

SENATOR KELLY: Mr. Speaker, members of the Nebraska Legislature, particularly Senator Kremer and Senator Sieck, regarding the striking of Subsection (4), it would appear that taking that out of the bill does lower the ability of a domestic well owner to get regress under this bill and furthermore I believe, Senator Sieck, that Subsection (4) is really rather an important section in this bill. It establishes a date and it requires that the replacement well be drilled properly. It doesn't lock in in the construction of the well or the depth of the well or the setting of the pumping equipment at all. What it does lock in is the date as it would be for priorities of water in time, domestic versus something else, but it will still cause that well to be drilled to a reasonable depth and the pumping equipment set at a reasonable depth just as it would if you didn't have Section (4) in there but you would lose your timing and I don't believe that that is proper and, Senator Kremer, I would like to ask you, how do you read Subsection (4)? Does that allow a replacement well to be drilled differently than any other well after the irrigation well is there?

SENATOR KREMER: Let's use for an example, I have a domestic well. You come in two years later than when I drilled that domestic well and put down an irrigation well. What we are saying in this whole issue is that I am protected because I was there first. Then later on my well goes dry and I replace it with another well. That keeps me in the same position datewise that I had before I abandoned the well and drilled a new one. That is what Section (4) does. Now the thing that bothers me, there is nothing said there that when he replaces that well he has to go down to a reasonable depth. That is the thing that bothers me. Now if that were in that section I could buy it.

SENATOR KELLY: Okay, Senator Kremer, now with...what you are concerned about, this doesn't say anything about the depth that you would drill it to.

SENATOR KREMER: No.

SENATOR KELLY: All right, I am going to read this Subsection (4). If a domestic well is abandoned or replaced the replacement well shall maintain for the purpose of this section, the same date of use as the abandoned well. Now listen very carefully. If it is determined that the replacement well did not increase the probability of