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FLOOR DEBATE

April 13, 2005      LB 480

centers are smoking environments. But, yet, we say that they fall under the Clean Indoor Air Act, but the practice certainly and perhaps the enforcement is a major issue? I have concerns, but I think this amendment that would encourage a restaurant who very well may have good ventilation right now and has a more legitimate nonsmoking area than others, then they would have to take keno as an operation within their establishment so that they could allow smoking, and it soon becomes a tangled web. I hope the body does not buy into this. I urge a no vote on this amendment and so that we can eventually have a vote on LB 480. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Smith. Senator Chambers, you're recognized to speak.

SENATOR CHAMBERS: Madam President, members of the Legislature, Senator Bourne had talked about some issues related to equal protection under the law. Now, unless Senator Combs has her pistol on her, I'm going to ask her to whisper so that I can talk and be heard. (Laugh) Members of the Legislature, I don't think there are any equal protection of law issues here whatsoever. The state can determine restrictions that must be complied with before its land is allowed to be used. So it is not a situation of similarly situated enterprises being treated differently. You have a privately-run racetrack and you have a racetrack on state property. The state can do whatever it wants to in the way of writing its contracts, and by exempting these other tracks from rules and regulations that apply to those enterprises on state property is completely allowable. The legal principle found in the U.S. Constitution and mirrored by Nebraska related to a prohibition against impairing the obligation of contracts relates only to contracts in existence at the time a law is passed. The law cannot overturn existing contracts. That is how you impair the obligation of contracts. There can be no obligations based on contract if no contract exists. So the state, when entering a contract with anybody or any entity, will lay out what the requirements are. For the term of that contract, unless something else is stated to the contrary within the contract, its terms cannot be modified by action of the Legislature. All of these other arguments that Senator Bourne made pointed out that he opposes the bill no