations sometimes, of course they've been hard hit, as well, but I have confidence that markets

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will come back, things will change, and we could look at that. But I know there had always been foundations that like to promote these. I think that would be a great opportunity for someone to look at and say, hey, here it is, and you keep it open or you adjust it down the road to accept...I assume you could accept the money now if a foundation came and said, here's some money, I love your idea, here's \$1 million. Can you accept that money now? [LB547]

SENATOR ADAMS: I can't answer that. I don't know. We might have to change statute to allow that. I don't know. [LB547]

SENATOR GAY: Yeah, and maybe that's wishful thinking, but you do see some of the money being spent in the metro area especially. But if that were to happen, I'd like to...it'd be available to everybody. [LB547]

SENATOR ADAMS: Yep. [LB547]

SENATOR GAY: You know, I'd hate to see it, hey, I'll make the money available in this area, and I doubt that could be done. But anyway, I appreciate your comments. Thank you, Senator Adams. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Gay. (Visitors introduced.) Also the banana bread being passed out to you this morning is in honor of Senator McGill's birthday, which is tomorrow, March 21. Happy birthday, Senator McGill. Members wishing to speak on AM365: Senator Wightman, followed by Senator Gloor, Senator Fulton, Senator Haar, and Senator Council. Senator Wightman, you're recognized. [LB547]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do rise in support of LB547. I think it does make sense to pinpoint the areas, in critical areas in which we need teachers and in which we maybe need teachers to reeducate themselves to fill those areas. I do have a few questions of Senator Adams if he would yield. [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes, I will. [LB547]

SENATOR WIGHTMAN: Now this requires absolutely no expenditure of General Funds, is that correct? [LB547]

SENATOR ADAMS: That's correct. [LB547]

SENATOR WIGHTMAN: All of it's out of the cash fund and out of the lottery fund?
[LB547]

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SENATOR ADAMS: Correct. [LB547]

SENATOR WIGHTMAN: And it would just redirect those funds. You've made some changes under this proposed law with regard to the forgiveness rate, I think, of the loans, is that correct? [LB547]

SENATOR ADAMS: I believe that's right, as well as the distribution, how much we would be willing to pay out. [LB547]

SENATOR WIGHTMAN: Right. So that...some of the areas I think have gone from \$2,500 to \$3,000 per year of teaching, and then if they're teaching in a poverty area I think it increases it maybe from \$3,000 to \$6,000 per year of teaching. [LB547]

SENATOR ADAMS: I believe that's right, in a poverty or a very sparse area. [LB547]

SENATOR WIGHTMAN: So thank you, Senator Adams. That addresses the questions that I had. I do think that it is critical that we use these funds to create teachers or educational system and loans where we encourage people to go into areas of both teaching and areas where there may be shortages of teachers, where we have high poverty rates. And I think to the extent we're doing that by this act, this bill, I think that I certainly will support both the amendment and the underlying bill. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Gloor, you're recognized. [LB547]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I rise in support of LB547 and AM365. I'd remind the body that we visited, just the other day, about addressing the educational needs for behavioral health and the challenges that we have in this state for behavioral health-trained people and the efforts we're going to try and make in that arena. This seems to be the week where we talk about trying to address the educational needs for a number of professional areas. And education certainly is perhaps the most important educational area and profession that we have in our state, because our future depends upon it and the future of our children. The behavioral health bill that we discussed had to do with building our own, working for retention of those professionals. LB547 is built around that same premise. We have people who are in practices: teachers educating our children. And the fact that they're in that capacity, means our ability to retain them to keep them in the system is further enhanced. So that also makes a lot of sense. But I always find it an irony when we talk about helping educators get education, and in this case not just because furthering their education can be helpful to them in their careers, but because it's also an opportunity to move them up the pay scales. And I look forward to the day when educators, like the

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rest of us, can look forward to being paid well enough so that they don't have to play this game of educating just to be able to get paid better. I know that's an important part of the way our pay system seems to be up in this state, and I feel unfortunate that we have to kind of further that by having this loan program, but it is what it is. Again, I'm in support of LB547. Thank you. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Fulton, you're recognized. [LB547]

SENATOR FULTON: Thank you, Mr. President, members of the body. I have to admit I didn't, yesterday as we were debating LB547, have a grasp of the bill. I was able to read through it last night and realize that folks before us made some pretty good decisions. This is a very innovative way of encouraging teachers to remain in Nebraska. I wonder if, Senator...so I'm going to be supportive of the amendment and the underlying bill. I do have some questions, though, if Senator Adams would yield. [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes. [LB547]

SENATOR FULTON: Senator, help confirm or deny what I say, if you would. The idea behind this bill is, or the original idea behind this statute was to keep teachers here in Nebraska. And I think it's spelled out in the amendment actually, but that's...is that a correct saying? That's why the statute was enacted in the first place? [LB547]

SENATOR ADAMS: Correct. [LB547]

SENATOR FULTON: Okay. Can you explain to me the part about, oh, if the teacher is teaching in...let's see, the language on page 17, "teaches full-time in a school district that is in a local system classified as very sparse...or teaches in a school building in which at least 40 percent of the students are poverty students as defined..." and then it gives the section. The rationale behind that or the policy that drives that--I think I know but I want to hear your take on it. [LB547]

SENATOR ADAMS: You raise a good question, Senator Fulton. The policy behind that is that if the overriding issue is retention and attraction, we really have a more focused issue in school buildings where there is high poverty students and in areas within our state geographically where we have seriously diminished populations. [LB547]

SENATOR FULTON: And we have teacher shortages in those populations probably more so than in nonpoverty schools populations? [LB547]

SENATOR ADAMS: I think that's...particularly geographically we know that we have a

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harder time attracting teachers and retaining teachers in areas where population is declining and there's just a very sparse population. [LB547]

SENATOR FULTON: Okay. So the...my thought was, and the policy behind this, if the overall policy was to keep teachers in Nebraska, encourage them, provide some incentive to help them choose to stay in Nebraska, we go an extra step to help them if they choose to teach in a high poverty area because we have great need in those schools. [LB547]

SENATOR ADAMS: You're absolutely right. [LB547]

SENATOR FULTON: Okay. Yeah, okay, thank you, Senator Adams. This is an innovative way, and I understand Senator Wightman's questioning that we don't...we're not going to be using General Fund dollars, so the focus of this bill is really where it ought to be: on the teachers and encouraging them to stay here in the state. I'll pay attention to debate a little bit more. I might have some more questions for Senator Adams, but generally this concept is sound, and hopefully we can recognize that there are innovative ways to incite teachers by way of our public policy. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Haar, you're recognized. [LB547]

SENATOR HAAR: Mr. President and members of the body, I don't know why I always shock the microphone but it happens. I rise in support of LB547 and the amendment. Actually this is my priority bill and I appreciate Senator Adams carrying the discussion. He does a very good job of that. This was voted out of committee unanimously, as we talked about. Supported by the Board of Education, the Department of Education, NSEA. And there are several very nice features of this bill that was introduced by Senator Adams. It's targeted to keep teachers in the system and to help them get more qualifications. And the fact that here's a fund that hasn't really been fully used in the past, and I think under the current system, and I thank Senator Adams for that, that I think that money will be used and used very well. So I would yield my remaining time to Senator Adams if he would like it. [LB547]

PRESIDENT SHEEHY: Senator Adams, 3:45. [LB547]

SENATOR ADAMS: Thank you, Senator Haar, for the support. And the words you've said are correct. We're taking monies that have not always been fully utilized, and we're trying to identify specific problems in this area in the state and seeing if we can't address them in a reasonable policy way. You've made a good point. That's exactly what we're trying to do here. Thank you, Mr. President. [LB547]

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PRESIDENT SHEEHY: Thank you, Senator Adams. Thank you, Senator Haar. Members requesting to speak on AM365, Senator Council, followed by Senator Price, Senator Gay, and Senator Nelson. Senator Council, you're recognized. [LB547]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in support of AM365. I want to thank Senator Haar for introducing the measure and designating it as his priority. I want to thank Senator Adams and the members of the Education Committee for advancing it to the floor for debate. Clearly, we have to address the attraction and retention of qualified teachers into the state of Nebraska. I know, speaking from the district I represent, that we do have difficulties attracting and retaining quality teachers and making sure that those teachers that we do attract have the opportunity to increase their instructional abilities by taking and pursuing graduate level courses. I would ask if Senator Adams would yield to a question. And it may be more appropriate for Senator Haar, but Senator Adams, would you yield? [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Of course. [LB547]

SENATOR COUNCIL: The bill provides for, essentially, a sunset of 2012, is that correct? [LB547]

SENATOR ADAMS: I believe it... [LB547]

SENATOR COUNCIL: That the... [LB547]

SENATOR ADAMS: Yes. Yes. [LB547]

SENATOR COUNCIL: That these programs' provisions remain in... [LB547]

SENATOR ADAMS: Right. [LB547]

SENATOR COUNCIL: And my question was that, was it the intent of the committee that at that point in time that the loan program be revisited? Because my concern is that at this point in time, and I don't think anyone would dispute the fact that we have some serious teacher shortages in some very specific curriculum areas, but the concern is that, overall, we have difficulties attracting bright young people to even enter the field of education at the undergraduate level. And I don't want to eliminate an opportunity for individuals who just need financial assistance to pursue teaching as a career from being able to access these loan dollars for any significant period of time. And right now, if you're not in a shortage area--and I would imagine from my Board of Education experience we're talking about math and science and a few of the other more technical areas--but we're also, you know, having concern with individuals who are properly

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trained in instructing language arts and reading. So I'm just concerned...my only concern is that restricting it to the shortage areas will not place us in a position where we potentially lose some quality candidates for the education programs. [LB547]

SENATOR ADAMS: Your observation is correct, and I believe, anyway, that the committee is sensitive to that and wants to continually do an evaluation of this, and the Department of Education as well. They're the ones really who identify the priority areas, and they have told me that, you know, there are some areas, like speech pathology, science, and math, that tend to always be there at the top. But another one that you've just brought up, vocational technical programs, because of the draw to the private outside sector, that is becoming a higher priority, and they're the ones that are kind of keeping track of that and doing that prioritization. [LB547]

SENATOR COUNCIL: Okay. So they...so, what is a shortage area, could vary from year to year between now and 2012? [LB547]

SENATOR ADAMS: Yes. Yes. [LB547]

SENATOR COUNCIL: Okay. So that's very encouraging. Speaking from someone who has firsthand experience with a similar program, I attended the University of Nebraska at Lincoln, enrolled in the Teachers College under what was then a federal loan forgiveness program for individuals who were willing to enter the field of education... [LB547]

PRESIDENT SHEEHY: One minute. [LB547]

SENATOR COUNCIL: ...and then pursue teaching in poverty areas. And the loans were forgivable. And if you go back and look at the success of that program, the number of individuals who entered the field of education via that loan forgiveness program...so I highly endorse this program. I just urge the committee in the future just to be cognizant of the various needs of our school districts for teachers across the curriculum board. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Price, you're recognized. [LB547]

SENATOR PRICE: Thank you, Mr. President and members of the body. I rise in support of these efforts here today. I just have a couple points of clarification if Senator Adams would yield to a question. [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes, I will. [LB547]

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SENATOR PRICE: Thank you, Senator Adams. I have a question on page 7, line 26. It talks here that...where they're talking about eligible institutions, and we get down to this area. They've lined out "accredited by the department" for a teacher education. And I was wondering if you could illuminate why...I understand that there are probably accredited institutions, but why did we line that out? [LB547]

SENATOR ADAMS: Okay. Those are the institutions that are accredited or to have teacher education programs. [LB547]

SENATOR PRICE: So it's just to clean it up that we don't need a department accrediting something. [LB547]

SENATOR ADAMS: Right. [LB547]

SENATOR PRICE: Okay, great. And then another one...it's just a philosophical, if you would help me understand. With a transfer of a amount of money into the program, we're going to let people--hopefully we'll have teachers applying for this to further their education, and then we're going to have them repay it some--but if they're in certain areas and certain circumstances as articulated in the amendment here, they won't have to pay it back, correct? [LB547]

SENATOR ADAMS: That's correct. [LB547]

SENATOR PRICE: How do we sustain the fund without an infusion of cash if we start with a amount, and let's say we have a bunch of people come up and utilize it and they end up either meeting one of the thresholds of 40 percent poverty rate or the sparsely populated areas, how do we sustain the program for future teachers and attracting of teachers without a new infusion or an increase in the infusion rate of dollars? [LB547]

SENATOR ADAMS: You raise a good question. However what I would say, at least to this point...but you're looking down the road and that's a good place to be looking. At this point, as lottery dollars increase, that in and of itself has been increasing this fund. We have also found, up to this point, that we haven't been utilizing all of these monies, and obviously we hope that we get more people trying to take advantage of this. We hope that the lottery contribution continues to just naturally grow to fund that. We also may just have to say first-come, first-served. When we're out, we're out. And that, maybe someday, puts us in a position where we reevaluate the program and decide what we need to do, if we have that much demand. [LB547]

SENATOR PRICE: Well, thank you very much, Senator Adams, for clarifying that for me. And that long outlook, that part where we try to recruit teachers then, and give them this incentive to continue their education, which I believe many of them want to do and

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are working on now at great expense and cost to themselves. So I do appreciate it. I do support it. And if Senator Adams would like the remainder of the time, he may have it. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Senator Adams, you're yielded 1:45. [LB547]

SENATOR ADAMS: Thank you, Senator Price, for the good questions. And this is a program that, as we look at it, what we're doing, we're shifting some of the money away that is there in the pot, away from undergraduate, and sliding it over to the graduate side. And we will have to watch to see what happens with this and see what the demand has been. Up to now it hasn't been quite at the level that we had hoped that it would be. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Adams. Thank you, Senator Price. (Visitors introduced.) Resuming floor discussion on the Education Committee amendment, AM365 to LB547, members requesting to speak: Senator Gay, followed by Senator Nelson and Senator Loudon. Senator Gay, you're recognized. [LB547]

