

SPEAKER WITHEM: Section 84-907, does that refer only to some rules and regulations, or is that all of the rule and regulation writing authority that we have for all departments that have rule and regulation writing authority?

SENATOR JONES: The way I understand it's all.

SPEAKER WITHEM: It's all. So for instance, the Department of Education is one I'm most familiar with and I'll use that as an example. If the Department of Education changes its special education rules, as we're going to ask them to do under another bill they would have to prepare a statement, an analysis of whether there's a potential taking by writing rules and regulations relating to special education?

SENATOR JONES: That's the way I understand it, yes.

SPEAKER WITHEM: Can you give me any potential taking that might be there in a special education rule and regulation?

SENATOR JONES: Right off the top of my head, I can't think of any right now, (inaudible).

SPEAKER WITHEM: See, I can't either. One of the things I've done is done a handwritten amendment up there that would restrict this to say when there is a reasonable expectation that there might be a taking, because we have countless, and you and I probably agree, many, far too many rules and regulations being promulgated, some by the Department of Transportation, some by Department of Environmental Quality, some by the Department of Education, I'm sure the Ag Department, Roads Department. Some of those may, in fact, a reasonable person might say, yeah, there could be a potential taking here, let's take a look at it. Others, there would be absolutely no expectation, so I don't know why we want to put an added burden onto the Department of Education as one example that I could come up with. I think...and Senator Wickersham indicated that there is no definition of takings that we can look at. But in general, Senator Jones, aren't we talking about situations like in the Carolina's, I know where there's a case that went to the Supreme Court where an individual bought property for development, some rules and regulations came along restricting that individual's ability to develop that property, and so the Supreme Court said, yes, there was a takings of the value of his property. We're