

time to Senator Wickersham.

PRESIDENT ROBAK: Senator Wickersham, two and a half minutes.

SENATOR WICKERSHAM: I guess that's what I get for standing up and look interested. Thank you, Senator Avery. I am interested, Senator Avery, and thank you for yielding me time. I spoke last time about the process that resulted in 108 a little bit. Now I'd like to tell you that, in general, I support the objectives of LB 108, and in part because of what others have...and others have said it. It is time in this state that we recognize, in a legal sense, what we all know as a practical matter occurs, and that is the relationship between ground water and surface water. Everybody knows that if you put enough wells, and you pump hard enough next to a stream that that stream will go dry, either permanently or temporarily depending on the hydrology of the system. That's a fact. That fact can be litigated in court, as Senator Bromm noted, and Senator Dierks noted that the surface water rights are constitutionally protected property rights. Now that isn't something that was done yesterday. That was done a long time ago, and if there was any...if any of you got the notion from Senator Dierks that that was something new and that that is something that had been done to damage the interest of the underground water users, that's wrong. That happened a long time ago in the history of this state. It's true...

SPEAKER WITHEM: One minute.

SENATOR WICKERSHAM: ...that the rules for surface water and ground water are different. Surface water users have constitutionally protected rights. Senator Bromm was exactly right that in a given situation if you can prove that the ground water users are damaging the surface water users that you can sue, and the surface water users will be compensated. It has happened in the state of Nebraska. It is one of the reasons that I think 106 is necessary. If we do not deal with this issue as a Legislature, the courts will, and I doubt that any of us have the confidence to believe that the courts will fashion a remedy as the result of a lawsuit that looks anything like the process that is available through the current...through the committee amendments as set forth in 108 to protect the interests of all the citizens...