SENATOR GAY: Thank you, Mr. President. I'd like to thank Senator Adams and the committee on...they did...it says here in the bill, retain teachers in accredited or approved public or private schools in Nebraska, and I just wanted to commend him. Making sure that's in there on some of the private schools have the same opportunity as public schools, since the private schools educate many of our students as well. So I commend them on putting that in there and I'd like to ask Senator Adams a few questions. [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes. [LB547]

SENATOR GAY: Thank you, Senator Adams. And if I'm repetitive, I apologize; I'm trying to listen and do two things at once. On the shortage area, I'm understanding the shortage area and the poverty areas, and that's a good thing. I get that. On the subject area though, how do they decide what a subject area is? I think Senator Council was going there and I missed it. [LB547]

SENATOR ADAMS: Right. You know, I can't specifically say that I have sat down with the Department of Ed and how they identify. I suspect that a lot of it has to do just simply with data from our school districts about what areas are they having a hard time finding teachers in. It may be just as simple as that. [LB547]

SENATOR GAY: So it could be science. It may change. This is administered by the Department of Ed, right? [LB547]

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SENATOR ADAMS: Right. [LB547]

SENATOR GAY: So it could change, year to year, or I guess we can get information on that between now and Select, because, yeah, I'm wondering on science. The reason I ask, I'm somewhat interested in sending a note out to my schools letting them know of this, because you had just mentioned that, maybe it's not...is this being used? Are we using all the funds that are in this? [LB547]

SENATOR ADAMS: We're using it. We're not using all the funds. [LB547]

SENATOR GAY: How much have we used so far? [LB547]

SENATOR ADAMS: You know, I don't know the answer to that. [LB547]

SENATOR GAY: Okay. Because I think this is something I'm going to go promote actually and say, hey did you know this--if this passes, of course--that this is a good opportunity. But the other question I had then would be, I didn't know if we were utilizing all the funds, but if it was a first-come, first-served basis, or do they...let's say this really takes off and we have \$1.5 million of requests for this part of the program. Is the whole program \$1 million? [LB547]

SENATOR ADAMS: One million, correct. [LB547]

SENATOR GAY: Okay, but let's say we go up, and we just have \$1 million on this part alone and we have a waiting list now, and I wonder how that would be allocated amongst the waiting list? And maybe if you don't know now, we could know that between, on... [LB547]

SENATOR ADAMS: I'm going to speculate only. If we were to have more applicants than we had dollars for, I suspect that obviously one of the decision-making criterion would be what area, for the undergraduate student, what area are you going into? [LB547]

SENATOR GAY: Shortage area. [LB547]

SENATOR ADAMS: Shortage areas, that's correct. And then at some point, obviously we'd just have to cap it off and say, you know, we're out of money . [LB547]

SENATOR GAY: Yeah, I'd be interested in knowing that, because there's a certain point, I could see...and it's...and I don't have an advanced degree, but that's a lot of effort, a lot of work by somebody who wants to pursue this, of course, and commend them for doing that. But it'd be interesting to see if there was some parameters, if this

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grows. I guess first we've got to get to that point, but I am somewhat interested in how they would do this if we start bumping up against it. As you know, you know, I've been running a scholarship program by you earlier and this is not the year for that. But down the road, how...I know these things can get a little tricky of whose going to get it with limited funds and more applicants. I'd like to see us to get to the point where we have too many applicants and not enough money and we have another problem, a good problem to worry about, so. But this is a good start, and I think by doing this we'll create more opportunities. It sounds like that maybe we can go utilize all the assets that are there, so. [LB547]

PRESIDENT SHEEHY: One minute. [LB547]

SENATOR GAY: But anyway, I did want to say I do commend you. I think it's important that the private schools have the same opportunity, as well, because like I say, they're educating many of Nebraska's students, so. But anyway, if you could...or I could find out or we can find out, but I am interested how they prioritize that of how that would go in line. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Nelson, you're recognized. [LB547]

SENATOR NELSON: Thank you, Mr. President and members of the body. Would Senator Adams entertain a question or two? [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes, I will. [LB547]

SENATOR NELSON: Thank you for your work on this, Senator Adams. I'm in support of AM365 and the underlying bill. You may have already addressed some of these, but you spoke in terms of underutilization. Would it, when you arrive at the figure of \$300,000 available to students that are working on their initial certification, was that about where it was at the time, you know, that you undertook to expand this? Or how did you arrive at \$300,000 and \$700,000 then for teachers already certified working toward their graduate? [LB547]

SENATOR ADAMS: Part of it, I believe, was based on utilization. And, quite frankly, some of it was an arbitrary decision on my part to refocus the program in a new category area. [LB547]

SENATOR NELSON: All right. I kind of depended on the summaries here, but is it my understanding then that this was through the Department of Education? These teachers then, do they enter into a written agreement or contract of some sort? [LB547]

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SENATOR ADAMS: Yes, with the Department of Ed. [LB547]

SENATOR NELSON: And in these poverty areas or perhaps shortage areas, are they...do they start teaching in those areas at the same time that they're working toward their additional degree? [LB547]

SENATOR ADAMS: Correct. [LB547]

SENATOR NELSON: Okay. And is there any emphasis then on...and who allocates? Who determines where the poverty areas are and what schools are? [LB547]

SENATOR ADAMS: The Department of Ed. [LB547]

SENATOR NELSON: Okay. And then I guess, is there going to be, or maybe you don't know this, I don't know about high schools in poverty areas. It seems to be more in middle school areas and elementary, so it just depends on the teachers that want to go into those certain areas, or do they have any discretion in that? [LB547]

SENATOR ADAMS: You know, I don't know that I'd have a specific answer to that, Senator Nelson. I'm sorry. [LB547]

SENATOR NELSON: All right. All right. Well, thank you very much then. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Louden, you're recognized. [LB547]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this LB547 and the amendment that goes with it, there was some questions I was kind of concerned about. I think it's a very good idea, and I'm wondering if Senator Adams would yield for questions, if he would, please? [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes, I will. [LB547]

SENATOR LOUDEN: Senator Adams, as I look through the amendment which becomes the bill, the way I understand it...and I noticed in the green copy the cap for \$300,000. Now is that all the...is that the cap for the amount of money given to students on these loan deals each year, or what does that have to do with the green copy? Or is that taken out of the amendment? [LB547]

SENATOR ADAMS: It is a cap. [LB547]

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SENATOR LOUDEN: Okay. And that...in other words, with all the districts all over the state of Nebraska, that's going to be all the amount of money that can be given to students that qualify. Is that what we're talking about? [LB547]

SENATOR ADAMS: Give me just a moment, Senator. Yes, the \$300,000. It would be the cap on the amount of loans to undergraduate students seeking their teaching credentials. So that leaves us approximately \$600,000 for people working on their master's degrees. [LB547]

SENATOR LOUDEN: Okay. In other words...okay, I think I understand that. This is still an incentive to get higher degrees, part of this money. [LB547]

SENATOR ADAMS: That's right. That's right. [LB547]

SENATOR LOUDEN: Okay. Now, what I'm wondering, as I looked through it--and I don't know whether I missed it or what--but is there anything in there to increase any funding for entry level teachers in this bill? Does this have anything to do with it, or is this mostly something to forgive college expenses? [LB547]

SENATOR ADAMS: Senator Louden, thank you for asking the question, and if I take up too much time answering it, you just give me a thumbs down and I'll shut up. Specifically, in this bill, there is no up-front money for that first-year teacher. That doesn't exist. Here's what I think the impact is. I'm a first-year teacher going to Gordon-Rushville Public Schools, and I'm going to start out at, let's say, \$29,000 a year. The school district has established that as the start point, and I sign a contract and I'm there at \$29,000. If I'm having some of my undergraduate loan forgiven, then that's a loan payment that I'm not making every month, which, in effect, kind of enhances my cash flow. The other thing it does, when I'm ready to get my advanced degree so that I can move over on the pay scale--and I'm still staring at \$15,000, \$20,000 in undergraduate debt, and I don't want to take on anymore debt load--this helps that teacher say, all right, number one, I'm willing to stay in teaching; number two, I'm willing to get an advanced degree and therefore hopefully be an even better teacher, and this will move me over on the pay scale so I can make a little bit more. [LB547]

SENATOR LOUDEN: Okay. Yeah, and I understand that. At the present time, isn't there some incentives to get advanced degrees in your pay scales, or is it that just works out through the union's pay scale to do that? [LB547]

SENATOR ADAMS: Through the collective bargaining agreements in virtually every school district, there is incentive to, yes, get additional hours and move over. [LB547]

SENATOR LOUDEN: Okay. And that's what I'm wondering. Are we...when you talk

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about getting additional money for postgraduate degrees, I guess you call them, I'm wondering if this is money well-spent or...and I agree the money well-spent on the entry level people, is money...is a very good idea. I'm wondering if we should be probably directing our resources more that way... [LB547]

PRESIDENT SHEEHY: One minute. [LB547]

SENATOR LOUDEN: ...than going with the postgraduate degrees, because there are incentives now for those degrees, and are they sufficient? I'll let you answer the rest of the time. [LB547]

SENATOR ADAMS: Thank you, Senator Louden. I don't think they're sufficient. They're there. Teachers have taken advantage of them. The mounting cost of going to college leaves so many of those first-, second-, third-, fourth-year teachers in there, wondering whether I want to stay in because I don't know if I can afford to get the hours necessary to move over on that agreed upon pay schedule. And that's what this is incenting to do. [LB547]

SENATOR LOUDEN: Okay. Thank you. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Hadley, followed by Senator Fulton. Senator Hadley, you're recognized. [LB547]

SENATOR HADLEY: Mr. President and members of the body, would Senator Adams yield to a question? [LB547]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547]

SENATOR ADAMS: Yes, I will. [LB547]

SENATOR HADLEY: Senator Adams, I guess the...I applaud the program and such as that. I have a concern about the split, the \$300,000 for undergrad or people entering the program, and the \$600,000 for the graduate degree program. My concern is, is that if we can't get people into the initial program, into the initial teaching program, they aren't going to be there to get the graduate degree. So I guess maybe some rationale on the split of the \$300,000. And I know you've talked about it a little before, the \$300,000 versus the \$600,000. [LB547]

SENATOR ADAMS: You're right, Senator Hadley, to have a concern about attracting people simply into the profession. As we did the interim study on teacher pay last year, it was my feeling that what the data was telling us, both in the study as well as anecdotal as I travelled the state talking to superintendents during the interim, that the crisis...well, I won't use the word crisis. The issue may be less attracting more people

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into the teaching profession as it is keeping them in the teaching profession. And that's why I thought let's give this a shot and see what happens. [LB547]

SENATOR HADLEY: Okay. Thank you, Senator Adams. The other thing, and I guess it's more of just a statement rather than a question or anything, I think we have to be very cognizant of the fact that we are a big diverse state and the opportunity at times for teachers to get graduate degrees are not the same across the entire state. So I think we have to be very concerned about the opportunity. Senator Adams mentioned Rushville or some places like that. It could be much more difficult for a teacher to get a master's degree if they're teaching in Rushville, Alliance, places like that, than it might be in Omaha or Lincoln. So I think it's incumbent upon the institutions of the state to have these graduate programs available on-line, those kinds of things, so people can get the master's degree to qualify for this. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Hadley. (Visitors introduced.) Are there additional members requesting to speak? Seeing none, Senator Adams, you're recognized to close on the Education Committee amendment, AM365. [LB547]

SENATOR ADAMS: Thank you, Mr. President. I know I'm going to be very redundant to you but let me explain one more time what we're doing. We're using an existing pot of money, \$1 million that is lottery money, and we are diversifying its use. We're diversifying it by moving, putting a cap of \$300,000 on the amount of loan forgiveness dollars that will go out to people in undergraduate programs seeking to be teachers, and we're going to emphasize the use of \$600,000 to help teachers get an advanced degree in their endorsed area. And the intention here, very simply, is to help plug some gaps that we have in schools, encourage teachers to not only to move over on the pay scale but also continue to attract people into the teaching profession. And the...what I'm talking to you about here is the amendment, and remember that the amendment does become the bill. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the adoption of the Education Committee amendment, AM365 to LB547. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB547]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB547]

PRESIDENT SHEEHY: AM365 is adopted. (Visitors introduced.) We will now resume floor discussion on the advancement of LB547. Are there members requesting to speak? Seeing none, Senator Adams, you're recognized to close. [LB547]

SENATOR ADAMS: I'll make it very brief. Thank you for your support on the

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amendment. Again, the amendment is the bill. And this does have a 2012 sunset, at which point it will give us in the Education Committee, and maybe eventually you in the body, an opportunity to evaluate this program, and not only where the money is going and if it's being used, but a whole host of things. Thank you, Mr. President. [LB547]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the advancement of LB547. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB547]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB547. [LB547]

PRESIDENT SHEEHY: LB547 advances. We'll move to next bill under Lautenbaugh division. [LB547]

CLERK: LB547A by Senator Adams. (Read title.) [LB547A]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on LB547A. [LB547A]

SENATOR ADAMS: The Appropriations note. It is the lottery money, and it simply is a redistribution, as well as an identification of how much of that \$1 million is going to be used for administration by the Department of Ed. [LB547A]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening to LB547A. Senator Stuthman, you're recognized. [LB547A]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask a question of Senator Adams. [LB547A]

PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB547A]

SENATOR ADAMS: Yes, I will. [LB547A]

SENATOR STUTHMAN: Senator Adams, do you feel that there's going to be any problem of trying to acquire that money out of that fund? Of that lottery money? You're going to take the money out of that lottery fund. [LB547A]

SENATOR ADAMS: It's already designated. [LB547A]

