

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 5, 2003 LR 11

time it is amended, litigation is going to result, because people are not going to like the restrictions that they feel are imposed, or they're going to feel the language is too broad and they want it restricted. So they will try to get a set of circumstances where a conflict exists. The Nebraska Supreme Court will not give what's known as an advisory opinion, which means you write out some questions and give them to the court to answer. The court will act only when there is a controversy. And a controversy exists when you have two contending sides, and they are saying different things, and resolving the question will cause one side to win and the other side to lose, and that prevents collusion, where there really is no dispute. So nobody could take this language and tell the court, I want you to say what this means. In nice words, the court would, in very...

SPEAKER BROMM: One minute.

SENATOR CHAMBERS: ...lawyerlike and judicial language, tell you, no. So while we are crafting this constitutional proposal, we should put nothing in that's not needed. I will listen and see if somebody can explain to me why we've got to retain this language, which in my opinion says nothing and adds nothing to what I've been told the purpose of this amendment is.

SPEAKER BROMM: Thank you, Senator Chambers. Senator Schimek.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. Senator Chambers, I'd like to explain to you why I would like for you to agree to maybe pulling this amendment right now and coming back to it on Select File. I am almost 99.9 percent sure that we don't need that provision in there, because federal...or, Indian gaming is regulated by the federal government, and it is the superior law as far as states go. We have to compact with the tribes according to federal law. So not putting it in here, I think, is okay. But I would rather be certain before we put...take it out, than to just do it here in a quick moment on the floor. So I would wonder if you would be agreeable to let us try to find out if there's any problem with taking that out. What we don't want to do, I think, is have state law have different or more or less requirements than the federal government. I...you know, I don't think we can anyway.