

this change that's being suggested by Senator Marsh, and subsequent to the hearing that individual did some review of law cases at the federal level as well as here in the State of Nebraska, and Senator Marsh's contention is that this amendment simply would allow for conformance of the language with the Nebraska statutes and the federal statutes. With the information that was offered by this attorney the indication seems to be that she is incorrect in this particular fact. Now he referred to a case, Griggs versus Duke Power, and this decision was specifically noted by the Nebraska Supreme Court in a decision here in our state, that decision being Duffy versus Physicians Mutual Insurance Company. In reality, this gentleman explained that from the enclosure, and he did attach a copy of that case, our present state statute, without the amendment being offered by Senator Marsh, is as it is currently written in conformity and represents and reflects the precise language of the federal statute which is in question. By the amendment that she is offering, it would specifically overturn the holding of the Nebraska Supreme Court decision in Duffy versus Physicians Mutual. Now there is no question but what this Legislature can do that, but I wonder about the sensibility of doing such. So I bring this to your attention, ladies and gentlemen. This is an issue that has been addressed in other states in the United States. It has been addressed here in the Nebraska courts as far as the Supreme Court, and the decision is that the language as it presently appears without the amendment is in conformance with the federal statutes dealing with this issue. If we would choose to adopt the amendment being offered by Senator Marsh, it would be more restrictive than what we have here in the state presently. Therefore, I oppose the Marsh amendment.

PRESIDENT LEUDTKE: Senator Marsh.

SENATOR MARSH: Mr. President and members of the Legislature, I beg to differ with Senator Stoney. If Senator Stoney would review his information, Mr. Bogue was specifically speaking to Section 68, which the Committee has removed and which I went along with, and that was the initiatory section, Senator Stoney. I would also like to point out for the body's information that no where else in our civil laws do we have an intentional statement, only in this one section. Virtually no where else in our civil statutes do we put in this requirement. It severely hamstrings the applicability and the efficiency of the law. It is for that reason that I bring this information to you. It is not to punish the individual. It is to have the ability to say, hey, whoa, this is an unlawful