SENATOR STUTHMAN: That is already designated? [LB547A]

SENATOR ADAMS: Right. There's already an existing program called Attracting Excellence to Teaching. [LB547A]

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SENATOR STUTHMAN: So there will be no problem of accessing that money?
[LB547A]

SENATOR ADAMS: No. [LB547A]

SENATOR STUTHMAN: Okay. Thank you. [LB547A]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Are there additional members requesting to speak? Seeing none, Senator Adams, you're recognized to close. Senator Adams waives closing. The question before the body is on the advancement of LB547A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB547A]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of the A bill. [LB547A]

PRESIDENT SHEEHY: LB547A advances. Next item under Lautenbaugh division.
[LB547A]

CLERK: LB355 is a bill by Senator Lautenbaugh. (Read title.) The bill was introduced on January 15 of this year; at that time was referred to the General Affairs Committee for public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM445, Legislative Journal page 580.) [LB355]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB355. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Best question at the outset, I guess, is why did I bring this bill? There are a variety of reasons. We have some experience right now with local bans that are in place. And simply put, as the committee testimony amply demonstrated, we are putting businesses out of business. And that's not the business we should be in down here, and I'll be more specific as this goes on. Last year, we passed a ban, and it was a statewide comprehensive package that pretty much banned smoking indoors, except in private residences and, with a few exceptions, including tobacco shops. I would argue it was a little too comprehensive. I argued then, I'll argue now. This is the law of unintended consequences, I believe. We were led down a path regarding the dangers of smoking. And let me say again, in case it's unclear, cigarette smoking in particular is a very unhealthy thing to do. Like many things we do, it's a very unhealthy thing to do. It's a particularly unhealthy to do. Many of us don't like cigarette smoke; I don't like cigarette smoke. That again shouldn't be the real issue, but I'll concede it anyway. What we did last year was virtually eliminate indoor smoking in public places. So you can still smoke in a private residence, some hotel rooms, tobacco shops, excepting...well, there are some exceptions to that too. What's the practical effect of this? And here's the thing I'm

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going to point out that's probably a surprising direction for this. My bill is a health bill, if you think about it. We had some discussion in the Transportation Committee the other day, where a professional concerned citizen came in and was very worried that people are smoking in their cars around children. And he kept making an error in his testimony, and saying cars and homes, it's a danger to smoke around your children in cars and homes. So we know what's coming next if he has his way. But I asked him: Sir, can you think of anything we've done in the last year or two that might make people dramatically more likely to smoke in their cars and homes, anything at all? And, of course, I think he drew a blank. So I helped him along and said: Is it possible that when you ban smoking everywhere else, virtually you are forcing people who cannot kick the habit, for whatever reason, to smoke in their cars and smoke in their homes around their children? And he didn't believe that was the likely outcome. But I have no idea why he didn't believe that, and I think the answer is, he didn't want to believe that. But I think that's what we're doing. I opposed the ban last year. I think we went through a long debate last year. By the time I got here, it was only on Final Reading, back to Select File, back to Final Reading again. I conceded then, as I did this morning, smoking isn't good for you. I have a son who has asthma. He shouldn't be around people who smoke. He shouldn't be places where there is smoking. So I took it upon myself to not take him to places where there is smoking. That was pretty simple for us. We had the argument last year that, in the secondhand smoke arena, employees shouldn't be forced to be around smoke. This ban, or this bill I should say, is a very limited exception to the ban, and I'll explain why no one is being forced to be around smoke. What's important to recall is, last year I brought an amendment that is very similar to my bill to the ban, trying to amend the ban to allow smoking in cigar bars. And the reasons were the same then as they are today. And at the time, when I threw that amendment in, one of our colleagues here asked me, what are you doing? Cigar bars are already excepted under the ban. No, they aren't. No, they aren't. Remember the history of the ban. This thing got to Final Reading in 2007 with a local opt-out and an exception for tobacco shops. In 2008, it was brought back from Final Reading. The local opt-out was stricken and that got a lot of heat on the floor. Local opt-out was stricken on Final Reading, but what was also stricken or what was also clarified was that tobacco shops can only sell tobacco; not pop, candy, or alcohol, which is what took cigar bars out of it. That was not the bill that got to Final Reading with the agreement of the body in 2007. And lost in all the hullabaloo last year over the fact that we took out the local opt-out, was the fact that we also took out the exception for cigar bars. And I've been down this road. I talked to people about this. Most people assume you can still smoke in tobacco shops and cigar bars. Most people say, why on earth would you not be able to not smoke in a tobacco shop or a cigar bar? That's why they're there. This is not what people expected. This is not what some of our own members expected us to be doing last year, and yet we did it. And in our generosity, we pushed back the starting date, saying to people that we'll destroy your business but we'll do it a year later than you anticipated. I'd submit that wasn't the right thing to do. Pushing it back was the right thing to do. But I don't think that passes for generosity, to say we'll put you out of business, it will just be a little later;

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if you can plan for something else to do, maybe go back to school or something. Some thought my amendment last year was part of the filibuster attempt. It was not. It was an attempt to recognize the reality at the time. And this bill is an attempt to recreate that reality. As defined in this bill, there were about a half-dozen places that would qualify as cigar bars in the whole state; probably fewer than that, because it is very hard to reach the level of revenue from tobacco that this bill mandates before you can be qualified as a cigar bar. There's a place in Omaha called Cigarros that sent around pictures. They've invested probably, if you count inventory and the cost of the huge walk-in humidor, their investment is over \$100,000, and they got about 20 percent of their revenue from tobacco before the ban started in Omaha. Investing \$100,000 to make the 20 percent threshold, that's the level of investment we're talking about here. Now you've heard that same professional concerned citizen talk about how this is going to be the loophole; that every bar is going to become a cigar bar. As this debate will demonstrate amply, I think, that is a fallacy. This was meant to be narrow, meant to be very narrow--very few places. This is not a repeal of the smoking ban. Regardless of how you feel about the smoking ban, this does not repeal the smoking ban. I've heard language that this makes local ordinances null and void. That's false. This provides a very narrow exception. And when this bill passes, hopefully--we've had a lot of luck with green lights this week, let's keep it rolling--what you will see is what you saw before the ban was in place: about a half-dozen places like this confined to the more populated areas. Because, honestly, you cannot support this level of revenue without a substantial investment, and in a very small town you cannot make that substantial investment. The numbers are against you. It didn't exist before, it won't exist now. We're still bound by economic reality. This bill was drafted so it was part of the Liquor Control Act, and with very good reason. With the revenue reporting requirements, those go to the Liquor Control Commission. There's not room for fudging here. There's not room for deception here. If you try to deceive the Liquor Control Commission, you don't end up with a fine like under the Clean Indoor Act, of \$500 or \$100 depending on who you are,... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...you lose our liquor license. You lose your liquor license. That's a substantial penalty. This is not something we lightly enter into. I can't stress enough in the minute I have left, the main point of this is to provide a very narrow exception for places dedicated to smoking, dedicated to be a place where adults can go and smoke a cigar. This is not a repeal, this is not a nose under the tent, this is not a slippery slope-type thing. It's very simply to distinguish cigar bars from any other place seeking an exception. They're meant for smoking; they're designed for smoking. The humidor investment, the ventilation investment, their inventory investment necessary to make the threshold, these are places where smoking is meant to be done. And I believe and continue to believe, regardless of how we individually feel about smoking, we should allow there to be places for people to go... [LB355]

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PRESIDENT SHEEHY: Time, Senator. [LB355]

SENATOR LAUTENBAUGH: Thank you. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the opening to LB355. As was stated, there is a General Affairs Committee amendment, AM445. Senator Karpisek, you're recognized to open on AM445. [LB355]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Committee amendment AM445 makes four main changes to LB355. First, the amendment replaces the previous Section 4 contained in LB355 with a new Section 4 that prohibits counties from passing resolutions or cities from passing ordinances that prohibit smoking in cigar bars. So the state law will supersede. Second, the amendment adds cigar bars to the list of exemptions to the Nebraska Clean Indoor Air Act, as Senator Lautenbaugh was talking about. It adds that to the tobacco shops. Third, the amendment also changes the measures of sales from gross profit to gross revenue. The gross revenue measurement is preferred by the Liquor Commission because it is easier to calculate and is less susceptible to manipulation. Finally, the amendment requires the proof of gross revenue be sent to the Nebraska Liquor Control Commission. This requirement makes it easier for the Liquor Control Commission to monitor compliance. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the opening of the General Affairs Committee amendment, AM445, to LB355. Members requesting to speak: Senator Wightman, followed by Senator Janssen, Senator Gay, Senator Gloor, Senator Avery, and others. Senator Wightman, you're recognized. [LB355]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I rise in opposition to LB355. I know last year we had our debates on the floor on creating exemptions. I think this is an exemption that is greater than Senator Lautenbaugh would suggest in his opening on LB355. First of all, if I could, I would like to ask a few questions of Senator Lautenbaugh. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes, I will. [LB355]

SENATOR WIGHTMAN: Senator Lautenbaugh, as you read LB355, is there anything that would ever require that a cigar be sold or smoked on the premises of a cigar bar? [LB355]

SENATOR LAUTENBAUGH: No. [LB355]

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SENATOR WIGHTMAN: Well, what it does, it provides that cigars, cigarettes, or other tobacco products, must represent 15 percent of revenues. Is that correct? [LB355]

SENATOR LAUTENBAUGH: As amended, yes. [LB355]

SENATOR WIGHTMAN: And so the cigar bar is more just a name, is it not, than to create an exception that appears that it isn't including cigarettes; that it's aimed at cigars? [LB355]

SENATOR LAUTENBAUGH: I'm not sure I understood the question, Senator. [LB355]

SENATOR WIGHTMAN: Well, you name it a cigar bar, but in effect it doesn't have to have a cigar at all. It's based upon the sale of tobacco products, cigarettes, or whatever they may be, and that has to represent 15 percent of revenue. So cigars is, it appears to me, just a name to get around the exception that we're creating. [LB355]

SENATOR LAUTENBAUGH: Well, I don't know that the name is what takes us around the exception we're creating. And based upon, again, the calculations for how to get the revenue, there aren't tobacco shops that sell cigarettes as a sole means of revenue that would do this. So... [LB355]

SENATOR WIGHTMAN: But we could just as well call it a cigarette bar, because cigarettes meets or fulfills the requirement on the 15 percent every bit as much as cigars do. [LB355]

SENATOR LAUTENBAUGH: It's all tobacco...all tobacco sales, certainly. [LB355]

SENATOR WIGHTMAN: Right. So it just seems to me that all we're trying to do is create an exception. We're calling it cigar bars so it will be more acceptable to this body than it would be if we called it a cigarette bar or whatever we might want to call it. But it creates what appears to be a narrow exception, but it's really a large exception it seems to me. [LB355]

SENATOR LAUTENBAUGH: Was that a question, Senator Wightman? [LB355]

SENATOR WIGHTMAN: Well, do you agree, it can be a large...now whether or not you can meet the 15 percent, I don't know what that's going to require. [LB355]

SENATOR LAUTENBAUGH: I understand that. That's why the committee hearing was so valuable, because we had places come in and show us what they had to do to meet the 15 percent and why we turned over the control of this to the Liquor Control Act, so they can verify, by inspection, whether or not the investment is being made to actually operate as a cigar bar as designed under this act. [LB355]

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SENATOR WIGHTMAN: Now the 15 percent, you can the price of cigarettes or any tobacco product at any price you want to make it, as long as you can make a profit, I suppose. Eventually it will create a hardship for you if you don't have a profit. Would that be a correct statement? [LB355]

SENATOR LAUTENBAUGH: Under the market, yeah, at some point you cannot just the price because someone would probably a different price, lower perhaps. [LB355]

SENATOR WIGHTMAN: But as long as it's a profitable item to you, you could lower the cost from what it might be in a convenience store or wherever else it might be, could you not? [LB355]

SENATOR LAUTENBAUGH: Yes. [LB355]

SENATOR WIGHTMAN: So if you want to lower the price to increase your cigarette sales or cigar sales or whatever other tobacco products you may sell, you can do that and maybe increase tobacco products as a share of your total revenue. [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR WIGHTMAN: That would be easy to do. Is that correct? [LB355]

SENATOR LAUTENBAUGH: Assuming the market forces cease to apply, yes, you could do things like that. [LB355]

SENATOR WIGHTMAN: So a bar...of course, maybe you have to have the 15 percent at the time you apply for the exemption. Is that...would you have to have? [LB355]

SENATOR LAUTENBAUGH: For entry into the area, if you will, there would have to be verification by the Liquor Control Commission that you are up to do that much in sales. So you're not...if you...the day you turn the key you're not going to have 15 percent. Under their regulations, they've talked about reviewing it quarterly for the first year to see if it's actually being met, if a good faith attempt is being made...or not a good faith attempt--if it actually is being met. So you are operating in a way to make that revenue. [LB355]

SENATOR WIGHTMAN: Thank you, Senator Lautenbaugh. All I am suggesting to the body is that if an organization, if an entity wanted to try to increase their cigarette sales, they could just lower the price of cigarettes and try to come within the exemption. [LB355]

PRESIDENT SHEEHY: Time, Senator. [LB355]

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SENATOR WIGHTMAN: Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Senator Janssen, you're recognized. [LB355]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I certainly find myself conflicted on this. I have a guilty pleasure of enjoying...going into establishments where there is not smoke. On the other hand, I'm very much a personal freedoms person on that. So, I guess I am guilty of a guilty pleasure on that. Would Senator Lautenbaugh yield to a question? [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes. [LB355]

SENATOR JANSSEN: Good morning, Senator. You look very spry this morning. I didn't know you had such an interest in cigar bars. This is really kind of surprising to me. [LB355]

SENATOR LAUTENBAUGH: It's more of a personal freedom issue, actually, but... [LB355]

