

regulation is being considered and if there is a potential taking of property, however it might be defined at that time, and however taking might be defined at that time by the courts, and I do think we have lawyers in our agency staff or somewhere in the bureaucracy of the State of Nebraska that can review the pertinent court decisions and tell someone what they believe a property...what a taking might be at that moment and what property is at that moment and whether it might be affected. I think that can be done. But the real purpose is to bring that issue to the public discussion, not to have it somehow silently glossed over by the bureaucrats and allow decisions to be made which ultimately will result in the taking of property pursuant to later action by those same bureaucrats and also to give us some idea how much that potential taking might cost and to allow that discussion to take place in a public forum. Now it isn't even as good a public forum as the body of this Legislature because if you've ever been to a rule-making hearing, they tend to be rather dry and unexciting places, and there's really not very much dialogue that takes place. But at least if we adopt this kind of a rule, there will be some discussion of the takings issue if there is a potential taking in a rule or regulation. That's all it's designed to do is to produce a public...a forum for a public discussion of that issue. Senator Chambers, it is not the rule or regulation itself that is likely to be the taking that would be the essential issue in the adoption process. It is an analysis, an exploration, a discussion of the potential impacts of the rule or regulation that is important to the process. Just as our discussion of the potential impacts of the bill is important to our process, the same discussion is important to the regulatory process, and, unfortunately, I believe, takes place not enough. And, if nothing else, this bill is an encouragement for that process to occur.

SENATOR KRISTENSEN: Thank you, Senator Wickersham. Senator Chambers, you are next.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I have to disagree with Senator Wickersham's last comment about the rule not being what does the taking. Based on the language in this, yes, it is, we're talking about potential takings of property under the proposed rule or regulation. That's in this amendment. So it is the rule that would be involved in the taking, at least, that's what the language of the amendment that Senator Wickersham's name is on. And that means that whoever is