

rule or regulation and how it might constitute a taking and whether that taking would be compensated or not, and if it was going to be compensated what the potential cost to the state would be as the rule or regulation was implemented. It is at that level where we are able to hear from the people that are going to be...potentially going to be affected that I think we will be most effective in our evaluation of whether or not we should adopt a rule or regulation, which may constitute a taking, whether that taking is with or without compensation. Now, the amendment does not define a taking in any explicit terms. If some of you are looking for that kind of a definition, I think you'll be disappointed. As far as I'm aware there is no definition that is hard and fast because that is ultimately a constitutional standard. It is a constitutional standard that is set both by the U.S. Supreme Court, as they interpret the federal Constitution, and by the Nebraska Supreme Court, as they interpret our state Constitution. So it is a moving line, and in particular it is a line that is moving as a result of recent U.S. Supreme Court cases. So there is not a definition of taking, I don't think that is possible. If one...if some of you are wondering why we're talking about takings with or without compensation, some takings do occur without compensation. They are in the exercise of the police powers, for example, for abatement of nuisances, noxious odors, that kind of thing. Of course other kinds of takings that you're more familiar with, and we've discussed on the floor before, are in the nature of condemnations. And those are takings with compensation. So there are both classes and it is very difficult at the moment to tell you exactly what a taking is, but I think it's incumbent upon the agencies, as they propose rules or regulations, to provide us with that information, to give us a discussion and to make available a public forum so that those who might be impacted by a proposed rule or regulation can be given the opportunity to express their concerns. That is basically what the rule or reg...that is basically what the amendment does. In addition to that, as Senator Jones notes, it does create an additional item in the checkoff list that the Attorney General would maintain when they examine a rule or regulation to determine whether it is valid or not. Now for those of you who have some concern about the finality of the rule or regulation process, I would call to your attention that last year, as a part of LB 446, we did impose a statute of limitations during which people must object to a proposed rule or regulation as to whether or not it followed process. Questions about whether a proposed rule or regulation