SENATOR JANSSEN: Good. I have some various questions. I also maybe have one for Senator Karpisek, but I'll see if maybe I can't get the answer from you. A concerned citizen has also approached me and asked me about, do you think...and I want to ask you, do you think there's a loophole here that these establishments would, say, buy a cigar for a nickel and get a free meal? [LB355]

SENATOR LAUTENBAUGH: (Laugh) Once again, and this seems to happen a lot, and I don't mean to chew up your time with a long-winded response, but I'm going to. We can always posit extreme circumstances, where if no laws of economics or anything else applied and if these places really didn't have to stay in business, then, yes, they could do things like that. So, yeah, I could come up with an example where, yeah, they could give away free food. Honestly, cigar bars as defined in here probably wouldn't even be able to sell food because that would count against their revenue and they would never make the 15 percent. I mean, other states with exceptions, like Wisconsin and Colorado, have a 5 percent threshold--5 percent to be a cigar bar. We're at three times that as proposed in this bill. If you start selling so many additional items, that counts against your percentage. But more to the point, if you were giving away the food as you suggested, to get the cigar revenue up, yes, you could give away all sorts of things to increase your cigar revenue--and then you would have a bankruptcy, so. [LB355]

SENATOR JANSSEN: Okay. Thank you. So, obviously a scenario that could happen

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but not a very economically viable scenario. [LB355]

SENATOR LAUTENBAUGH: (Laugh) I'll say it could happen in the very short run. [LB355]

SENATOR JANSSEN: Okay. Thank you. And I'm going to ask you, since you're up and seem a little bit more engaged than Senator Karpisek, I'll leave him alone for awhile back there. As amended, as I'm understanding, would a town like, for my instance, Fremont, now not be able to go in, if this passes as amended, and say, you know, we don't want to have any type of cigar bars in here. [LB355]

SENATOR LAUTENBAUGH: Both...the amendment clarified that, but as written it provides an exception like the tobacco shop exception for cigar bars--a statewide specifically authorized type of facility. [LB355]

SENATOR JANSSEN: Okay, okay. And I think in my lifetime I have bought one carton of cigarettes, and that was as a gag gift for Christmas. And I see on the banners it says, Lowest Price Legally Allowed to Sell Tobacco. Is that just...do you know, is that...is there any attorney in here that knows, is there a legal lowest price you can sell tobacco? [LB355]

SENATOR LAUTENBAUGH: I believe Senator Karpisek is more engaged than you think. And he is nodding so you may want to direct that question to him. [LB355]

SENATOR JANSSEN: (Laugh) I'll hold off on that. I may pull him to the side on that. The other question I have is, tell me again the legal barriers. Tell me why you don't think everybody is going to run out and do this. I have been in cigar bars before. I've seen it. It's a very large walk-in humidor that the cost of this...but is there a smaller cost that somebody could maybe get through this? [LB355]

SENATOR LAUTENBAUGH: It's not clear to me how that would be because you do need to stock a certain level of inventory because you don't know... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...what people want to buy necessarily. There's not one thing that you can keep on hand. And they go bad so you have to keep them adequately moisturized and, you know, once again, that means you have to have a huge or a large humidified area, called a humidor, to keep all of these things in and maintain that. And again, since this would be onsite smoking, people don't go to these places to smell other people's smoke, so you have to install all the ventilation or your business fails anyway. So short answer: no. It's meant to be for places that want to make that sizable investment required. There are some other things that we're talking about even to allay

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concerns that any bar just couldn't one day declare that they're trying to make this threshold by maybe some kind of an application fee that we've drafted up. But, no, this is not designed so that anyone could just put a humidor on the end of their bar and say...a little box at the end of their bar, call it a humidor and say, okay, we're a cigar bar. [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Janssen. Senator Gay, you're recognized. [LB355]

SENATOR GAY: Thank you, Mr. President. I was watching this bill when it got introduced and referenced to the General Affairs Committee. And Senator Karpisek and I had a discussion, earlier, on another bill that had a referencing issue, and he was very up-front. And I told him at that point, you know, referencing to another committee to get around the Health Committee, probably not a good precedent to be setting. But he was straightforward with me. He said, you know, I'd like to see these things go to my committee. And I understand I just heard Senator Lautenbaugh say why this went there, because of the Liquor Control Act and they could lose their liquor license. I'll buy that. Like I say, I am a little bit concerned. And I'll say right now, if this exception, the next exception, and the next exception, and all of a sudden we have completely undone what was a very tough vote for...as Senator Janssen said, that's a very tough vote for a lot of us, that took place. And I think long-term is the best thing...I don't think, I know that is a good bill, and Nebraskans wanted that overwhelmingly, so, because of the smoke issue and then all of these other things. Looking at this bill though, I have some concerns. And Senator Wightman brought up the fact, too, and I'm going to...if Senator Lautenbaugh would yield, I'll just start on a few questions. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes, I will. [LB355]

SENATOR KARPISEK: Senator Lautenbaugh, on page 11 of the original bill, it gets around, you're saying a cigar bar, there won't be that many of these throughout the state. How many do you imagine throughout the state that could meet this requirement? [LB355]

SENATOR LAUTENBAUGH: Well, it was designed based upon what reality was before and the types of places that could meet this revenue level. There were a half-dozen. [LB355]

SENATOR GAY: A half a dozen at this current time. [LB355]

SENATOR LAUTENBAUGH: No...well, no. I want to say before...this gets a little convoluted because we have several bans to talk about. There's the Lincoln ban;

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there's the Omaha ban that surprisingly came into effect with a court ruling, striking provisions of it; and then there's our coming ban. So I tried to look back to a time before the Omaha ban, if you will, to see what level of revenue the few existing places in Omaha, two or three that operated this way, to see what would be a good threshold to this at. So we're approximating the reality that existed before the ban for these few places. [LB355]

SENATOR GAY: Okay. And I can understand where you're saying this is very limited. People go in and want to buy a cigar, smoke it, have a drink, don't want to eat dinner there, you know, whatever. And I know where you're going with that. But I see on the opponents, the keno, one of the keno operators came in. Of course, the keno operators and others were saying, well, our business solely thrives on smoking alone. If we don't have smoking, we're out of business. And I hope that was untrue. I guess we're going to find out here. But I don't think that's correct. I think the argument had been you may get more in Lincoln. Actually, many people in Lincoln testified their business picked up because we have more customers coming in. So the idea that we, I think your statement that we ran people out of business or delayed the implementation date to allow, that was to allow for adjustments, not to let people go. That was my understanding of that was to allow for adjustments to go create a smoking patio, just to prepare for this. So that's what I think that was for. So I'm a little bit...on that one I would disagree with you. On the one where you say gross revenue, I was looking at the fiscal note, and they're saying it's \$81,000 we got to hire somebody to...\$81,000 to regulate 12, 15 areas? There's 300 and some. How did we get to that fiscal note? And how would we...how was the bar, the cigar bar if this passes, how do they send in their information to the Liquor Control Commission? Can you explain that process. [LB355]

SENATOR LAUTENBAUGH: Absolutely. You did cover a lot of ground there. The places I talked about going out of business... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...were the cigar bars. Of course, keno didn't go out of business. I'll be honest, keno is the biggest sucker bet in the world and no one should ever go to those places, but people have continued to do that regardless because they're not designed for smoking, they're designed for keno. Cigar bars are the only ones, if you'd been in the committee testimony you would have heard that the one in Omaha and that I have in mind lost about two-thirds of their revenue and went from a staff of 13 to a staff of 3, and they're on life support right now, so to speak. So those are the places, these very few places I'm talking about are the ones we're killing off with this ban. Not the keno people, regardless of whether or not we want them around; not the keno people but the others. But to answer your question, the fiscal note, I believe, has been conceded to be totally off at this point because they were thinking there was going to be a much greater level of inspection needed, especially with the committee

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amendment that makes it clear the reporting goes directly to the Liquor Control Commission. It's my understanding, as of this morning they don't... [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Gay. Thank you, Senator Lautenbaugh. Senator Gloor, you're recognized. [LB355]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I appreciate Senator Lautenbaugh's comment that this is a health bill. As Senator Gay already pointed out, it might be nice then if it had ultimately been referred to the Health Committee. At that location I could have taken the opportunity to try and kick the tar out of it, the nicotine tar in this case. So that pretty much tells you where I come down on this particular legislative statute proposed. After a year of...years of trying to focus on healthy lifestyle issues, and that doesn't mean I didn't have an occasional cigar, I find myself shaking my head in somewhat amazement that, with all the time and effort and work that went into promoting a healthy lifestyle for Nebraskans, we talk about an exception. And it is the exception that just is driving me nuts here because I don't see the opportunities for the enforcement in this legislation. I don't see that it is as tight as it should be to keep me comfortable that this is really going to be what it purports to be. I understand concerns of putting businesses out of business. I just came back, as some of you know, from New York City, for a four-day weekend. And I will remind you that New York City was the first major metropolitan area that went smoke-free. That includes everything including cigar bars. And I had an opportunity to talk to the owner of a bar. I mean, you understand when you go to New York City two to three blocks away you can find the restaurants and bars because of the number of people standing on the front stoops smoking cigars as well as cigarettes. And so I talked to a bar owner, knowing that this is coming up, about how they've been able to cope with this over the years. And he said, hey, you know, it initially was a hassle, but we've acclimated to it, and the good places have stayed open and the bad places have closed. You either run a good business or not. Now someone would say, but a cigar bar is a specific type of business and quizzed him on that. What most places have done is find an area that is considered outside, and equipped it such that people can go out there and enjoy their cigarettes or their pipe or their cigar, whatever the case may be. And some of them have umbrellas and some of them are covered and some of them have little heating units to keep people warm. People go to those establishments because they enjoy the camaraderie and seem to be surviving. So there are ways businesses can make accommodations they have in other places. I wonder if Senator Lautenbaugh would be willing to yield to a question. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes. [LB355]

SENATOR GLOOR: Senator Lautenbaugh, I know you've answered this question

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before but I'm...it's still somewhat of a bother to me that the control of this goes to the Liquor Control Commission. Is that correct? [LB355]

SENATOR LAUTENBAUGH: Yes. [LB355]

SENATOR GLOOR: And to what extent do we have a comfort level that 15 percent sales is something that can be adequately monitored and people held accountable for it. [LB355]

SENATOR LAUTENBAUGH: I have a much higher confidence in that than the enforcement of the existing statewide ban because of our experience in Omaha and the advice given to people that they, if they suspect smoking going on, they should call 911 and expect the police to come out. I would submit that that is not enforcement. That will be the ultimate selective enforcement, and that the police are probably not going to prioritize the smoking calls over, let's say, the other calls they get. The Liquor Control Commission, I believe, won't be coming in daily, certainly, to check it out, but they will have a much greater hammer, much quicker, than the police writing tickets under... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...the Clean Indoor Air Act would, and that is if you try to deceive them on your revenue levels. And once again, understand the other reason for picking them is that they are auditors. Liquor has reporting requirements and taxes involved. Tobacco has taxes involved, reporting requirements involved. If you start faking those, you are done; you are just plain done. That is what gives me the confidence that the enforcement under the Liquor Control Act by the Liquor Control Commission of these revenue thresholds would be much more effective, stern; and justice would be more swift in the case of people trying to get around it or game the system than would otherwise exist. [LB355]

SENATOR GLOOR: The...another question, Senator. The \$81,000 fiscal note, what...and understanding that you disagree with that level of... [LB355]

PRESIDENT SHEEHY: Time, Senator. [LB355]

SENATOR GLOOR: Thank you. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Members requesting to speak on the General Affairs Committee amendment, AM445, to LB355, we have Senator Avery, followed by Senator Price, Senator Stuthman, Senator Karpisek, Senator Carlson, and others. Senator Avery, you're recognized. [LB355]

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SENATOR AVERY: Thank you, Mr. President and colleagues. This is a bad bill . And I am going to vote against the amendment, I'm going to vote against the main bill, and I'll support every other effort to kill it, and let me tell you why. When I came to this Legislature in '07, we worked hard on a statewide smoking ban. It took us two years to get it done. And we had to fight arguments that this would be bad for business. We had to fight arguments that this was a violation of individual rights, that smokers had the right to make nonsmokers unwilling smokers. It was a hard fight. And eventually we got it done. And let me tell you that when you talk about smoking in public places, whether it be cigarettes or cigars, you really are not talking about personal freedom, you're not talking about economic development. You're talking about public health, that's what it is. We know, from the scientific evidence, that secondhand smoke is bad for one's health. The Surgeon General has concluded that short exposures to secondhand smoke can cause blood platelets to become stickier and that can cause heart attacks. It can damage the lining of the blood vessels, decrease coronary flow velocity reserves, and reduce heart rate variability, all of which are risks of heart attacks. Secondhand smoke also has been classified by the Environmental Protection Agency as a known cause of cancer in humans. It's a Class A carcinogen. Class A carcinogens are pernicious. Secondhand smoke exposure also causes disease and premature death in children and adults who do not smoke. It also contains hundreds of chemicals known to be toxic or carcinogenic, including formaldehyde--that's what they use to embalm bodies; benzene; vinyl chloride; arsenic ammonia; and hydrogen cyanide. These are the chemicals in secondhand smoke. It causes almost 50,000 deaths in adult nonsmokers in the United States each year, including approximately 3,400 from lung cancer and nearly 70,000 from heart disease. We know from scientific evidence that nonsmokers exposed to secondhand smoke at work are at increased risk for adverse health effects. Levels of secondhand smoke in restaurants and bars have been found to be two to five times higher than in residences with smokers, and two to six times higher than in offices and workplaces with smokers. Now we're talking about cigars, and some people would say, well, cigar smoking is not quite the same as smoking cigarettes. Well, cigarettes and cigars have the same chemical carcinogens. In fact, there is evidence of increased use of cigars because of increased publicity by celebrities and a glamorization of the deadly product. Cigars contain the same additives, the same toxins, and the same carcinogen components found in cigarettes. They're not a safe alternative. [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR AVERY: In fact, a single large cigar can contain as much tobacco as an entire pack of cigarettes. Now think about that. One cigar can contain as much tobacco as an entire pack of cigarettes. And we're talking about making that legal in bars. This is a backdoor way of eroding a very hard-won battle over the past two years. I think it is not something we should do and I intend to do everything I can to stop it. If I can't stop it on General File, I'm prepared to come back on Select File with a number of amendments. Thank you, Mr. President. [LB355]

