

that's going to dig a hole in the ground. An excavator is required to call if they are going to be digging "in the area of an underground facility". My question was, what is the area? Is that within a hundred feet? Is that within a hundred yards? Is that within a quarter mile? Is that within ten miles? What is in the area? I asked one of the proponents of the bill where they thought "in the area" was and they said it was anywhere in the county. And, at that time, I became a little bit alarmed about where the area might be and drafted the first part of the amendment that you see, which gives some definition to area in terms of public streets, roads, alleys, right-of-way dedicated to the public use or utility easement of record when necessary to determine proximity to underground facilities. That is language that is currently in place in another state and I think is a better definition of what ground you should have to look at when you're going to dig than simply the words "the area", as it appears in the bill as has been presented to you. The second part of the amendment has to do with damages and it makes clear that if you damage your own property, you are not liable for the penalties that appear in Section 27. In addition, it also makes clear that your damages are not necessarily limited to those stated in Section 26, that those are only a base line for your liability. If somebody else can find a higher level of liability based on the common law, that is also your liability. There is also an additional amendment which provides for a court to set the damages and sets forth factors for the court to consider in awarding the...or I should say the civil penalty rather than damages. The amendment also makes clear that the civil penalty is disposed of as required by the current constitutional provision in Article VII, Section 5, which disposes of fines and penalties to schools in the area. So that's what the amendment does. It is an attempt at clarifying several areas of the bill that I think were extremely problematical and I think there are still other flaws in the bill but, at least, that addresses some of them.

PRESIDENT MOUL: Thank you, Senator Wickersham. Does anyone wish to address this amendment? Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Madam President, and members of the Legislature. Senator Wickersham, if I could just ask you a couple questions because I've just got a chance to read through this amendment. Your concern was defining what "in the area" is and, quite frankly, I've read this first part and I still don't...if that's the problem, I still don't know that you're