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FLOOR DEBATE

March 31, 2005 LB 4

rule-making power, not statutory authority to repeal or supersede a statute. Going to another case, Board of Regents v. County of Lancaster, 154 Neb. 398, the Legislature can delegate to administrative agency the power to make rules and regulations covering the details of the legislative purpose, which means the statute that grants that rule-making authority must declare what the purpose is and give guidelines and limitations as far as the rules that can be adopted and the manner in which they must be adopted. Then here is a broader statement relative to the power or lack thereof of the Legislature. It's in Smithberger, S-m-i-t-h-b-e-r-g-e-r, v. Banning, B-a-n-n-i-n-g, 129 Neb. 651. The Legislature may not delegate legislative powers to an administrative board or to any outside agency, such as the United States Congress. What is being attempted in LB 4 is to delegate some legislative authority to a group of other states. And the point I tried to make earlier, if there is something that cannot be done by the federal government, it cannot be done by a group of states, as far as the power of an individual state. So if you're insistent on going through with this, I'm going to take the time from other matters that I'm working on to go through and eliminate every provision that I think conflicts with or seeks to limit the power of Nebraska's Legislature, and I will offer amendments to strike those provisions from this compact before you enact it. Why would that be done? If any provision in it...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...which is unconstitutional would not be upheld by the court anyway, we have a responsibility as a Legislature to not give our approval to something which is not constitutional, then later on, when it becomes inconvenient, say, well, that violates our constitution so you can't hold us to that. Any of the other compacting states could have said...could say, well, why didn't you say something about that when you were considering it as a Legislature? Why didn't you strike from this compact what you could not go along with? Then a determination could be made whether you were in opposition to so much of it that you cannot be considered a member of the compact. I am not going to agree to let the Legislature put its approval behind something like this without attempting, to the