

SENATOR LANDIS: Exactly.

SENATOR KRISTENSEN: That that is how you cut it off?

SENATOR LANDIS: That is right.

SENATOR KRISTENSEN: The issue then becomes if the court does, indeed, use the Fourteenth Amendment, rational basis test, and throws out these things, you then have access to the federal court using the United States Supreme Court standard, which I believe to be correct, and not the Nebraska court's interpretation of a rational basis.

SENATOR LANDIS: And if we use the word "rational", and Senator Hall, I think, has made a very good case here arguing, look, give them the opportunity, give them this weapon. It is something that might be used on behalf of people who do not otherwise have power and money and clout. The difficulty with that is that if we allow that weapon, that Nebraska rational test to apply, that is called an...

SENATOR WARNER: One minute.

SENATOR LANDIS: ...ancillary grounds, and if there is ancillary grounds on any other basis than the Federal Constitution, a federal court can decline to accept jurisdiction and the Supreme Court would never...the U.S. Supreme Court would never review the Nebraska Supreme Court because there was another basis other than the federal court, other than the Federal Constitution that was supporting the Nebraska Supreme Court. By relying on the Fourteenth Amendment, and that test, hopefully, you have narrowed the court's decision on a basis that would be reviewable, and that review is the traditional, historical analysis of rational basis.

SENATOR KRISTENSEN: And in summary before I get...my time runs out, that would allow us then to be in federal court with a review of rational basis test, as opposed to the Nebraska Supreme Court, and their interpretation of a rational basis test under our equal protection clause or what they assume to be an equal protection clause, which would make it much more difficult. If we don't do this, there is a chance that we would never get to federal court because the federal court would always look to us and say, well, there is things in the Nebraska