

proposed rule and so forth may constitute or allow a taking of property, an analysis of any potential taking of property under the proposed rule or regulation and so forth, so we still have what I see as a very serious problem. Let's say you create a situation where it's clear to everybody that it's unlikely that there will be any taking but there's a possibility. Potential means possible. So even if it's highly unlikely, if it is extremely unlikely, if the possibility remains, then this analysis has to include such property. And what I've sent around to you is a page from the statutes, 76-102, which defines property. I don't know of any other property definition in the statutes. And this defines everything that conceivably could be considered a part of property. You have real property. You have personal property. You have tangible personal property. You have intangible personal property. You have future interest possibilities of reverter and all other types of things that are recognized in the law as property. This law, this proposed law is so broad in its sweep that it would make it impossible for any agency to comply with it. First of all, and I wish there were some way for me to make it as clear in your mind as it is in my mind but I can't find the words to do it. Senator Wickersham and nobody else knows what a taking means. They don't know what the means. So you're going to draft a statute and put an obligation on an agency when you who are drafting the law don't know what it means. How does the agency know? I would like to engage Senator Wickersham in a brief discussion, if I may.

SENATOR KRISTENSEN: Senator Wickersham, would you respond?

SENATOR CHAMBERS: Senator Wickersham, I may have misrepresented what I thought I heard you say the other day so I better ask you. Are you in a position to define for us what taking means, right now?

SENATOR WICKERSHAM: No, I'm not. I think, as I indicated the other day, that that is a constitutional standard, both United States Constitution and Nebraska Constitution, in particular,...

SENATOR KRISTENSEN: One minute.

SENATOR WICKERSHAM: ...the U.S. Supreme Court has been changing its definition of what a taking is.

SENATOR CHAMBERS: So without getting to potential because we