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PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Stuthman, you're recognized. [LB355]

SENATOR STUTHMAN: Thank you, Mr. Lieutenant Governor, members of the body. I have some real problems with this bill, and I think there needs to be a lot of clarification as to what the real intent of this bill is. Perception is, it's a cigar bar. In my opinion, that's immaterial. It doesn't state...identify it as only a cigar. And the fact that in the opening comments, you know, and in a lot of the literature that I've been reading, you know, that some of these bars that have cigar bars and I respect those that have the cigar places where they have these humidors, you know, to keep the moisture right on some of these cigars. That to me really shouldn't enter into the conversation. What we're really discussing is a bar holding a Class C liquor license that sells alcohol and annually receives 15 percent or more of their gross revenue from cigars, cigarettes or other tobacco products and tobacco-related products. So you really could have an establishment that has people that don't even smoke cigars; it could be where they smoke cigarettes. And the issue is the fact that, you know, their annual receipts or their revenue of their gross revenue has got to come from those products. I don't know if that's identified in the Liquor Control Commission as to that has to be identified in the annual report. I feel that, you know, the taxes are paid on the cigarettes. And that's going to be changing. It's going to be the chewing tobacco products, that one is going to be changing. The taxes on the cigarettes will stay the same, but the chewing tobacco products will be changing because we had that bill this year that changed it from the ad valorem from the price at the wholesale level, a tax on that, to the tax on the weight. But cigars were not in that part of it, so cigars are still taxed on the wholesale value of the cigar. That is when the tax is collected. I don't know if there is a method where the Liquor Commission has a record of the annual sales, the gross annual revenue that a bar has. Do they send that in? Is it defined as tobacco products and alcohol products? I'm not sure of that. I think we're in the situation where this will allow...and it doesn't state in here, you know, when you have to report the annual sales. Is this annual sales from last year? Is it what to do right now as far as your revenue to the Liquor Commission? Or is this going to open up something that allows every bar to just change their name, instead of Betty's Bar, to Betty's Cigar Bar, and give them a chance within the year to file their annual report and state that, you know, whether they have sold 15 percent of their revenue is from tobacco products? [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR STUTHMAN: I think we're really trying to come up with a...I think the situation right now is the fact that perception is, is we want to allow, you know, these identified cigar bars to remain open. But the way this bill is drafted, it doesn't just identify cigar bars. I've got a list of places, you know, that sell cigars and bars, you know. There's one...there's just many of them that have the cigars with them. And is this going

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to be also available for them to apply for this? The issue that this is hopefully to try to take in effect, you know, before we put the smoking ban in effect on June 1, and the fact that, you know, when during the year do they file their annual report... [LB355]

PRESIDENT SHEEHY: Time, Senator. [LB355]

SENATOR STUTHMAN: Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. (Doctor of the day introduced.) Resuming floor discussion on AM445 to LB355, we have Senator Karpisek, followed by Senator Carlson, Senator Lautenbaugh, Senator Coash, Senator Wightman, and others. Senator Karpisek, you are recognized. [LB355]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I think everybody has been wondering, when are the wheels going to fall off this bus this year? I think it just happened. I've been upset in this body for the last two years, a couple of times, but not as much as I am right now. The only reason that the smoking ban ever got in is because the way it went around--an amendment being pulled after there was a deal made--and you all know it. Talk about that this went to the wrong committee, fine. This is not about health. You can try to spin it any way you want. This is about business. You don't like to go into a bar and smell smoke, just admit it and quit trying to say that it's about health. A hard-fought battle, I heard. Hard-fought? It was the chicken's way around it by making a deal and pulling it at the last minute. I know this one is going to come back to bite me, but you want to talk about amendments now? There's a lot of bills I don't like, and I've behaved very well so far this year. Senator Friend has gone off more than one time and I've watched it. And now I'm ready. I was up-front about this, and I wanted it to my committee because I still think it was wrong how it happened. And it was wrong and you know it was wrong. This is not anything more than someone that owns a business and you're telling them what they can do or can't do with a legal product. I know that you don't like to go in where there is smoking. I understand that. But what about the people that own the place? You don't like it? Buy a place and you don't have to have smoking in it. That's your choice. I'm off of the whole kick to throw out the smoking ban, even though it is ridiculous; it's ridiculous how it happened. But as I said last year, I learned a little bit of something in that bill, and if that's the way we want to play, we will. I came at this straightforward. I told Senator Gay why I was trying to get it to my committee, and he acknowledged that and I appreciate that. We talked about the opponents: the keno and the restaurants. This was the first time that the restaurants have ever been for the smoking ban because they're losing business. We hear that these businesses have picked up since the smoking ban. Really? Where are they? Why didn't everybody do this sooner? Why weren't there smoking...nonsmoking bars all over? Gosh, if they're going to make more money...again, folks, this comes down to my personal belief that my business is no different than my house. I own it; I pay taxes on it; I invite people into it. You don't like it, don't come in. You don't want to work there, then

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don't. Let's be honest and up-front about this. Let's not try to go around things. Again, I've heard a lot of threats in the first, I don't know how many people. We can all threaten and we can all play this game. I think Senator Lautenbaugh has a lot of guts to stand up and try to run this bill, and I appreciate it. Let's just let some people run a business... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR KARPISEK: ...that they own...thank you, Mr. President...that they own, they pay taxes on. If you don't want to go into the place then stay the heck out. This is not...hey, I would love this to be a slippery slope and we blow the whole smoking ban up. This is not it. Again, I apologize. I am upset. But the next time a bill comes up that maybe I don't like too well, and I'm not going to sit down and keep my mouth shut. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Carlson, you're recognized. [LB355]

SENATOR CARLSON: Mr. President, members of the Legislature, before I address some questions to Senator Lautenbaugh, I want to respond to Senator Karpisek a bit. And, Senator Karpisek, you're upset about what happened previously on the smoke-free Nebraska. I don't think all of us understand exactly what you're referring to in terms of the proceedings that went on and they weren't the right way to go about things. I fully understand your statement and your stand about freedom to run your business as you want to run it. That's a good argument. I didn't get my way on the smoke-free bill. I wanted to have 93 mandatory county elections to opt in or out. Everybody would have had an opportunity to vote. Now, in my heart, I like smoke-free Nebraska. But I was willing to take the chance if we gave every county an opportunity to vote and make it a mandatory election, results would have been the same. But that would have been the people that spoke. I didn't get my way. And most of the time we don't get our way on most bills in some fashion or another. So you have your freedom of expression and I have my freedom of expression. We're still good friends when it's all over. But I wanted to state that before I went on with further discussion on this bill. I am not in support of LB355 and I'm not in support of the amendment. So as I address some questions to Senator Lautenbaugh, I don't want it to appear to him that if he answers the way I want him to answer that it's going to make a difference in my vote. But I think it's important to ask some of these things. I would like to address Senator Lautenbaugh. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes, I will. [LB355]

SENATOR CARLSON: And I admire your courage in bringing forth a bill like this and

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taking the stand that you have on it. In the bill, on page 3, lines 3 through...or excuse me, page 6, lines 3 through 5, it defines retailer, and that's simply somebody that sells. And in this case, selling what? Here on..."Retailer means a person who sells or offers for sale alcoholic liquor...for consumption..." And that's a pretty loose definition really, I think, as far as retailer is concerned. And I don't know all these terminologies. But then we go to page 11, and that specifically defines cigar bar. That's new language. And in there it's a Class C liquor license. What is a Class C liquor license? I don't know. It's not specific to a cigar bar, is it? [LB355]

SENATOR LAUTENBAUGH: No, Senator, to answer your question...and I thank you for your question, and you've always been honorable and up-front with me. And I knew you did not support this bill, and you also didn't make any promises last year about the bill and then changed directions. I appreciate that. Retailer: that definition is in the existing Liquor Control Act. [LB355]

SENATOR CARLSON: Um-hum. [LB355]

SENATOR LAUTENBAUGH: What this bill does is add to the Class C liquor license, which if memory serves,... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...is on- and off-sale liquor, the ability to qualify sort of a special subset, sort of akin to a caterer's license but in this case a cigar bar license. [LB355]

SENATOR CARLSON: Okay. Now, so without proper terminology we got a cigar bar on one side of the street and we got just a regular bar on the other. I don't know what else to call it. They both have a Class C liquor license, is that true? [LB355]

SENATOR LAUTENBAUGH: That's possible, yes. [LB355]

SENATOR CARLSON: Well, is it possible? What other kind of liquor license is there for a bar? [LB355]

SENATOR LAUTENBAUGH: I believe there are limited ones for on-sale only, for off-sale only. There are a variety of liquor licenses. I profess I don't have a complete expertise and command of the Liquor Control Act. [LB355]

SENATOR CARLSON: Okay. I'm guessing or assuming that what you and I may refer to as just the bar downtown probably has a Class C liquor license just as the cigar bar would. And I think that's a little bit of a problem because what would cause a bar that has a Class C license...what would prevent them from immediately calling themselves...

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[LB355]

PRESIDENT SHEEHY: Time, Senator. [LB355]

SENATOR CARLSON: Thank you. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Lautenbaugh, you're recognized. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And to answer Senator Carlson's question, because I think you know where he was going, you need to apply for this special variant of the Class C license. The Liquor Control Commission would come out, under regulations they promulgate, to check and see if you are, in fact, gearing up to comply with inventory, walk-in humidor, the appropriate equipment, that kind of thing. It's not something you can wake up one morning, by declaration, and say we're a cigar bar. The Liquor Control Commission would have to approve that. And I hope that answers your question. And I apologize if this seems disjointed, but I've been responding to taking down notes to respond to comments as they are made. Please keep in mind, New York City has cigar bars where you can smoke indoors. They exist. So yes, they are getting by, by going indoors and smoking cigars. South Dakota just passed a statewide smoking ban with an exception for cigar bars. We've talked about the other states that have the 5 percent revenue threshold, just a third of what we have. Cigars are inherently different in this way: When you smoke a cigar, a lot of times that's a 45-minute commitment. You don't go stand outside a building in January and smoke a cigar in Nebraska. You don't...well, you can; it's not enjoyable, generally. That's the point of this. Cigar bars have existed for a particular purpose, where people can sit down and smoke a cigar, year-round, indoors. During the debate on the smoking ban last year, we had people say, well, we can't have an exception for bars in general or restaurants because what about that one small town where there is one employer in the whole town and that employer is a restaurant. And if you allow smoking there, anyone who lives in that town can only work in a place where there's smoking. I will tell you, there is no way that place is going to exist under this exception because this will be akin to what reality was before we started monkeying with the market as we did. There were no small towns that had cigar bars that stood alone and got 15 percent of their revenue. If you're a restaurant selling food, and once again, food sales may very well be stricken from this because that causes some people heartburn, but if you are selling food, that adds to your total revenue, making it impossible to meet the 15 percent threshold. It's very hard to make 15 percent. That's why I think it was Illinois and another state chose 5 percent, because it's very hard to get to 15 percent. And the more things you sell that aren't tobacco, the harder it is to get to 15 percent. So we're talking about food; that would count against your total. We're talking about alcohol; that would count against your total. We're talking about soft drinks, anything else that isn't tobacco or tobacco-related. That makes your percentages go down of your tobacco revenue as a

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percent of the whole. So it is...once again, we can sit here and posit these places that cannot exist in the free market for long, and say, well, what if someone wanted to give away all their food so they got no revenue from it? Give away all their tobacco but charge \$100 for cigars? Well, those places don't exist in reality and wouldn't survive in the market for a variety of obvious reasons. Warren Buffett could probably buy...oh, I don't know...say, Platte County, and run the place as a cigar bar and give everything away, and he could do that for several years. But he's not going to. That's not going to happen. That's not reality. Everyone else who's in this business is subject to the market, subject to supply and demand, subject to what their competitors do. And we are dealing with the fear right now that there are going to be places that are somehow going to invest the tens of thousands of dollars to appear to be a cigar bar, as they existed before,... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...deceive the Liquor Control Commission, and put their licenses at risk by coming up with all these schemes and whatnot to gain the system, all for the sake of having smoking for the three months until the Liquor Control Commission catches onto them. Those places either aren't going to exist or aren't going to last. I mean, there's no way that's possible a person could do that. The people at the Liquor Control Commission didn't just fall off the turnip truck. They know how this works. And no, it is not my opinion the legal or the fiscal note is invalid. The gentleman from the Liquor Control Commission who testified at the hearing said that's not accurate. People who do the fiscal notes just came and told me, hey, with the amendment, the fiscal note goes to zero, in reality, because what we're talking about is some new forms being processed by existing auditors. So we're down to zero on the fiscal note. We heard some discussions earlier about businesses find a way to survive. Well, the people who said that this morning weren't in the committee hearing. [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. Senator Coash, you're recognized. [LB355]

SENATOR COASH: Thank you, Mr. President, members of the body. I feel the need to address two things. We've all been getting e-mails on this and I want to address two of them. One of the e-mails that we've all been getting says--and we've talked about this already; I think Senator Janssen was the first one to bring it up--we're getting e-mails that say there's going to be a loophole, and any place that wants to have smoking in their bar is going to sell a \$50 steak...or a \$50 cigar and a free steak, and then we're going to have cigar bars all over the cities and towns because of that. That's not true, and the people who are sending that e-mail are disingenuous. It's a lie. They know it, but they are trying to get us to believe that, and that is dangerous. So if you're not going to support the bill, that's fine. But if you're not going to support the bill because you believe that it's a loophole, that's not right and you're getting played. The second e-mail

