

to you would be, what is your intent with regard to the question of whether decisions by panels of the Court of Appeals would constitute precedent for the various district courts, or would they not...How would that work in this new system?

SENATOR KRISTENSEN: Thank you, Senator Beutler. Those are questions, probably very good for the record, of which need to be discussed. My initial consideration was what is the purpose of the appellate court. The appellate court is to be an error correcting court. We don't want them necessarily to be the precedential court, and so that they shouldn't have, as a primary function, adding precedent to the law of the State of Nebraska. Their purpose should be to correct errors in lower courts to make determinations based upon existing rules and so on. The system and the framework that I have here is encouraging the Supreme Court, if there is a petition to bypass the Court of Appeals, go to the Supreme Court, that you should look for the more important cases, the novel cases, the precedential cases. And if there has been a case that the appellate court may look at for some...if they believe that there should be some change there may...or do they do some good research and have an opinion that expands common law, or collects common law, or collects the intent of a statute, something that would be very helpful to the district court, helpful to the lawyers, helpful to the Supreme Court, for example, there are guidelines in here about the publication of opinions. And that's what the Supreme Court would look at. The Supreme Court, if they determine that this is something that should be of a precedential nature, in my understanding and my intent is that they would say, yes, let's publish this, and this published would, as you know, go into the Nebraska Reports, which is a bound volume that's available for sale, it's distributed, and that becomes the collection of what I would assume and what I believe to be the common law, case law, and precedential law of the State of Nebraska. So, yes, there will be, or could be some appellate court decisions that are written that have precedential value. The Supreme Court ultimately would dictate what precedential value in this state would be. And I don't know that we, as a Legislature, can say, Supreme Court, these are cases that you must give precedential value to. I think there is a separation of powers problem in there that the court, being the Supreme Court, being the supreme law of the land, will decide what law is precedential and what law is not.

SENATOR BEUTLER: Okay. Let me just explore that one step