

SENATOR KRISTENSEN: No, I'm not saying that at all.

SENATOR HABERMAN: But you're saying we can take a district judge and have them serve on the court of appeals.

SENATOR KRISTENSEN: That's one of the possibilities, yes, and that occurs with the Supreme Court today as well.

SENATOR HABERMAN: I'm not...well, Senator Kristensen, it seems to me that if you look at the caseload of the District Court judges, some of them are very, very heavy, some of them take a considerable amount of time to make a decision so it seems to me how are you going to pick out one of those or two of those, or whatever, and have them serve on the appellate court?

SENATOR KRISTENSEN: May I have a little bit of your time? Thank you. The amendment doesn't say that they must call the active district judges, it says that they may call them. Certainly, the active district judges would not be an attractive alternative but you're setting up a system that needs to have the flexibility for given caseloads into the future and we have, in this state, the Supreme Court has called up district judges in the past during the last 18 months ending in December of last year, we had an appellate division of the District Court that we voted for, this Legislature decided it was okay. That's very, very stressful on the District Court, I agree. It's not a system we can live with. You can't have long term district judges coming in but it's the flexibility of having them come in. What this does is mirror what we already have in statute and law with the Supreme Court that allows district judges to be brought in. We're doing the same thing now with the appellate court.

SENATOR HABERMAN: We can also use retired judges?

SENATOR KRISTENSEN: Yes.

SENATOR HABERMAN: Would you consider possibly changing this to just using retired judges, leaving the district judges alone? When you tell the Supreme Court "may", they're going to do as they please. So why not just limit it to retired judges?

SENATOR KRISTENSEN: Because there may not be a pool of retired judges. I mean, there...