

The university, if they wanted to have a lawsuit, would refuse to comply with the Attorney General's order. Then, based on the duty placed on the Attorney General, he would initiate action of some kind in court to require the university to comply. At that point, all of the issues, the conflict between the NCAA rule and the law could be brought into play. To facilitate that type of scenario, I am willing to drop this penalty provision that exists in the law now that would be aimed at the university. That way there is no impediment to the university deciding which course it wants to pursue. I would choose to have them pursue the course of granting the aid to the student and making the NCAA take a move or attempt a move against the university. Now there was one time Senator Terry Carpenter gave me a compliment. He said that he had watched me set land mines in succession and then watch them go off in succession. We now have in place LB 397 which creates a due process that the NCAA must follow before it can impose sanctions on the university. If the university, recognizing a discriminatory situation, says the law tells us we cannot discriminate anymore and we're going to obey the state law, the NCAA would say, all right, then we're going to sanction you under our rules. I don't think there is a court in the land that would say that it is in accordance with due process to punish somebody for obeying the law. You cannot punish somebody for obeying a valid law and be in compliance with due process. Due process requires fairness. It requires rational action. But even without LB 397, built into LB 708 is all of the machinery necessary for the university to protect itself from improper imposition of a penalty by the NCAA. It would be a very regrettable set of circumstances to say that a rule of a private association has more stature than a state law.

SENATOR HANNIBAL: One minute.

SENATOR CHAMBERS: It does not. The fear that some people have is that the NCAA will be offended if we try to stop discrimination that we see actually occurring. I am going to talk about some of these things and break them in smaller bites so that I can be clearer than perhaps I am now. But I'm trying to give a context in which I can offer my support for Senator McFarland's amendment by acknowledging that it will not take away from the main thrust of the bill and it will make it easier for the university to be in a posture to have a lawsuit brought, whichever way they decide to act, than would currently be the case with the penalty language. So the only penalty language being struck from the bill is that that would relate to the