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that we've seen going around refers to the Lincoln ordinance. Lincoln did vote a citywide smoking ban before the state voted or passed a statewide. Lincoln voted that because people in Lincoln didn't want to have restaurants, places where they go to eat, bring their children in a smoky place. That makes sense. This bill does not do that. You're not going to get restaurants--places with food--and cigars, together. Children are not going to be going into these places. With that, I'm going to yield the rest of my time to Senator Lautenbaugh. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Lautenbaugh, you're yielded three minutes. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Coash. As I was saying before, the people who say, don't worry, businesses will adapt and survive, have the luxury of not being in the business. They weren't at the committee hearing. They didn't hear how one business is adapting and surviving: They're making do without two-thirds of their revenue and three-quarters of their staff. That's not adapting and surviving. That's dying. They are dying. And again, let me underline this point and why this is not a broader-based exception, as some would suggest. The keno parlors aren't dying. Say what you will about whether or not that's good, but they're not. They're not dedicated to smoking. They don't exist for smoking. They didn't invest tens of thousands of their own money under the laws that prevailed at the time to up places where adults could go and smoke, and not smell each other's smoke because they're adequately ventilated, where adults can go and relax. Until we started forcing people out of those places to make them smoke around their children at home, those places had nothing to do with children until we interfered. Now we're exposing more kids to smoke than ever, I would argue, because we've narrowed the opportunities available. And I'm standing here today asking for this one little sliver of freedom to come back for adults. So I don't smoke cigarettes. But cigarette smokers aren't animals; we don't need to pen them up outside. Cigar smokers aren't either. I'm asking for the tolerance for about a half-dozen places for adults to go. And I promise you if this becomes the exception that undoes the smoking ban, which I loath, but if this becomes the exception that undoes the smoking ban, I'll work to repeal it myself, because I gave my word that's not what this is. And that's not what this is and that's not what this will ever be. [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: And it just...I get as angry as Senator Karpisek when I stand up here and say that when I hear people say, well, the businesses will adapt, the businesses will adapt. No, they won't. The ones that are in this business for this business will fail, and they're on their way. Not thanks to us yet. Thanks to the city of Omaha. Lincoln is helping too, I'm sure. But we'll get to it. We'll be doing our part to force them out of business in relatively short order. And it's not up to them to adapt to the things we do on a whim. There is no principled reason to not allow cigar smoking in

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cigar bars for adults. We aren't forcing anyone to work there. There is no place where the cigar bar will be the only game in town. These are free, consenting adults exposing themselves to a legal product in a very few limited venues. And we sit here and we wring our hands and we say, well, they'll be smoking cigarettes too. [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. (Visitors introduced.) Resuming floor discussion on General Affairs Committee amendment AM445 to LB355, we have Senator Wightman, followed by Senator Janssen, Senator Gay, Senator Fulton, Senator Gloor, Senator Utter, and others. Senator Wightman, you're recognized. [LB355]

SENATOR WIGHTMAN: Thank you, Mr. President. I'm trying to determine exactly what kind of a bill we have here. Senator Lautenbaugh started out by saying this was a health bill as I understood it. Now we hear from Senator Karpisek that it's a business bill. We know from the very name of the bill that it's a cigar bill, but that it requires no cigars be smoked there or no cigars sold there. So apparently it has little to do with cigars, but that's the name of the bill or at least the name of the type of establishment that we're being asked to carve out an exemption for. I think Senator Karpisek's comments clearly reflect that this is not to carve out a narrow exception; that it's a business matter and that this narrow exception will start us on a slide and a beginning to overturn the entire smoking ban. Certainly it will for bars. I can foresee that, if this bill is passed, that the cheapest cigarettes in town are going to be at the bars; that we're going to try to sell them in wholesale to get our--they'll be retail, but in wholesale numbers--to get the numbers up so that we qualify under the 15 percent threshold. So I think that calling it a cigar bar, as I suggested earlier, is a misnomer. I think that there's no question that we are attempting to get bars...not a narrow exemption, at all, but a great number of establishments that could qualify, and they probably will handle a lot of the tobacco sales in the community. So I still stand opposed very much to this bill, and I hope that we have the people who voted last year in favor of this bill, and I think it was a great thing for the state of Nebraska to become smoke-free. I think we're going to be taking a big step backwards if we pass on LB355 to Select File. So I'm interested in listening to the debate but hope that there will be a number of people on the floor that will join with me in opposition to LB355. Thank you. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Wightman. (Visitors introduced.) Senator Janssen, you're recognized. [LB355]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. First off, I'd like to start by making an apology to Senator Karpisek. Earlier, I said he didn't seem to be engaged. He, however, appears to be very engaged this morning, so my apologies to you. I've been listening to the debate, very interesting debate on this, and a good debate. I have some questions that I'll ask and I will most likely then yield the balance of my time to Senator Lautenbaugh to answer those questions, and then answer any other

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questions or comments that have come out on the floor. The one thing that I'll ask is...and Senator Wightman brought up the first time he spoke. He said this could be called a cigarette bar bill because we could sell cigarettes there. So my question would be, if you think more people would be supportive of this, and maybe it's...if it didn't have the cigarettes in there. And one of the things I was thinking about as I was sitting here taking down notes, is possibly, if we amended it and lowered the percentage that had to be sold and get rid of cigarettes altogether, and that would be something that would be a little bit more amenable especially to me. The healthcare thing that Senator Lautenbaugh brought up in his opening, I found that very interesting because he said this is a health bill. And usually, when we hear about health, well, you think anything to do with smoking certainly has nothing to do with health. But he did come up with an interesting angle that says people are smoking now more in their cars. We have a bill before us in Transportation saying that people shouldn't be smoking in their cars when their children are present. Well, we are somewhat forcing them into those situations because there are fewer and fewer places where people are allowed to enjoy this legal--I don't think it's enjoyable--but this legal product. So I thought that was interesting and maybe he could expand on that a little bit more. It's very odd to hear a cigar bar as a health issue, that's for certain. And the other question I would have is, and I think it may have been answered: What if they do fall below the 15 percent? Do they run out of...are they thrown out of business? Do they throw away the key? And maybe I missed that earlier. So I am going to yield the balance of my time to Senator Lautenbaugh to answer those questions and any others. And I'm not going to yield any time to Senator Karpisek because he might yell again and I'd have to get out of the way. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, 2 minutes 40 seconds. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Janssen. And let me say for clarity's sake, for all who might be listening or visiting the Chamber: Do not smoke. Smoking is bad for you; you shouldn't smoke. But people do. We do lots of things that are bad for us. That's one you should avoid. Never start. That said, I do believe what I said. There are people who are addicted to cigarette smoking. We wish they would quit. They probably should quit. They aren't going to quit. So when we tell them, you can't smoke indoors anywhere but your home, which is essentially what we're saying, I would suggest they're more likely to smoke in their homes. And I don't really even know that that's debatable. If you limit the places, they're going to smoke in the few remaining places: homes and cars. That is what we've caused. I would argue, any time we attempt to monkey with the market, monkey with the free enterprise system, we have the law of unintended consequences. And I think it's coming back with a vengeance in this area. We are forcing people to do something unhealthy around their families when, at least before, they could do it around other people doing similar activities. And let's go back to that, as I was saying before, about the smoking in cigar bars and the theory: Oh my gosh, what if they smoke cigarettes too? Well, we're in the position of protecting firsthand smokers from secondhand smoke if we worry about that.

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But there is a difference here again. Cigar bars are generally very well ventilated because that's what people who smoke cigars prefer. They want to smoke their own cigar and not smell everybody else's cigar and cigarette. [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: So that's why the ventilation is there. I won't be able to finish this thought, but I'll start it. We heard a lot of talk about how unhealthy this is. I have actually spoken to a doctor under oath about this. And I said, is cigar smoking better than cigarette smoking? And the answer was an unequivocal, yes, because you don't generally inhale. And his comment was, you could smoke a cigar or two a week your whole life and never have an adverse health consequence from it. Not, probably not; but never have an adverse health consequence from it. So I would hope that we can at least stop talking about the harm to the smoker of cigars in this circumstance with this narrow exception. Senator Janssen mentioned the possibility of excluding cigarettes from the revenue. [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. Senator Gay, you're recognized. [LB355]

SENATOR GAY: Thank you, Mr. President. I'll let Senator Lautenbaugh, in a minute, finish his statement actually on the cigarette portion of this because I'm going to have a question for him on that. We had...we are discussing, generally, smoking. And there's two ways, sometimes when you get a bill here, and this is preaching to the choir probably, but I'm going to. There are several bills that, when they advance on you, either make them better or you kill them. My view of this is make it better. We'll see what everyone else wants to do. And then you vote however your feelings are after the debate, and that's good. We've all had some things happen to us that we don't approve of and we live with and you move on. And I'm not going to get into specifics, but I think some of you know what I'm talking about on bills you don't like, and that happens. One thing on this, though, I do think if...narrow this down. I'm going to discuss this bill. I'm not going to get into the whole smoking debate. But there is a certain thing, where if...when we look at that I just want to make for the record, that was a tough vote, that was a tough vote earlier for me. I voted for the smoking ban. Wasn't a huge participant because I can understand what some of you are saying about the individual rights and some of those things. The thing with that, for me, when Senator Lautenbaugh, you just had mentioned about people, the only place they can smoke is in their homes. When I was going around, people had ashtrays out on their patio. They're having their own spouse go outside and smoke on their front...so to me that said, well, if they're doing that in their own home, then at least recognize this for the rest of the smokers. So that's enough I'm going to say on the whole smoking ban, I guess. And I know we'll keep going on that. But on this bill, in particular, Senator Lautenbaugh, you were going to the part on this about the cigarettes. And I had a question. If this weren't...if this were more

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narrowly defined, why are cigarettes on page 11 in there? It says, cigars, cigarettes and other tobacco products, which could be chew, whatever the case. Why the cigarettes in there? I understand they're going to a bar to smoke cigars and that's what this bill is about, but why did...why were cigarettes put in there, and was there any discussion during your hearing about that? [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR GAY: Thank you. [LB355]

SENATOR LAUTENBAUGH: Yes, I will, Mr. President. And yes, there was. I believe that was just the generic definition of tobacco products, tobacco and tobacco-related products, that I don't recall if we took that from...I don't remember where we took that definition from, but it was a comprehensive definition of tobacco products, and cigarettes would normally be included in that. [LB355]

SENATOR GAY: But then is a cigar different than a cigarette, in your mind, or when you crafted the bill? Is a cigar different than a cigarette? [LB355]

SENATOR LAUTENBAUGH: Dramatically. [LB355]

SENATOR GAY: Okay. That's one thing I wanted to get to, because the point is, I can understand the tobacco-related products would be cutters, you know, lighters, probably...I assume that's what that is, isn't it, on other tobacco-related products, would be cutters, things like that? [LB355]

SENATOR LAUTENBAUGH: Yeah. [LB355]

SENATOR GAY: Okay. But so when I look at this bill, and Senator Wightman has been alluding to this too, it could be a broader definition of where we're going. If this is truly about a cigar bar and I understand what you're saying, you covered the question I had earlier through the debate. I'm going to continue to listen about how this is enforced. If it's 15 people, they send the revenues in, and you said 15 percent is much higher than other states. Fifteen percent of gross sales of...and Senator Coash referred to the \$50 steak or cigar and we'll throw in the steaks and drinks, whatever, specials. They'll run a special on this thing and get around it. But go further into how they go about...how the Liquor Control Commission enforces this act. [LB355]

SENATOR LAUTENBAUGH: Well, I would assume they would take... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President. They would take the lead from

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other states who have similar, albeit lower percentage thresholds. The sale of tobacco is highly regulated and well monitored and exceptionally well taxed, it seems, so there is actually an already existing record of what you sell in tobacco and what you sell in alcohol. And my point was that there are some who have suggested this be amended to exclude places that serve food. And I can't think of a single example of a cigar bar that serves food, so if that's a helpful amendment to people, I'm certainly open to it because it would reflect reality also. But the point, the additional point was, if you get into selling food, T-shirts, other, you know, baseball hats, souvenirs from the place, all of that drives down your percentage of tobacco sales. So you have to be narrowly focused in the area or you don't make your percentage. I suppose another competing concept or similar concept would be... [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Gay. Thank you, Senator Lautenbaugh. Senator Fulton, you're recognized. [LB355]

SENATOR FULTON: Thank you, Mr. President. It's electric in here. (Laughter) I heard some things that caused me to put my light on and want to talk. I'll be clear about my position in the past, my position now. Last year, the bill was LB395 and I voted for that. I was in favor of it. The main reason I was in favor of it is from a matter of consistency. We had a patchwork of ordinances, and I didn't think it served the public good or the public interest to have a statute which could so easily be usurped. And that was an issue, I think, that rose to that level. So I actually was in favor of LB395. With regard to LB355 before us today, I will be in favor of the amendment and I'm also in favor of the underlying bill. Here's why. We, last year, provided for some exemptions. Section 71-5730 is the section which specifically lists the exemptions to the Nebraska Clean Indoor Act. We had three specific exemptions. I see this bill as adding another exemption, an exemption which was contemplated last year but I don't think got its day in court. For those who weren't here last year, this was a pretty contentious issue. Senator Karpisek brings back pretty good memories because, frankly, I like debate. When there's contention, that means there are two sides. And those who are paying attention to the arguments ought to be able to discern that which is true to move forward. So it was interesting debate, but I don't think that that exemption, this cigar bar exemption, got its full day in court. Now the reason that I popped my light on and I wanted to get involved is because I recognize some illogic. And if you know me, that's the type of thing that makes me ill. In fact, I was mentioning that to my colleague here, Senator Coash. The particular illogic which I saw exhibited is known as a straw man. And I know that we throw these terms around flippantly, but I studied logic and I learned more about the philosophy of logic by studying the fallacies of logic than I did in logic as a course. I heard the argument that smoking is bad, therefore we should be against LB355. That's not entirely what we're talking about in LB355. That's a straw man. If indeed smoking was bad, then we wouldn't have any exemptions at all to LB395 from last year. Now to be clear, smoking is bad, but if that's the primary argument against this bill then we would not have accepted any exemptions last year. So if indeed the

