

getting misled a little bit?

SENATOR BEUTLER: If I'm understanding your question correctly, I think that that is accurate, that there is the danger everything would be thrown out. On the other hand, there is also the possibility that they would find it severable and preserve the, I guess you could call it contingency provision that we built into the current version of the statute which essentially is the 1075 provision that existed prior to the court's interpretation.

SENATOR MAURSTAD: So the Supreme Court could in essence have at least three paths, it could go down, it could uphold the entire constitutional amendment, it could strike just that provision that deals with the bifurcated system or it could strike the whole thing. Is that...

SENATOR BEUTLER: I think that's fair to say.

SENATOR MAURSTAD: Okay, and we don't have any idea as to, from past actions, as to whether or not it's more likely that they would separate it then, either of the other two.

SENATOR BEUTLER: I think certainly here in Nebraska we have no prior experience and it would be a case of first impression. You can guess from what courts have done elsewhere and by what weight they might give to the opinions of courts elsewhere in the United States Supreme Court, but it's anybody's guess.

SENATOR MAURSTAD: And then...and I fully intended to yield you the balance of my time, but I'm probably taking up most of the time, but the last question...

SPEAKER WITHEM: One minute.

SENATOR MAURSTAD: ...couldn't the exact same scenario appear when your amendment, if that were to become 6CA, were to become law only two years later? Wouldn't that same scenario be probable?

SENATOR BEUTLER: The answer is yes. The choices are the same. The two factors that I think are a little bit different is, one, I think it's cleaner for the courts in terms of the severability question when you have something that is basic and operative for a period of a couple of years and then are asking the question