

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

January 30, 1997 LR 20

SENATOR WITEK: Is that a decision that the Nebraska Supreme Court could be handed? And if the equal protection clause is in there, as it is in the Hawaii Constitution, could they come to the same conclusion that the Hawaii courts came to?

SENATOR KRISTENSEN: They could do that today.

SENATOR WITEK: Okay.

SENATOR KRISTENSEN: With the existing language they could do it today.

SENATOR WITEK: So you believe that the Nebraska Supreme Court doesn't have to have the equal protection clause, to make that decision,

SENATOR KRISTENSEN: It...

SENATOR WITEK: ...in our state Constitution.

SENATOR KRISTENSEN: If they were presented with the case today, they could make the same decision, given our current constitution, that Hawaii did. That is possible to do.

SENATOR WITEK: Is that based on the federal equal protection clause, or something in the Nebraska Constitution?

SENATOR KRISTENSEN: It's based on Article III, Section 18, which is our special legislation clause, and based on the Federal Constitution. They would use, if they chose to do that, and I am not saying that they would, I doubt if they would, but if they choose to make that examination, they would use both of those.

SENATOR WITEK: So there is adequate opportunity, as well as protection at this time with what we have in the Nebraska Constitution and in the Federal Constitution to go either way on this decision for our Supreme Court?

SENATOR KRISTENSEN: Judges are charged with interpreting the constitution and what the fundamental rights of the state are, as laid out in the constitution, Senator Witek. They could