

obvious from the debate here today that there are some needed changes in the federal act. We're not the only state facing this problem. Those are going to happen. Let the Governor negotiate on the basis of what we have in the federal act so we don't have all of this stuff end up in federal court because then you lose the control of a Governor who is accountable to the public, as Senator Hall indicated, versus a federal court or a federal mediator. We don't have any idea who that might be or what their thoughts might be, but I can tell you what they are going to look at. Federal judges look above. They always look up and what this federal judge in this state is going to look at is the Eighth Circuit case, like it or not, poorly written or not, Eighth Circuit case says, Nebraska, you take it off the table from the beginning, you lose. This amendment takes it off the table. We lose in this case, the federal judge negotiates for the State of Nebraska, the federal mediator, and I want to point out something. In case you're just curious who has the burden of proving good faith. The federal act says the burden of proof shall be upon the state to prove that the state has negotiated with the Indian tribe in good faith. It's not their burden to prove it. It's our burden to prove it. It's a big burden. We won't be able to overcome it in this case. I don't like this anymore than you do. I don't like the federal act any more than you do, but it's what we have and I think you have to reject this amendment, then get on the phone maybe and lobby the people in Congress to fix this so that you have some control over what you want to have control over. If you want to do that, do it, but reject this amendment because this amendment is ensuring that we will never see a compact on this floor for ratification. Thank you.

PRESIDENT MOUL: Thank you, Senator Hohenstein. Senator Moore.

SENATOR MOORE: Madam President, members, if we don't pass this amendment we guarantee it never comes here. So I'm at least willing to try and I want to try. Now Senator Hall and Senator Chambers and Senator Hohenstein have talked about, well is the Legislature going to get in every little negotiation with the Department of Revenue and a contractor. That's not what we're talking about here. We're talking about a significant change in state policy on what we do and do not allow. And I think that policy ought to be made on the legislative floor. And the argument could be made, well you can't do it. Well, I don't care if you've learned any...if you talk to your colleagues in other states, if you learn anything you learn of the nightmares