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argument is, smoking is bad, therefore; then that which should follow "therefore," should be "we outlaw smoking." If indeed that is the argument that is being...that should be the principle by which we make our decision on this bill. Clearly, that's not the case that's before us. We are talking about an exemption, therefore the argument that smoking is bad, therefore vote against LB355--it's a straw man. We're taking a true statement, which in principle people agree with, and misapplying it to the merits of this bill. So I said that I supported LB395 last year, and I gave you the reasons why I supported it last year. There are those who supported LB395 last year who would have liked to have seen it gone further and not have any exemptions... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR FULTON: ...and I understand that. But the fact of the matter is, there are exemptions to what we did last year. If there are exemptions, they were placed there reasonably, i.e., there is the intention and the object of whomever was putting forward those exemptions were, oh, digestible enough to people to cause them to vote for a bill that had exemptions. I submit to you that this is a reasonable exemption. We have a threshold which defines the cigar bars. Those who are going to the cigar bars, I think it's reasonable to assume that they're going there because of their predilection for smoking. Not one which I have; I don't smoke. But this is about exemption. So if the argument is leveled, smoking is bad therefore vote against this, recognize that is a straw man. It is illogical. Let's stick to what the merit of this particular bill is and argue that as opposed to something else. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Gloor, you are recognized. [LB355]

SENATOR GLOOR: Thank you, Mr. President, members of this body. My apologies to Senator Lautenbaugh if I was misinformed as it relates to cigar bars in New York City. There are a lot of things about New York City you can't believe and I should have been wise enough to know that. And I do appreciate the passion that Senator Karpisek brings to this discussion. I would say, though, that one of the comments that was made is that the bill as it currently...the statute as it currently exists was not what this body thought that it was passing last year. And some of those people, some of those senators aren't here anymore. I am. I was a member of the electorate last year, and it's exactly what I thought the Legislature was doing. And now that I'm here, I feel a need, obviously, to stand up and be as passionate as I can be that I don't think this is appropriate. I think it's backsliding. And the issue of private property, which I have heard in a number of arguments over the years, and some illogically, I would have to point out to Senator Karpisek, you can't have it both ways. That you can't say that we are stepping on individual rights on the one hand but speak in favor of, present an amendment that says my city with my duly elected city officials, some of whom are friends, live down the street, that that city at that level has to be superseded by a statute at the state level, and

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that the state statute trumps my individual rights of elected individuals at a city level. You can't have it both ways. You can't argue on behalf of the personal rights of that business and that individual, and then come in and ask the state to step in and step on the rights of that individual city of mine that has an ordinance out there. Yank that component, and I can sit down and talk about this and compromise in some ways. With that in there, this is problematic for me. It's arguing both sides of the same issue. We do, when it comes to private property and it involves health issues, have statutes all the time that regulate it. We had one in our Health and Human Services Committee that was going to tighten swimming pools, in places like motels, because of our concern about public health hazard. That's private property. Those motels are owned by individuals and yet they run to government if somebody's child has chlorine burns as a result of it not being regulated appropriately. Kitchens in bed-and-breakfasts are regulated because people get salmonella from somebody's private home that has a bed-and-breakfast and a kitchen attached. And they run to government and say, protect us from these people who won't do a good job cleaning up their kitchens. Public health issue. We have ordinances that relate to burning leaves and trash in somebody's private property, their backyard, because that smoke drifts over to somebody's yard or somebody's house who has COPD or a child has asthma. All the time we make these decisions on private property. All the time we are asked by aggrieved parties to make these decisions to protect the public from those who misuse or make bad decisions as it relates to private property. This, to me, falls into that same category. I do not feel comfortable with this statute. I just don't feel comfortable. And somebody can sit down and talk and reason to me and perhaps walk me through it, but as it currently stands this is a public health hazard and we should not backslide on the decisions that were made last year. Thank you. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Additional members requesting to speak on the General Affairs Committee amendment AM445 to LB355, we have Senator Utter, followed by Senator Stuthman, Senator Price, Senator Council, Senator Avery. Senator Utter, you're recognized. [LB355]

SENATOR UTTER: Thank you, Mr. President. And good morning, ladies and gentlemen of this body. I rise this morning in opposition to LB355 and the accompanying amendment. I stand before you this morning and have to admit to you that I'm a reformed world-class smoker. I began my smoking career when I was too young to smoke, and I borrowed some of my dad's Prince Albert pipe tobacco or some of his Bull Durham cigarette tobacco and went out behind the barn and rolled my own cigarettes. That's when my smoking career began. And I smoked with gusto probably for 45 years, and I loved it. And at one time I told my wife, if I ever get diagnosed with a terminal disease, could I have just one last cigarette on the way to the...(laughter)...to wherever she was going to take me. But now I have to admit, after an experience that I had in the late 1990s...1999, I think was the exact year...and was having some health difficulties. And those health difficulties led me to a urologist, and he took a look inside of me and

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said, uh-oh, smoking got you. Well, they discovered that I'd had a pretty aggressive form of bladder cancer. Ultimately, ended up in M.D. Anderson Cancer Center in Houston, Texas. And so by the grace of God and the skillful hands of a great surgeon, I'm here today. And so I think this is a health issue. I think it's caused by firsthand smoke, which I created; secondhand smoke, some of my own which I subsequently inhaled. And I urge the body today, as I make these personal revelations, to not shoot any holes in last year's smoking ban, because I think it was good legislation. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Stuthman, you're recognized. [LB355]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask Senator Lautenbaugh a couple questions. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes, I will. [LB355]

SENATOR STUTHMAN: Senator Lautenbaugh, in the green copy of the bill and with the amendment, it states that a bar with a Class C liquor license annually receives 15 percent or more of its sales, and that has to be reported. Explain to me the situation. You know, we're coming up to that June 1, when smoking is going to be banned. Is this the report that has been given last year? Explain to me when this report would have been addressed by the Liquor Commission. [LB355]

SENATOR LAUTENBAUGH: That would generally be up to their rule-making authority. I would assume that it would be annual on some basis. I don't know, if for their sake, if they would want to annualize it so that everyone does it on the first, or if they want to tie it to your anniversary date of your application. I've left that to their discretion as to what they could best enforce and work with. [LB355]

SENATOR STUTHMAN: But with taking that into consideration, is that going to mean that a bar that thinks cigar bar, that thinks they have sales of that much, are they going to be able to be in existence for another year before they have to report? [LB355]

SENATOR LAUTENBAUGH: No. I specifically raised that concern with the Liquor Control Commission. And what they would be doing is looking on the front end, meaning on the start date of operation, to see if there is conceivable investment inventory, walk-in-type humidor area, I assume some kind of indicia that they would try to comply, coupled with probably quarterly checks that first year rather than an annual check, just so they know if this is not...make sure this isn't an attempt to get around the rule, I guess is the best way to put it. [LB355]

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SENATOR STUTHMAN: Senator Lautenbaugh, but is there anything in the bill that states that they have to make any additional investment to acquire the fact that they're going to have 15 percent of the sales from tobacco products? [LB355]

SENATOR LAUTENBAUGH: Well, at a minimum inventory, certainly. I mean, they'd have to have it to sell it. The bill doesn't specify, "and this is how you make the 15 percent." But we based the 15 percent, and engineered backwards, if you will, for Senator Fulton's sake, to look at how people achieved the 15 percent, historically. Now when the Liquor Control Commission is promulgating its regulations, they will be able to check and see, as they do all their other checks when they're approving any other kind of liquor license, are you wired or up so that you even have a shot at making the 15 percent threshold. And if they don't, they don't have to allow the application, and the burden becomes on the applicant to show how they do plan to do it and why the Liquor Control Commission is wrong. [LB355]

SENATOR STUTHMAN: But the fact is, Senator Lautenbaugh, that it's a process of, you know, how they plan to prove that they are getting the 15 percent when we're allowing them to stay open. Or are we going to have them, you know, closed because of the smoking ban, you know, as of June 1? It seems like it's very unclear to me as how we're going to get to that point when we don't have a method in place to determine the 15 percent of the gross revenue at the present time, you know. If this was something that would have been a year earlier, before June 1, '09, that they would have built up to get to that acquired amount of 15 percent, it would have been a lot easier for me. You know, we're only a couple months away, and to me this is something that is going to be an anticipated amount of possible revenue sales from tobacco products. That's the issue that I'm really concerned with. I mean, to me this is a very... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR STUTHMAN: ...very loosely crafted, and there is no definite dates as to when this has to come about. Yes, in order to get that permit it states they have to have a proof of 15 percent. But that's going to...you know, are they going to do that, and is that from their last report? But their last report didn't have it defined as to how much tobacco sales there were, how much alcohol sales there were. Those are the issues that I have. I mean, I just feel that there's a lot of questions that I'm not clear on as to how we're going to define allowing someone to continue smoking in that bar. And those are the issues that I have, because I don't know whether they can prove, going back, as to how much the sales were; if they have a method of determining the sales of their revenue... [LB355]

PRESIDENT SHEEHY: Time, Senator. [LB355]

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SENATOR STUTHMAN: And they may. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Price, you're recognized. [LB355]

SENATOR PRICE: Thank you, Mr. President and members of the body. Wow, great conversation today. We have a lot to talk about. We'll burn up a few more hours, I'm sure, of floor time. One word kind of struck me when listening to this, and that word would be hypocrisy. What a great word: hypocrisy. We just voted to let trapping happen on the right-of-way of roads. Wow. Public safety there, eh? Okay. Now we move on. We'll talk about health issues and personal rights and infringements, constitutional law. Again, great, great topic here. Look folks, when you walk into a public place, you may have the expectation of safety. If you go to a swimming pool, it's a public pool, you have the expectation of safety. And I don't purport to be an attorney or have all this down, but, you know, it's common sense; an expectation. If you walk into a place called the cigar bar, you probably should have the expectation that there is smoking in there. If you walk into a butcher shop, they're probably cutting up meat. If you don't like the look of meat or watch it getting cut up, don't go in the butcher shop. Senator Karpisek, thank you very much. Now everybody is so worried about the health of people. We're so concerned about the legal part. So I should hope that everybody who votes against this is also going to vote to outlaw tobacco, outlaw alcohol. Heck, let's outlaw driving because we kill more people on the roads all the time. Public safety. I just...I'm just overwhelmed at the passion we have here for all this. And it says cigar bar. People are working very hard to build scenarios about this, and they're acting so important about the health. And I agree, health is an important thing. I mean, I'm asthmatic. I don't like to smoke, I don't go there. And I've done it. But it says cigar bar. And now we're going to take away these people's businesses. And oh, by the way, the bill does have exemptions, so that already exists. I'd like the...with Senator Fulton and the straw man. So we're going to stand up here and we're going to pontificate and puff up and make our best calls here. But again, you know, really when it gets down to it, you better be putting seat belts on school buses too, by the way. Make sure you vote for that one. If you vote for this, you better be voting for that. So, I mean, I'm not going to tell you what you have to do, but that's just...it would seem a logical conclusion that you would do all these things if you're going to stand so strongly on a cigar bar. Again, I leave you with the word hypocrisy. And I will yield the rest of my time to Senator Council if she would like it. [LB355]

PRESIDENT SHEEHY: Senator Council, just under two minutes and then you are next in the queue. [LB355]

SENATOR COUNCIL: Thank you, Mr. President, and thank you, Senator Price. Before I begin, I'm going to state, although it's a known fact, I did not participate in last year's debate of, nor the vote on, the statewide smoking ban. But I want all my colleagues to know that, had I been here and had I engaged in that debate, I would have argued

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vehemently for an exemption for bars. I've heard the discussion with regard to the health issues. I've heard the discussion with regard to the business issues. I've heard the discussion with regard to the personal choice issues. Let me assure you, this issue involves all of those aspects. I applaud Senator Karpisek, because I was sitting here debating at the beginning of the session whether... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR COUNCIL: ...I was going to even get involved in this debate today, because it is such a personal issue to me. I smoke, Senator Utter. I'm not proud of it but I joined the thousands of other Nebraskans who have made the personal choice to smoke. I also owned a bar and I emphasize owned, in the past tense, because one of the reasons I no longer own and operate a bar is because of the statewide smoking ban. I still own the building. I no longer operate the bar because I had to make a business decision as to whether or not I could continue to afford to stay in business. Because, you see, before the statewide smoking ban, the city of Omaha passed its own ordinance, and it said smoking is banned... [LB355]

PRESIDENT SHEEHY: Senator Council, you're now on your time. [LB355]

