

intent of what LB 48 was going to do. One of the things that happened is that if we passed LB 48, we'd set up a relatively hypocritical situation, if not ludicrous situation, where I could have a can of chewing tobacco in my back pocket and I would not be able to give it to any of you here because that would be a free sample, but if I had a cigar I could go ahead and do that. If I had some cigarettes I could go ahead and give you a free sample of that. That would be no problem, but we're just doing it on smokeless tobacco and we're saying that not only are we going to set up this ridiculous situation, but we're also saying that we're doing something to stop cancer when it doesn't change any of the statutes. It won't stop anybody from chewing and it won't change anything that society has at this point. All the other things kind of got mixed up. It also sets up a kind of ludicrous situation where under certain circumstances the most regulated industry in our state, the alcohol industry, they can, in fact, still give samples out under certain circumstances and yet we're not going to attack that one, we're going to specialize this thing here. I'd also like to point out to the body, and, again, if I could have partial attention, a lot of things were stated a few days ago about an AG Opinion on the constitutionality of the bill last year and, consequently, LB 48 of which there has not been an AG Opinion made on 48. I did a little research last night and I'd like to assure "Cap" Dierks that I did the research because I wanted to know. There are three questions that were asked in the AG Opinion by Senator Nelson one year ago on LB 861. The questions were relatively broad, asking if it was unconstitutional. They talked about the commerce clause which is kind of a joke in law school, if anybody knows that everything is trying to be covered under the commerce clause. They talked about the First Amendment which is a legitimate question and they talked about Article III, Section 18 of the Nebraska Constitution. And there was an AG Opinion based on those limited and narrow questions saying that they didn't think there was any problem. However, I think the body should know on record is that the request was not an accurate request. A proper and accurate AGO request re constitutionality should have been requested, we should have requested a complete constitutional analysis under both federal and state constitutions. Although there may be plausible arguments as to why LB 861 or LB 48 today might violate the First Amendment or Article III, Section 18, and even though a host of laws have been held unconstitutional under the broad face of the commerce clause, it is simply not an accurate analysis of