SENATOR COUNCIL: Thank you, sir. Smoking is banned in all public places, except bars that have keno and a certain percentage of their revenue does not come from the sale of food. So, business decision. Elected not to complete the renovation of an area of my bar that I could use as a kitchen. Elected to renew my keno contract because the city of Omaha told me, business person, that you can continue to allow smoking in your privately owned business until 2011. Now I didn't necessarily agree with the 2011, but I was prepared to deal with that. Next thing: a hit with the statewide ban. Now I can tell you that there were a number of bar owners in Omaha who rushed out, entered into long-term keno contracts in order to continue to allow smoking to be permitted in their establishments. When the statewide ban hit, the people who patronized those bars to play keno and smoke, no longer came to smoke. But those bar owners were still bound by those keno contracts. And here we are now, with the cigar bar exemption being proposed. Fundamentally, I agree with the exemption, because when the city of Omaha ordinance passed, the first thing that came to my mind, well, God, this is going to hurt my business; well, in fact, it's going to hurt me personally. You know, I can smoke in my home, which I own and pay taxes on, but I can't smoke in the bar that I own and pay taxes on. But that's okay, I'm going to try to deal with that. But what about these places that made these investments and their niche market was smoking? This is going to kill those businesses. But we think about the businesses, that smoking was their primary business emphasis, and the impact that the smoking ban had on them. I don't think many of you realize the impact that the smoking ban had on businesses who went nonsmoking before the ban. They developed their own niche markets. You would walk up to a facility and they'd have a big sign. The sign business was booming. Big sign: We

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are a nonsmoking establishment. They carved out a niche market. The smoking ban passed. They had to take their signs down and they had to compete with everyone else because everyone was no-smoking then. So we harmed the businesses that made a conscious effort to be nonsmoking. We hurt businesses who made a conscious decision to allow smoking in their businesses. And we're talking about adults in bars, adults in bars who have to be legal age to enter. Alcohol consumption is the reason bars operate. This 15 percent threshold--I don't want to harm Senator Lautenbaugh's bill by saying this, but you need to know this--with a 15 percent threshold, for those of you who are concerned about smoking, with a 15 percent revenue threshold you're going to promote smoking, because it's going to be difficult for the average bar owner to sell 15 percent of their...for 15 percent of their gross sales to come from tobacco. They're in the business to sell liquor. They're going to be promoting the sale of liquor. In order to meet that 15 percent threshold, they're going to have to promote tobacco sales. So if you think you're reducing health risks, mark my word, you're going to be increasing health risks if you connect health risks and cigarettes, because to meet this 15 percent threshold people will have to promote cigarette sales. [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR COUNCIL: And while we look at this again from the standpoint of safety, employee safety, I heard that a lot when I was debating it with people who came into the bar and asked me what I thought about the smoking ban. And the first thing was, well, what about your employees? I told them, this is a right to work state and a right not to work state. You don't have to work in my bar. If you want to be in an establishment that is smoke-free, you have every right to resign your employment in my place of establishment, and there are hundreds of bars in Omaha who made the decision, business decision, voluntarily to go no smoking, and you're free to apply there. I think it was Senator Gay who mentioned the gentleman who had to go outside to smoke. I had patrons who came to my bar to smoke because that was the only place they were allowed to smoke. [LB355]

PRESIDENT SHEEHY: Time, Senator. [LB355]

SENATOR COUNCIL: So I just want you to take all of those factors into consideration. I will be supporting LB355. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak on AM445: Senator Avery, followed by Senator Lautenbaugh, Senator Nelson, Senator Coash, and others. Senator Avery, you're recognized. [LB355]

SENATOR AVERY: Thank you, Mr. President. I'm going to do something odd. I'm going to actually address the amendment. The amendment, if you look at it, Section 4 or the first item there in sentence one, it says, "Strike section 4 and insert the following new

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sections." Section 4 would then read, "No county resolution or city ordinance that prohibits smoking in indoor areas shall apply to cigar bars as defined in section 53-103." Well, let me tell you what objection I have to that. The city of Lincoln was the first city in the state to pass a citywide ordinance banning smoking in public places, and we did this in June of 2004. During the summer of 2004, an initiative was launched, and enough signatures were gathered and certified to require a referendum vote of the public. The vote was held in November of '04, and it was certified, I think, November 11. Over 105,000 Lincolniters voted on that referendum, and that represented 75 percent of the eligible voters in the city. That's a pretty high number. The smoking ban was confirmed by the voters by a vote of 62 to 38 percent. So if we adopt this amendment, what we will be doing is saying that the democratic process in those cities that have adopted a smoking ban and it's been approved by voters, doesn't matter. We're going to toss it out and we're going to supersede it with Section 4 of this amendment. I think that's not something we ought to be doing. The Lincoln ordinance only has exceptions for clinical research facilities and for 20 percent of guest rooms in lodging establishments. And it's important, I think, for us to remember that the overwhelming majority of voters who voted in that referendum supported the ban. They wanted the more stringent provisions of a smoke-free ban. I think that we should be very careful about overruling the vote of the people. I am...again I'll reiterate that I intend to vote against this amendment and I intend to vote against the bill. Thank you, Mr. President. [LB355]

PRESIDENT SHEEHY: Thank you, Senator Avery. Mr. Clerk, you have an amendment filed on your desk. [LB355]

CLERK: Mr. President, Senator Wightman would move to amend the committee amendments, AM805. (Legislative Journal page 793.) [LB355]

PRESIDENT SHEEHY: Senator Wightman, your amendment to committee amendment is on the floor. Senator Wightman, you're recognized to open on amendment to committee amendment, AM805. [LB355]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. AM805 is a simple amendment. It would strike the words "cigarettes, and other tobacco products" from LB355. I think that this will let us at least kind of get a feeling for what the intention of the bill is. Because I think the intention, as I suggested earlier, is much broader than anything to do with cigar bars, but to open the gate so that all bars, if they can sell enough cigarette products, and certainly even Senator Council suggested this, I think, that it's going to increase the sale and the attempt to sell tobacco products. And I think if we strike the words so that we, in fact, limit it to cigar bars, as suggested in the one-line description of LB355, maybe we can determine what the intent is. But to me it's pretty clear that the intent is to create a much bigger exemption than is suggested by the term "cigar bar." So I am urging the body to support AM805 so that we can truly limit it to what is being represented that this exemption will be. Thank you, Mr. President. [LB355]

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PRESIDENT SHEEHY: Thank you, Senator Wightman. You have heard the opening of amendment to committee amendment, AM805, to General Affairs Committee amendment, AM445. Members requesting to speak: Senator Lautenbaugh, followed by Senator Nelson, Senator Coash, and others. Senator Lautenbaugh, you're recognized. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And we all do get angry from time to time, I know that, and maybe now is that time. Because if you really want to know what my intention is in bringing this bill, there are a lot of ways to divine that straight-up. Read the bill and listen to what I say. I don't know that I've ever given any of you cause to doubt that I mean what I say and I say what I mean. This is a cigar bar bill. The language "including all tobacco-related products" was taken from--I had a note here, it got lost in the process--other sections of statute dealing with the tobacco shop exception. A tobacco shop is a cigar bar without a liquor license. They're allowed to sell tobacco, tobacco-related products, cigarettes, etcetera. That's where the definition came from. There is no intent to make this something other than what I've said it is, precisely what I said it is. I sympathize with Senator Council's comments regarding bar owners and what we've done to them. Bar owners out there in general, if you're listening: Give it up. That fight is lost. This narrowly tailored exception is all you're going to get, and the market won't support but a few of you with these revenue numbers. It didn't before we messed with it; it won't now. This is not the bar owner relief act of 2009. That fight is lost, that fight is over. This is to help cigar bars: places related to the smoking of cigars, places that existed and were designed and put in the ventilation and invested the tens of thousands of dollars for this particular purpose. If you are not that kind of place and you think help is on the way under this bill, I am sorry to disappoint you. And believe me when I say I'm sorry to disappoint you, because I would love to help you, but that's not this bill and that's not my purpose. And my intent is exactly what I've said it would be. Now let's deal with the local control argument. The ratchet seems to only go one way. I don't know how to break it to you who have friends and neighbors who are city councilmen, but you've lost local control. You can restrict freedom more. You're still free to do that, thank goodness. If you want to put on ever-increasing onerous burdens on businesses in your locality, you can. But if you dare entertain the notion of increasing freedom for your business owners and allowing smoking in more places than state law permits, you're out of luck. So let's just leave the local control argument alone because that foursome teed off a long time ago. We took it away last year. Unless you're interested in being more restrictive than we still allowed that. Once again, that's not the kind of thing that appeals to me but that's what we did. And what we did last year keeps coming up. It's all well and good for people to say this is what they thought we were doing. But what you need to know and what I will point out again is that the ban got from Select File in 2007 to Final Reading in 2008 based upon a promise that was broken. Plain and simple. I stood up and pointed that out last year. And one of my colleagues said, oh, new guy, you don't know what you're

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talking about; you weren't here; this kind of thing happens all the time. No, it doesn't. No, it does not. And on that Final Reading amendment or we went back to Select File, the local opt-out was taken away and cigar bars were effectively removed. So I offered the amendment to put cigar bars explicitly in there as it seemed obvious that would be the kind of place you would allow smoking,... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR LAUTENBAUGH: ...like a tobacco shop. And to address Senator Stuthman's concerns, if we say you have to have a record of tobacco sales: In places like Omaha or Lincoln where it's now banned, we are closing entry into this market. Now there's not going to be a lot of entry anyway, but that's precisely the kind of thing, as I understand it, that got parts of Omaha's ordinance thrown out, was that you had a closed class--people who had keno before the ban went into effect. That's what we're avoiding here. The Liquor Control Commission will have to, on the front end, verify that you're in business to meet that revenue target, and every so often, probably quarterly for your first year, verify that you're actually making the target. And what happens during that first three months between when you open and when they do the quarterly verification under whatever rules they promulgate? You'll have to allow smoking, that insidious threat that we tolerated for our entire existence as a state until last year, or this June, depending on how you look at it. That's.... [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. Senator Nelson, you're recognized. [LB355]

SENATOR NELSON: Thank you, Mr. President, members of the body. I put my light on a long, long time ago before Senator Wightman's amendment was introduced, but I will speak to that just a little bit. I guess if Senator Lautenbaugh will answer a question or two... [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB355]

SENATOR LAUTENBAUGH: Yes, I will, Mr. President. [LB355]

SENATOR NELSON: In your opinion, by deleting cigarettes and other tobacco products as this amendment would, how would that affect the operation of a cigar bar? [LB355]

SENATOR LAUTENBAUGH: Well, once again, reflecting on reality, there are two places like this in Omaha that are struggling now. One of them actually sells cigarettes, one of them doesn't. And the one that actually sells cigarettes has a harder time making this 15 percent threshold. So if we are taking out cigarettes and tobacco-related products so we're focusing on just cigars, I suppose the proper thing to do would be to lower the 15 percent threshold, as well, because we're taking away a source of revenue

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that counts towards the 15 percent. But again, it was not my intention with this bill to have bars be able to stack up cartons of cigarettes in the back and sell them and call themselves cigar bars. So if we're taking out cigarettes from the whole equation to avoid that admittedly unlikely potentiality, I think the only rational thing to do is to also adjust the percentage down to take into account the revenue we're not going to let them count anymore. [LB355]

SENATOR NELSON: Thank you. Your assessment of that, I think, is the same as mine. Since we're having confessions and revelations here on the floor, I think it's kind of astounding the way various senators are coming down. As most of you probably know, I don't smoke, I have never smoked cigarettes. There was a time in my younger life that I smoked a pipe during college and law school because I thought it was cool. I gave it up because of the sore throats and the messiness of it. But I did smoke a cigar once in awhile. I gave that up, too, after a year or two. But I can understand, there are fine cigars, and there are a lot of persons, men probably generally, who enjoy a fine cigar and are willing to pay what they cost. I voted for the smoking ban last year. I also voted against the opt-out because I felt, to use the term, we needed a level playing field, and it wasn't going to work if certain counties could opt-out to the detriment of stores and restaurants in other counties. So I'm satisfied with that. I'll have to admit that I thought cigar bars were part of the exemption. I missed that last year when we voted. It seems strange to me that if we exempt a tobacco shop where you go in and you're going to buy tobacco and you can smoke in there, that we don't permit the same thing in cigar bars. I think we have a little difference here in that we've got a liquor license in a cigar bar. They probably need that in order to remain in business. But their primary business, I think--and there are very few of these and I have one of them in my district and they have a large investment in that--the primary purpose is to have a large humidor and a fine selection, a good selection of fine cigars for those people that want to come in and buy them. And, personally, I don't look at this as a health bill. I think it's very limited. I think it's a business bill. I think, because it is so limited and it's a very narrow exception, that we ought to support this and we ought to permit it. This doesn't open the floodgates... [LB355]

PRESIDENT SHEEHY: One minute. [LB355]

SENATOR NELSON: ...as far as I'm concerned. I don't see any reason for that. If Senator Lautenbaugh has anything he wants to add, I will give him the rest of my time. [LB355]

PRESIDENT SHEEHY: Senator Lautenbaugh, you have 45 seconds yielded. [LB355]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Nelson. I don't remember where I left off last time around, I have to admit. But I don't think this is loosely crafted. I think this is crafted to allow the Liquor Control Commission to apply

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rationality to this and allow businesses the time to start, prove that they're actually making an effort to function under this bill, under this license, and to either perform or not perform. If they don't reach the 15 percent threshold, they would just lose their ability to sell. If they lie about it, they'd probably lose their liquor license as well. That's why we don't put a lot of specification in the bill because the Liquor Control Commission, once again, didn't just fall off the turnip truck. They know how to enforce this. We tell them... [LB355]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. (Visitors introduced.) Mr. Clerk, do you have items for the record? [LB355]

CLERK: I do, Mr. President. Senator Coash, an amendment to LB63 to be printed. New A bills. (Read LB73A and LB121A by title for the first time.) Enrollment and Review reports they have examined and engrossed LB327. An announcement, Mr. President, that the Education Committee will have an Executive Session, Monday, at 1:30; Education Committee, Monday, at 1:30. Name adds: Senator Dubas to LB547; Senator Fischer to LB92; Senator Council to LB458; Senator Janssen, LB547. (Legislative Journal pages 794-795.) [LB63 LB73A LB121A LB327 LB547 LB92 LB458]

And a priority motion, Mr. President. Senator Dubas would move to adjourn the body until Monday morning, March 23, at 10:00 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until Monday, March 23, at 10:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []