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Floor Debate
January 23, 2007

[LB17 LR19 LR20 LB21 LR21 LB24 LB26 LB64 LB80 LB94 LB95 LB98 LB115 LB150
LB166 LB167 LB173 LB182 LB186 LB264 LB308 LB341 LB428 LB581 LB700]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning and welcome to the George W. Norris
Legislative Chamber for the fourteenth day of the One Hundredth Legislature, First
Session. Our chaplain for today is Senator Wightman. Would you all please rise. []

SENATOR WIGHTMAN: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Wightman. I call to order the fourteenth day
of the One Hundredth Legislature, First Session. Senators, please record your presence
by roll call. Please record, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: Mr. President, I have no corrections. []

PRESIDENT SHEEHY: Messages, reports, or announcements at your desk? []

CLERK: Mr. President, I have a reference report referring LB695 and rereferring LB629,
as well as some gubernatorial appointees to standing committee for confirmation
hearing. Hearing notices from Education Committee; series of hearing notices from the
Education Committee. Also have a notice of hearing from the Executive Board. A series
of notice of hearings from the Revenue Committee. And I have a notice of hearing from
the Agriculture Committee, all signed by the respective chairs. []

Your Committee on Banking, chaired by Senator Pahls, reports LB115 to General File.
Revenue Committee, chaired by Senator Janssen, reports LB166 to General File with
committee amendments. And Banking Committee reports LB186 to General File with
committee amendments, those signed by the respective chairs. Your Committee on
Enrollment and Review reports LB26, LB21, and LB24 to Select File. And a new
resolution, Mr. President, Senator Fischer offers LR19. That will be laid over. That's all
that I had, Mr. President. (Legislative Journal pages 333-339.) [LB115 LB166 LB186
LB26 LB21 LB24 LR19]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to legislative confirmation
reports. []

CLERK: Senator Janssen, as Chair of Revenue, would report on the appointment of

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Doug Ewald as State Tax Commissioner. (Legislative Journal page 324.) []

PRESIDENT SHEEHY: Senator Janssen, you're recognized for the confirmation report from Revenue Committee. []

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. On Thursday the 18th of this month, the Revenue Committee heard the testimony from Mr. Douglas Ewald of Omaha. He was appointed by the Governor, the Tax Commissioner's Office. He was recommended by the Governor, this appointment, as a new Tax Commissioner. Interesting gentleman, very well-educated. He has a CPA and had 20 years of professional experience as a tax accountant. He's been a tax programmer, manager for the Union Pacific Railroad and other private accounting firms for the last several years. He received a master's degree in accounting from the University of Nebraska at Omaha, undergraduate degree from Buena Vista University in Iowa. He has served on the board of the Heartland Area Federal Credit Unions and the board of the Senior Health Foundation, which is designed to help meet the needs of our senior citizens. He's very active in youth work, including the Boy Scouts of America. Interesting man to visit with and look forward to working with him in the next couple of years. And the Revenue Committee found his qualifications to be very professional, the experience and the education, an excellent basis for unanimously recommending him as Tax Commissioner. With that, that ends my report. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the report from the Revenue Committee on the confirmation report. The floor is now open for discussion. Anyone wishing to speak on this report? Senator Janssen, is that waiving closing? The question before the body is, shall the legislative confirmation report from the Revenue Committee be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 339.) 42 ayes, 0 nays, Mr. President, on adoption of the confirmation report. []

PRESIDENT SHEEHY: The confirmation report is adopted. (Doctor of the day introduced.) We'll now move to General File. Mr. Clerk, first item. []

CLERK: Mr. President, LB80, a bill introduced by the Natural Resources Committee and signed by its membership. (Read title.) The bill was introduced on January 5 of this year, referred to the Natural Resources Committee. The bill was advanced to General File. There are committee amendments pending. (AM30, Legislative Journal page 323.) [LB80]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Loudon, you're recognized to open on LB80. [LB80]

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SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. The purpose of LB80 is to expand the existing grants program under the Drinking Water State Revolving Fund Act to include communities 10,000 and smaller population under grant provisions. It allows the Department of Environmental Quality to provide up to 65 percent of the revenue from administrative fees for the prior fiscal year for loan forgiveness, emergency funding, and financial assistance. It also gives the director the authority to transfer money in the Drinking Water Administration Fund to the Drinking Water Facilities Loan Fund to meet state matching appropriation requirements of federal grants or to meet the purpose of loan forgiveness. All funds are cash funded. There's no General Fund appropriation for this program and the department estimates that \$455,000 would be available in fiscal year 2007 and 2008, and \$507,000 would be available in fiscal year 2008 and 2009. And there are committee amendments. [LB80]

PRESIDENT SHEEHY: Thank you, Senator Louden. We'll now move to committee amendments, AM30. Senator Louden, you're recognized to open. [LB80]

SENATOR LOUDEN: Okay, the committee amendment strikes the phrase "schools or" from the bill on page 7, line 24, and on page 8, lines 4 and 17. This was stricken because a portion of the Drinking Water Act that is addressed by this bill concerns municipalities and not the schools. Schools are eligible to receive grants under different provisions of the act. And I would ask that we approve the amendment to LB80. Thank you. [LB80]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening on AM30. The floor is now open for discussion. Senator Schimek. [LB80]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I'm not standing in opposition to or in support of the amendment. I'm just standing to try to get some information on the bill itself, make sure I understand it. And Senator Louden, if you would just answer a couple of questions for me. As I look at the fiscal note, it mentions that this involves \$455,000 in the first year or up to that, anyway, and \$507,000 in the second year of the biennial. What I'm wondering is, I mean, where does this money go now? Are we taking money that's used for something else now and diverting it into this particular fund? Or is that fund simply built up over time and in a couple of years that fund will not be as big as it is now? Can you give me any information about that, please? [LB80]

PRESIDENT SHEEHY: Senator Louden, would you yield? [LB80]

SENATOR LOUDEN: Well, my understanding is that this fund is there for larger cities to use and to adjust to or to get grant funding from. And what this bill does is set it up so that smaller cities--the 10,000 or less--are eligible to apply to this grant fund. [LB80]

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SENATOR SCHIMEK: And I don't really think I have a problem with that. I'm just kind of curious about this fund and how big that fund is. How big is that fund totally? Well, I guess if it's...if we're talking about up to, what, 65 percent did I read, of this fund could be used for that. Is that...so the fund is about a million dollars now or what? I'm just trying to get a little... [LB80]

SENATOR LOUDEN: My counsel tells me that at the present time there's about, over \$2 million in that fund that's been built up over the years. Now where it's come from administrative, loan paybacks and that sort of thing, where people have tapped into the fund and got the grants and then paid it back over a period of years. And it's more or less been kept up as a fund to improve the drinking water. And the smaller towns now can probably work into this, especially those with the arsenic out in the western end of the state is... [LB80]

SENATOR SCHIMEK: Okay. Again, I'm not sure that I have a problem with this. I'm just trying to understand it. If the fund has been built up over time, is there expectation...well, it looks as if that fund would be diminished by half in the first two years. And I know that more would be coming in all the time. What I guess I'm getting at, are we going to get to a point with this bill where we deplete the fund enough that then there is not enough to go around for everybody? And secondly, do the larger communities even need to get into this fund anymore? [LB80]

PRESIDENT SHEEHY: One minute. [LB80]

SENATOR LOUDEN: What it is, is there's federal capitalization grants in here and there's some state matching grants, I suppose, from time to time, and matching bond issues that have been credited to the fund over a period of years. And the repayments of principle and the interest on the loans is where it's come from and other monies. And this is where it gives the director the authority to use this Drinking Water Revolving Fund Act or account to allow for grant funding for your cities and towns to apply for safer drinking water. Does that help, Senator? [LB80]

SENATOR SCHIMEK: Yes, it does. But I guess it doesn't get to the nub of my question, which is, is there any necessity for larger communities to still get into this fund or...you know, because it's almost a million dollars being taken out of this fund over a two-year period. At the end of that two years, the fund will be diminished quite a bit. And I guess what I'm asking is, is it okay that we do this, that the smaller communities can use it up now because the larger communities don't need it anymore? That's really the heart of the question. [LB80]

SENATOR LOUDEN: Now whether the larger communities still need it, I would hazard a guess on that. Perhaps they probably have some uses for it to improve the drinking

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water. But at the present time, the smaller communities I don't think have any system that they can leverage any grant money. And I think this is where we're trying to let them in on that. Now I can find out for you, if you wish, on who is funding this and how much is going out of there on a different size scale. That I haven't looked up yet. But if you wish, I can do something like that. [LB80]

SENATOR SCHIMEK: If you would, Senator. And also, how much comes into this fund on a yearly basis? I mean, if we take out almost a million dollars over a two-year period of time, does that amount replenish itself over a two-year period of time or how long has it taken to build up this fund? Again, you know, I will support moving the bill until we have some answers to some of those questions. But it's just an informational question that I had more than anything. So thank you for your responses. [LB80]

SENATOR LOUDEN: Thank you, Senator Schimek. [LB80]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Further discussion from the floor? Seeing none, Senator Louden, you're recognized to close on the committee amendment to LB80. [LB80]

SENATOR LOUDEN: I'll waive closing. [LB80]

PRESIDENT SHEEHY: Senator Louden waives closing. The question before the body is, shall AM30, committee amendment to LB80, be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB80]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB80]

PRESIDENT SHEEHY: Committee amendment is adopted. [LB80]

CLERK: I have nothing further on the bill, Mr. President. [LB80]

PRESIDENT SHEEHY: Thank you. The floor is now open for discussion on LB80. [LB80]

SENATOR LOUDEN: Lieutenant Governor, I would propose now that LB80 advance as the amendments are voted onto it. With that, I'd ask for a vote to advance LB80. Thank you. [LB80]

PRESIDENT SHEEHY: The question before the body is shall LB80 advance to E & R Initial as amended? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB80]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB80. [LB80]

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PRESIDENT SHEEHY: LB80 does advance. Next item? [LB80]

CLERK: Mr. President, LB94 is a bill by Senator Cornett. (Read title.) The bill was introduced on January 5, referred to the Revenue Committee. Bill was advanced to General File. At this time, Mr. President, I have no amendments to the bill. [LB94]

PRESIDENT SHEEHY: Senator Cornett, you're recognized to open on LB94. [LB94]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I'm here today to introduce LB94. This bill would allow municipalities that receive local option sales tax to receive the names and addresses of the retailers who have collected this tax for the municipality. This in turn would allow the city to make sure the retailers located in the municipality are collecting the tax and that the tax is being properly distributed to the city. The reason this bill is important to the city of Bellevue and to other municipalities in the state of Nebraska are there are many communities in the state of Nebraska that have different zip codes, with many different zip codes within their city limits. An example of this is Bellevue, which has zip code 68157 and 68147, which are actually Omaha addresses, located inside the city of Bellevue. However, the city of Bellevue is providing services to these areas. And this bill would allow the city to look at the list to make sure it is getting the tax money it is entitled to from these areas. As with any system for collecting taxes, mistakes can be made. This would allow the municipalities to work with the state to clarify any mistakes which could occur, whether on the side of the municipality or on the side of the state. This bill affects all municipalities in the state where there are a number of zip codes. At the hearing, a number of people testified in support of this bill and I would appreciate it if the body could advance this bill. Thank you. [LB94]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening on LB94. The floor is now open for discussion. Senator Dubas, you're recognized. [LB94]

SENATOR DUBAS: Thank you, Lieutenant Governor. I have some questions that I'd like to ask of Senator Cornett. [LB94]

PRESIDENT SHEEHY: Senator Cornett, would you yield? [LB94]

SENATOR CORNETT: Yes. [LB94]

SENATOR DUBAS: Thank you, Senator Cornett. This sounds like a check and a balance basically. But some of the questions I have are, does this give the municipality the authority to check on the retailers in the report that they give? [LB94]

SENATOR CORNETT: They can request the report and, yes, from that report they can

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look at whether the tax is being assigned to the correct city, regardless of the zip code. [LB94]

SENATOR DUBAS: Okay, okay. So do you have some specific examples? [LB94]

SENATOR CORNETT: To give you an example--and it's partially to allow the city to check to see if the state and the city has kept up with the annexation--in Bellevue, I live at an Omaha address. Well, it was 2601 Alberta Avenue, Omaha, Nebraska 68147; but inside the city of Bellevue. And an example of how this would apply was last night, I was at Nebraska Furniture Mart buying items to be delivered and they were to be delivered into Sarpy County so they had to check the zip code and then confirm that it was Sarpy County and not Omaha to make sure that the tax was sent to the right city. And this would allow the cities to pull a report to make sure the retailers are assigning it to the correct area. [LB94]

SENATOR DUBAS: So if there's a discrepancy that shows up, how...is there a mechanism to handle that? [LB94]

SENATOR CORNETT: There is a mechanism to handle that. In committee hearings, there was testimony that, you know, at the end of years, they found out that some municipalities need to pay back to the state because they had gotten taxes that weren't correctly assigned to them and some received that hadn't been assigned correctly to begin with. [LB94]

SENATOR DUBAS: Thank you very much. [LB94]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Further discussion on LB94? Seeing none, Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question before the body is, shall LB94 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB94]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB94. [LB94]

PRESIDENT SHEEHY: LB94 does advance. Next item? [LB94]

CLERK: Mr. President, the next bill, LB98, was a bill introduced by Senator Flood. (Read title.) The bill was introduced on January 5 of this year, referred to the Revenue Committee. Bill was advanced to General File. At this time, I have no amendments to the bill, Mr. President. [LB98]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Flood, you're recognized to open on LB98. [LB98]

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SPEAKER FLOOD: Thank you, Mr. President, members. This is primarily a cleanup bill. In fact, it is a cleanup bill. It amends Section 77-5601 which created the tax amnesty program back in 2004. Senator Landis championed that issue at the time. And in 2004, you would find it at LB1017. What Senator Landis did in 2004 was send a message to the Department of Revenue that we were going to create two separate funds and we were going to provide a period in which taxpayers could remit past due taxes without question or without penalty. And the program was actually very successful. In doing this, what he did is he said, of all the taxes that are paid in as part of the amnesty program: 80 percent goes to the General Fund; 10 percent, but not to exceed \$500,000, goes to the enforcement fund, which was to give the Department of Revenue extra resources to be able to go out and knock on doors and find taxpayers that haven't been paying in a timely fashion; and then the other 10 percent went to the enforcement technology fund, which bought software, computer equipment, technological innovations, I guess, or technological systems to be able to go out and enforce our tax laws. And so that's where the money went from the tax amnesty program. Well, the technology fund was set to terminate July 1, 2006, and both of those 10 percent funds--the technology fund and the enforcement fund--were capped out at \$500,000. They have reached their limit and the amnesty program is over. And now it is time to eliminate this language in our statute, send the rest of the money to General Fund. And you may wonder, are there still people out there paying as part of this amnesty program? Well, yes, there are still a few taxpayers that are on a payment system or schedule and that money will then be put back into the General Fund. So basically we're just cleaning up some language in Section 77-5601 that creates these funds and the funds have terminated. Thank you for your consideration. I look forward to the vote. Thank you, Mr. President. [LB98]

PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the opening on LB98. The floor is now open for discussion. Anyone wishing to speak on this item? Senator Flood waives closing. The question before the body is, shall LB98 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB98]

CLERK: 45 ayes, 0 nays, Mr. President, on the advancement of LB98. [LB98]

PRESIDENT SHEEHY: LB98 does advance. Next item, Mr. Clerk? [LB98]

CLERK: LB167, introduced by the Revenue Committee and signed by its members. (Read title.) The bill was introduced on January 8 of this year, Mr. President, at that time referred to the Revenue Committee. The bill was advanced to General File. I do have committee amendments pending. (AM31, Legislative Journal page 324.) [LB167]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on LB167. [LB167]

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SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. LB167 is one of two requests this year from the Tax Equalization and Revision Commission to help administer the provisions of the act. Changes to be made by the bill include provisions clarifying that district court jurisdiction does not include matter within the jurisdiction of the Tax Equalization and Review Commission. This is in response to a district court action last year to consider an original action regarding the taxable value of certain property. Second thing it does, on page 4, Section 4, defines the terms of the TERC commissioners. Currently, terms run six years after the date of appointment so the terms could expire at any time during the year. Under LB167, the District 3 and at-large appointment will expire in January 1 of 2008; and in District 2, the appointment, January 1 of 2010; and District 1 in January 1 of 2012. Vacancies would be filled only for the remainder of that term. On the third item is the new language stating the commission may determine any question raised in the proceedings. This is to reverse the Nebraska Supreme Court decision where the TERC was reversed because of the issue decided by the TERC was not previously raised before the county board. And that is on page 8, Section 1. The fourth provision clarifies that the commission may either invalidate or suspend an assessor certificate. The current statute uses both terms but in different places. This section would also adopt the statute of limitations to two years for such actions against the assessor. And that is on page 11, Section 8. Page 12, Section 9, fifth provision allows the commission to formally adopt guidelines, standards, or criteria in the statewide equalization process. Such guidelines and standards or criteria were not to be considered rules or regulations subject to the Administrative Procedure Act. The committee amendments will strike this section and eliminate this proposed change. The sixth thing is language harmonized with the acceptable range for the recapture value of land subject to special value, which is greenbelting. Consistent with the passage of last year's LB808, the acceptable range for the recapture value is to be from 92 to 100 percent of the actual value rather than the 69 to 75 percent. The committee amendments reverse this change and restore the acceptable range from 69 to 75 percent of the actual value. This change would also make the committee amendments to LB166 which will come up later on. The seventh provision strikes a lot of redundant language. Thank you. [LB167 LB166]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the opening to LB167. We'll now move to Revenue Committee amendment, AM31. Senator Janssen, you're recognized to open on the committee amendment. [LB167]

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. I have explained those but I'll go through them again. The committee amendment strikes Section 9, which would have allowed the TERC to set guideline standards or criteria for inner-city equalization, which would not have gone through the rules and regs procedure. And it also restores the acceptable range for the recapture value on lands subject to special appeals or greenbelting to 60 to 75 percent. This policy is actually changed by the committee

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amendments in LB166. Thank you. [LB167 LB166]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the committee amendment, AM31. Senator Janssen, you're now recognized to open on AM67. [LB167]

SENATOR JANSSEN: I've already opened on that. If you want me to do it again, I certainly will. It strikes Section 9, which would allow the TERC to set guidelines, standards, criteria for inner-city equalization, would not have gone through the regular rule and regulation process. It also restores the acceptable range for the recapture value of lands subject to special appeal, greenbelting, from 60 to 75 percent. This change is actually done by the committee amendment, which is LB166. [LB167 LB166]

PRESIDENT SHEEHY: Thank you, Senator Janssen. We are on the committee amendments, which is AM31. So you have heard the opening on that. We are discussing the committee amendment. Senator Chambers, you're recognized. [LB167]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I have to ask Senator Janssen a question or two so that I can understand what is at stake here, if he will yield. [LB167]

PRESIDENT SHEEHY: Senator Janssen, would you yield? [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: Senator Janssen, if I heard you correctly, you said that this bill will reverse two court decisions. [LB167]

SENATOR JANSSEN: That's correct. [LB167]

SENATOR CHAMBERS: Which court handed down those decisions? [LB167]

SENATOR JANSSEN: The first one was the county district court and the second one was the Supreme Court. [LB167]

SENATOR CHAMBERS: Were both decisions dealing with the same matter? In other words, was the district court decision appealed to the Nebraska Supreme Court? [LB167]

SENATOR JANSSEN: No. [LB167]

SENATOR CHAMBERS: The second decision had been handed down in a lower court and was appealed to the Supreme Court, is that correct? [LB167]

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SENATOR JANSSEN: It was appealed by TERC, is that correct? I'm sure that's correct, yes. It was appealed by the TERC board. [LB167]

SENATOR CHAMBERS: Senator Janssen, why was not the first decision that was handed down by the district court appealed if it was one that hindered what TERC thought it ought to be doing? [LB167]

SENATOR JANSSEN: Because it was settled by the parties involved. [LB167]

SENATOR CHAMBERS: What was the subject matter of that suit and what was the settlement? [LB167]

SENATOR JANSSEN: The first issue, Senator? [LB167]

SENATOR CHAMBERS: Yes. [LB167]

SENATOR JANSSEN: It was the dispute over the valuation of property. [LB167]

SENATOR CHAMBERS: And what was the nature of the dispute? Who were the parties, first of all? I don't need to know their names. Was there a property owner...say it again. [LB167]

SENATOR JANSSEN: The county board and the property owner. [LB167]

SENATOR CHAMBERS: And what role did TERC have to play in this decision, if it was between a county board and a property owner? [LB167]

SENATOR JANSSEN: There was none. That's why the problem arose. There was no involvement of the TERC board in that process. [LB167]

SENATOR CHAMBERS: So then that decision, that decision did not in any way limit the ability of TERC to achieve what it considered just outcomes. Is that true? [LB167]

SENATOR JANSSEN: Well, yes, yes it does. [LB167]

SENATOR CHAMBERS: It does hinder... [LB167]

SENATOR JANSSEN: Yes, yes. [LB167]

SENATOR CHAMBERS: ...the ability of TERC? [LB167]

SENATOR JANSSEN: Sure. [LB167]

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SENATOR CHAMBERS: How did it do that? Let me ask a question as clearly as I can ask it. When the settlement was reached, did the property owner come out a winner? [LB167]

SENATOR JANSSEN: Well, I have no idea but I would imagine not. Otherwise, there wouldn't have been a decision to go to the TERC. [LB167]

SENATOR CHAMBERS: What was going on in that case which led the court to render a decision that would have been harmful to what TERC wanted to do? Let me ask the question a different way. That decision that I'm discussing now... [LB167]

SENATOR JANSSEN: With the county board. [LB167]

SENATOR CHAMBERS: ...was in fact handed down by a district court. And after that decision was handed down, the county board and the property owner entered negotiations which led to a settlement. Is that true? [LB167]

SENATOR JANSSEN: That's my understanding, Senator Chambers, yes. [LB167]

SENATOR CHAMBERS: What about the decision that the court handed down would interfere with what TERC was doing? Was that decision in favor of the property owner, in other words? [LB167]

PRESIDENT SHEEHY: One minute. [LB167]

SENATOR JANSSEN: Okay. Then the decision that is rendered, then the appeal goes to the TERC board. [LB167]

SENATOR CHAMBERS: So the court rendered a decision and you appeal that court decision, not to a higher court, but to TERC and the TERC can overrule a court? [LB167]

SENATOR JANSSEN: No... [LB167]

SENATOR CHAMBERS: So why would a court decision be appealed to TERC? [LB167]

SENATOR JANSSEN: Well, counsel says it wouldn't be, Senator. [LB167]

SENATOR CHAMBERS: I thought I heard you say that the appeal would go to TERC so maybe I misheard. Let me back up. [LB167]

SENATOR JANSSEN: The appeal should have gone to the TERC board. [LB167]

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SENATOR CHAMBERS: But it went to the district court? [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: And did the court say in its decision that the matter was not within the court's jurisdiction because the appeal should have gone to TERC? [LB167]

SENATOR JANSSEN: They did not say that, but if we pass this bill, that's what would have happened... [LB167]

PRESIDENT SHEEHY: Your time continues, Senator Chambers. [LB167]

SENATOR JANSSEN: ...or would happen. [LB167]

SENATOR CHAMBERS: Thank you, Mr. President. What I'm trying to find out...I know that the Revenue Committee deals with some arcane matters which only a few people understand. So I don't think my language fits into the category of being arcane. It's probably too simple and that's why it's not being understood. But I'm going to press on to try to figure out what is being dealt with here in this bill. A property owner and the county board had a dispute. The dispute went to the district court. The court handed down a decision. Did that decision favor the property owner? [LB167]

SENATOR JANSSEN: I really don't know, Senator. [LB167]

SENATOR CHAMBERS: But the property owner and the county board... [LB167]

SENATOR JANSSEN: Apparently not. [LB167]

SENATOR CHAMBERS: ...after that decision decided to talk to each other and resolve the matter. Is that right? [LB167]

SENATOR JANSSEN: Apparently, um-hum. [LB167]

SENATOR CHAMBERS: If the county board had won, why would the county board negotiate with the disgruntled property owner? So maybe the county board didn't win? [LB167]

SENATOR JANSSEN: Eventually the county board didn't win. [LB167]

SENATOR CHAMBERS: And you want to reverse what that district court decided? [LB167]

SENATOR JANSSEN: No, we want to clarify that so that they will be able to go to the

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TERC board, or TERC board make that decision for them. [LB167]

SENATOR CHAMBERS: My problem...one of my problems, Senator Janssen, is that I'm a very slow reader. And rather than reading clumps of words, I read a word at a time. And I'm looking at the statement of intent. And it says in its second sentence, "Among the new issues in this bill are two provisions to reverse the outcomes of two court decisions that have limited the ability of the TERC to achieve what it considers just outcomes." Before I get to TERC's ability and the outcomes, I want to find out what those two decisions said. And I'm working still on the first one, which is the district court decision. Can you tell me what the decision in that case was now? [LB167]

SENATOR JANSSEN: Okay, all right. (Speaking with counsel.) [LB167]

SENATOR CHAMBERS: Can I make some noise so that the people who are watching this, they won't think that I've lost my way and am just at sea? (Begins humming.) [LB167]

SENATOR JANSSEN: (Laugh) That's a lot for me to grasp, just from here to there, Senator. But the county board...the district court reversed...no, the county...they sustained the decision that was rendered. [LB167]

SENATOR CHAMBERS: By whom, by the county board? [LB167]

SENATOR JANSSEN: By the county board. [LB167]

SENATOR CHAMBERS: Okay. And the property owner chose not to appeal it. Is that true? [LB167]

SENATOR JANSSEN: That would be correct. [LB167]

SENATOR CHAMBERS: So if the district court sustained the county board, why do you want to reverse that decision? But here's what I'll ask first. Was the decision by the county board one that interfered with what TERC would decide or want to decide? [LB167]

SENATOR JANSSEN: Not by the county board. [LB167]

SENATOR CHAMBERS: Well, by whom? Why do they...who wants to reverse these two decisions? [LB167]

SENATOR JANSSEN: The TERC would like to retain... [LB167]

PRESIDENT SHEEHY: One minute. [LB167]

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SENATOR JANSSEN: ...their jurisdiction over these matters. [LB167]

SENATOR CHAMBERS: And the county board was involved with the property owner. And when that decision was handed down by a district court, the court's decision was of such a nature that TERC felt that the decision hampered TERC and what TERC wanted to do. Is that true? [LB167]

SENATOR JANSSEN: The result doesn't matter. But it was the action...okay, it was TERC's jurisdiction that was violated by that action. [LB167]

SENATOR CHAMBERS: Did the court render a decision which TERC construed as a violation of its jurisdiction? [LB167]

SENATOR JANSSEN: Yes... [LB167]

PRESIDENT SHEEHY: Continuing time. Senator Chambers, this is your third time. [LB167]

SENATOR JANSSEN: ...yes, they did. [LB167]

SENATOR CHAMBERS: So TERC now wants us to change a decision handed down by a court which was interpreting the existing law at the time that decision was handed down. Is that true? [LB167]

SENATOR JANSSEN: It's just a clarification of the decision. [LB167]

SENATOR CHAMBERS: Well, if we're reversing the decision, we're not clarifying anything. We are undoing what the decision said and apparently putting something else in the law which was not there at the time the decision came down. Or we're taking something out of the law which was there at the time the decision came down. Are we pulling a tooth or are we putting a bridge where a tooth used to be? Are we extracting or adding, in other words? [LB167]

SENATOR JANSSEN: Well, yes... [LB167]

SENATOR CHAMBERS: Yes, we are? [LB167]

SENATOR JANSSEN: Yes, we are. We're clarifying... [LB167]

SENATOR CHAMBERS: Okay, yes, we are. Which one? [LB167]

SENATOR JANSSEN: We're clarifying what the TERC board's, what their duties are

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and the decisions that are rendered by the TERC board. [LB167]

SENATOR CHAMBERS: I'm going to continue but I'm going to have to offer amendments or something because my time is running out. But I have to ask you this now. [LB167]

SENATOR JANSSEN: Well, I can push my light on and we can continue then. [LB167]

SENATOR CHAMBERS: Okay. What decision was handed down by the Nebraska Supreme Court that you want us to reverse? What was involved in that case? Because I sure don't understand the district court thing we've been talking about. That's probably why I'm not on the Revenue Committee. [LB167]

SENATOR JANSSEN: Okay, it was called the Harrison Square. And that would give the TERC jurisdiction over the decisions that were made by the county board. [LB167]

SENATOR CHAMBERS: That's what the Nebraska Supreme Court had ruled? [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: And TERC doesn't believe that TERC should have that jurisdiction over county board decisions. Is that true? [LB167]

SENATOR JANSSEN: No, no, that's not right. [LB167]

SENATOR CHAMBERS: Okay. The court said...what did the court say again? Did the court say that TERC would have jurisdiction to reverse decisions by the county board? [LB167]

SENATOR JANSSEN: The TERC's decision had to be done with what was brought before the county board. [LB167]

SENATOR CHAMBERS: And the TERC wants to go beyond what is presented to the county board. Is that true? [LB167]

SENATOR JANSSEN: No, no. No. [LB167]

SENATOR CHAMBERS: So they're satisfied... [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: ...to be bound with what is presented to the county board? [LB167]

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SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: Then why do they want to reverse a decision which said that? [LB167]

SENATOR JANSSEN: Could you repeat that? [LB167]

SENATOR CHAMBERS: If I understood you, the Supreme Court decision said that TERC could review decisions handed by the county board. [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: Is that what the decision said? [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR CHAMBERS: And TERC does not want to be able to do that. Is that true? [LB167]

SENATOR JANSSEN: No. [LB167]

SENATOR CHAMBERS: Then why do they want to reverse the decision that said they could do what they want to do? [LB167]

SENATOR JANSSEN: Well, Senator Chambers... [LB167]

SENATOR CHAMBERS: You wish I hadn't come up here and started talking to you, huh? [LB167]

SENATOR JANSSEN: No, absolutely not. We knew this was going to happen sometime and I'm as good a one to start on as anyone else. [LB167]

SENATOR CHAMBERS: You knew what was going to...(Laughter) [LB167]

PRESIDENT SHEEHY: One minute. [LB167]

SENATOR JANSSEN: (Laugh) Because you know that I can take it. [LB167]

SENATOR CHAMBERS: You mean that somebody would start asking questions about a bill which is not clear. You knew that was going to happen at some point. Is that what you're saying? [LB167]

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SENATOR JANSSEN: Well, no, I didn't think that. [LB167]

SENATOR CHAMBERS: Okay. [LB167]

SENATOR JANSSEN: But it has, so we might as well go after it. [LB167]

SENATOR CHAMBERS: All right, well, maybe I will just listen to what some of the other people on the floor have to say and perhaps they will improve my education and I will be enlightened and the questions will be answered. But I want to find out, as they're talking--because some may want to help me--what about those decisions did TERC consider to be unjust since the statement of intent says that TERC needs this bill in order to achieve just outcomes? I gather from that that outcomes which had been upheld by the district court and the Supreme Court were unjust. [LB167]

PRESIDENT SHEEHY: Time, Senator Chambers. Senator Wightman, followed by Senator Janssen and Senator Flood. Senator Wightman. [LB167]

SENATOR WIGHTMAN: I just had some questions regarding the proposed bill of Senator Janssen, if he would yield. [LB167]

PRESIDENT SHEEHY: Senator Janssen, would you yield? [LB167]

SENATOR JANSSEN: Yes. [LB167]

SENATOR WIGHTMAN: Is the purpose of this bill merely to clarify who has the original jurisdiction after the county board makes its decision? [LB167]

SENATOR JANSSEN: You are exactly correct. [LB167]

SENATOR WIGHTMAN: And all you are doing, in that part of the bill at least, is specifying that the original jurisdiction in the appeal from the county board would be with the TERC board and not the district court? [LB167]

SENATOR JANSSEN: That's correct. [LB167]

SENATOR WIGHTMAN: Now can you tell me who had appellate jurisdiction from the decision of the TERC board? [LB167]

SENATOR JANSSEN: Who had...excuse me, I... [LB167]

SENATOR WIGHTMAN: Can it be appealed to the district court or does it get appealed to the Supreme Court? [LB167]

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SENATOR JANSSEN: Yes, I suppose it can. I would imagine it can, yes. [LB167]

SENATOR WIGHTMAN: Well, I'm asking which court has jurisdiction, the Supreme Court or can you go from the TERC board to the district court and appeal that decision? [LB167]

SENATOR JANSSEN: Yes, yes. [LB167]

SENATOR WIGHTMAN: You can go... [LB167]

SENATOR JANSSEN: I am quite sure that's correct. [LB167]

SENATOR WIGHTMAN: Okay. Now the other part of the bill, as I understand it, would just allow the TERC board to consider matters that perhaps were forgotten or not raised before the county board. Is that correct? [LB167]

SENATOR JANSSEN: That's correct. [LB167]

SENATOR WIGHTMAN: I have no further questions. [LB167]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Janssen. [LB167]

SENATOR JANSSEN: I'll pass. [LB167]

PRESIDENT SHEEHY: Senator Flood. [LB167]

SPEAKER FLOOD: Thank you, Mr. President. I was just discussing this bill with Senator White in hopes of giving Senator Chambers a little bit more time also to talk to the Revenue Committee committee counsel. Senator White, are you a member...I guess, Mr. President, would Senator White yield to a question? [LB167]

PRESIDENT SHEEHY: Senator White, would you yield? [LB167]

SENATOR WHITE: I would. [LB167]

SPEAKER FLOOD: Senator White, are you a member of the Revenue Committee? [LB167]

SENATOR WHITE: I am. [LB167]

SPEAKER FLOOD: Okay. And you obviously passed this bill out of committee and sent it to the floor. Is that correct? [LB167]

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SENATOR WHITE: I did vote for it; yes, sir. [LB167]

SPEAKER FLOOD: Okay. Would you share with me the process by which we currently process appeals from the county commissioners through the system? [LB167]

SENATOR WHITE: Well, the law was changed. Previously, you would go from the county commissioners to district court. The law as I understand it--and this is an understanding--was changed previous to this to have all appeals go through TERC to promote uniform property tax rulings across the state and to avoid divergences, county to county, district court to district court. There was a case that was appealed, probably improperly, from the county commissioners to the Douglas County District Court. That was then settled. And what this, as I understand it, is intended to do is to make the law clear that when you are appealing a tax matter from the county commissioners, it goes through TERC and then your appeals lie from there. I'm not certain but I think the appeal, in response to Senator Wightman, then goes to the court of appeals or the Supreme Court directly from TERC. It does not go back to the district court. Thereby, and this was done in past sessions, but the Legislature had decided that we needed a uniform statewide body of rulings and the best way to do that was to ensure appeals were funneled through TERC. [LB167]

SPEAKER FLOOD: Thank you, Senator. The difference between this situation, because it is property taxes, and the situation where you have maybe a citizen appealing a ruling from an administrative agency, the administrative agencies usually go to the district court and then they go up the ladder whereas in this case, we have it going from the county commissioner to the TERC board to the court of appeals to the Supreme Court. Is that right? [LB167]

SENATOR WHITE: That's my understanding, and this law reinforces that and makes that clear. [LB167]

SPEAKER FLOOD: And are you confident that the citizen that is appealing a ruling of the county commissioners has ample opportunity and is afforded due process to have their concerns reviewed by appropriate appellate courts after the decision from the TERC board? [LB167]

SENATOR WHITE: From what I have seen, if anything, going from county commissioner to the TERC board will be more favorable to an individual, unsophisticated citizen representing themselves than going through the district court system. So I'm comfortable that the individual's rights are well-protected given what I've seen thus far. [LB167]

SPEAKER FLOOD: Thank you, Senator White. And thank you, Mr. President. [LB167]

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PRESIDENT SHEEHY: Thank you, Senator Flood. Further discussion on the committee amendment? Seeing none, Senator Janssen, you're recognized to close on AM31. [LB167]

SENATOR JANSSEN: I'll waive closing. [LB167]

PRESIDENT SHEEHY: Senator Janssen waives closing. The question before the body is, shall the committee amendment to LB167 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB167]

CLERK: 43 ayes, 0 nays, Mr. President, on adoption of the committee amendments. [LB167]

PRESIDENT SHEEHY: Committee amendment is adopted. We'll now move to an amendment offered by Senator Janssen. This is AM67. It was not an amendment to the committee amendments. Senator Janssen, you're recognized to open. (Legislative Journal page 340.) [LB167]

SENATOR JANSSEN: This simply adopts the E clause for special assessments to go directly to the recapture value on property. That's all it does. [LB167]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the opening on AM67 by Senator Janssen. The floor is now open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Janssen, you're recognized to close. Senator Janssen waives closing. The question before the body is, shall AM67 be adopted to LB167? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB167]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Janssen's amendment. [LB167]

PRESIDENT SHEEHY: Amendment is adopted. [LB167]

CLERK: I have nothing further, Mr. President. [LB167]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. The floor is now open for discussion on LB167. Senator Chambers. [LB167]

SENATOR CHAMBERS: Mr. President, I was out in the hall having this matter explained to me. So is this the vote to move the bill that Senator Janssen and I have been discussing? [LB167]

PRESIDENT SHEEHY: That is correct, Senator. This will be to advance. [LB167]

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SENATOR CHAMBERS: Thank you. In the district court case, the matter should not have been accepted by the district court pursuant to a petition in error. There was a statute that had been repealed. That matter should not have gone to the district court on the basis that the court accepted it. So this bill, and I'm simplifying it so I won't lose people, is going to make it clear to the courts that that is not how one of these matters would be handled. That first step will take it to TERC. And TERC will conduct a review. And if there is dissatisfaction, an appeal can then be taken to the court after the TERC review. TERC's review does not replace a court. It does not overturn a court decision. So that kind of matter will not be appealed to a district court pursuant to a petition in error prior to TERC reviewing it. That would be the district court issue. In the Supreme Court case, there is an attempt by this bill to broaden what TERC can look at when a matter comes before it. It is not going to be restricted to what people may have said or written when they were going before the county board in determining this valuation or this taxable value. Anything that a person wants to raise, regardless of what may or may not have occurred before the county board, can be brought up when the issue is presented to TERC. I think that is eminently fair. I think it is reasonable. And although there are some complex issues that can arise during hearings or reviews, the simple thing that this bill is doing is making it clear what is going to be heard when, what can be heard during one of those reviews. So in a sense, the bill will simplify and clarify, as Senator Janssen told us. I just was not swift enough to do like...what do they call those races where the horse jumps over fences and bushes and...steeplechase. Now I would be able to run in a straight line or run around an oval track. But when you start putting curlicues and doglegs and obstacles which somebody not familiar with the arcane workings of the Revenue Committee must surmount, then you lose me. I had a discussion with a former member of the Legislature who is aware of my severe limitations. And he took those into consideration in explaining this matter to me. And the matter is not that complex once it's broken down to a level where somebody with my limited ability can understand it. So my suggestion would be that the Revenue Committee members deal with each other however they want to... [LB167]

PRESIDENT SHEEHY: One minute. [LB167]

SENATOR CHAMBERS: ...use their jargon, their mumbo jumbo, their abracadabra, or however anybody who doesn't understand would describe it. But when you deal with ordinarily mortals who work the Earth in shoe leather and cannot walk on water, who cannot levitate simply by using their mind, simplify it and I will grasp it. But whenever I don't understand something, I'm going to ask questions until I do. So I will support this bill. Thank you, Mr. President. [LB167]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further discussion on LB167? Seeing none, Senator Janssen, you're recognized to close on LB167. Senator Janssen waives closing. The question before the body is, shall LB167 advance to E&R Initial? All

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those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB167]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB167. [LB167]

PRESIDENT SHEEHY: LB167 advances. Speaker Flood, you're recognized for announcements. [LB167]

SPEAKER FLOOD: Thank you, Mr. President. One could surmise that the extra hour of preparation time each morning has allowed us to move more efficiently through our day. And because of our fine speed this morning, I anticipate and will plan for a 10:00 start tomorrow morning as opposed to 9:00 a.m. Once again, tomorrow morning we will resume our work at 10:00 a.m. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Speaker Flood. Next item, Mr. Clerk? []

CLERK: Mr. President, LB17, a bill offered by Senator Mines. (Read title.) The bill was introduced on January 4 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File, Mr. President. [LB17]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Mines, you're recognized to open on LB17. [LB17]

SENATOR MINES: Thank you, Mr. President, colleagues. LB17 deals with multiple office holdings, actually high elected office, multiple office holdings. It amends Section 32-603 and 32-604. The definition of "high elected office" means different folks. We are a high elected office, members of the Legislature. And that's described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10 of the Nebraska Constitution. Additionally, high elected officeholders include county, city, and school district elected officials. As this definition states, those included within this definition are members, again, of the Legislature, including constitutional officers, cities, counties, and school boards. Section 32-604 also states that no person serving in a high elected office shall simultaneously serve on any other high elected office except--there's one exception--county attorneys may serve on more than one office, serving two different counties if they so choose. LB17 would add natural resource district board members to that definition of high elected office. What this does is it would preclude natural resource district board members from serving on any other elected high office, as in a county board, city council, or school district. When I looked at the definition of high elected office, I was surprised that it wasn't included, that natural resource boards weren't included. There is great potential, I believe, in a conflict of interest and, in fact, in abuse, potential for abuse. Because when you're dealing with natural resource districts, let's just say local elected bodies, each body has their own agenda, has their own purpose. However, you

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do have land use issues between the NRDs as well as county boards and city councils are involved in, levy, the setting of levies. And if you have an individual sitting on two of those boards, you have a potential for abuse or conflict. You have zoning and you have planning issues with an NRD as well as counties and cities. We did a bit of research and I understand that there are currently six members, six multiple officeholders in the state, both serving on both the natural resource district and a county board. Again, this is not intended to take on natural resource districts or county officials or any of those. There is a potential for abuse and a potential for conflict between if you have the same person serving on a natural resource district and a county board and school district and/or city council. With that, I would ask for the adoption of LB17. Thank you, Mr. President. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Mines. You've heard the opening of LB17. We will now move to AM71, offered by Senator Langemeier. Senator Langemeier. (Legislative Journal page 340.) [LB17]

SENATOR LANGEMEIER: Thank you, Mr. Lieutenant Governor, members of the body. I still have some reservations about this bill at this point. But I am offering AM71 for one purpose. Currently, if you look at the bill on page 4, lines 19 through 21, if we strike that language, if you currently sit in one or two of these positions, if you currently are a mayor of a community and a member of the NRD board, if this copy goes through in its green copy, you would immediately, on its enactment, have to make a decision which board you remain on and which one you resign from. My amendment would put that language back in and add that it goes into effect on the effective date on this bill, that you would remain in your office that you were elected to until the end of your term. So with the acceptance of this bill and the passage into law, you would not make that decision immediately upon that date. You would remain in your office until the end of your term. And so I'm hoping to make this bill a little better. I'll wait for some discussion on the whole bill as we go forward. But I would ask the adoption of AM71. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening to AM71. We have Senator Friend, followed by Senator Engel and Senator Mines. Senator Friend. [LB17]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This whole process is moving way too fast for me right now. Now I never thought I'd say that. When I first got here four years ago, I thought...people would ask me, was it everything you thought that it would be. No, it moves a heck of a lot slower. So you have to try to communicate to people out in your districts, or I did, what the only problem was with the Legislature. I'm not used to the speed of play. If somebody calls me at work in Omaha and says, I want this, I want it by close of business, most of the time you can produce, you can deliver, most of the time, as long as there's some teamwork. Here, all bets are off. But here's the funny thing and this is at the expense of Senator Mines. I didn't even

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bring it up to him but I think he'll understand. People are walking up this morning and asking me, hey, have you read X bill, have you read Y bill, have you read Z bill? No, I haven't. And it's 11:15 and we've been through, what, five bills on General File now? That's a little disturbing to me. Then we moved it to Select File and then where are we? Scrambling again? Sorry, Senator Mines. I didn't attend this hearing, through my own fault. But I do have some concerns and I'll raise them here. I probably would have voted this out of committee as well. But let me say this. The problem, I see it, is as follows. We've got...and I think Senator Mines is right in submitting his suggestion here. There are conflicts of interest in the natural resources district offices, especially with them holding another, potentially another office. I would agree with that. But here's where I think that we may part ways. And a reason that I would give, had I been at the executive session, not to vote something like this out of committee possibly. We're talking about, in a lot of cases, rural districts, difficult and different topography and demographics and geography than we have in, for example, in the Papio-Missouri Natural Resource District. The goals and objectives of the natural resources district in our community, in my community, in eastern Nebraska, are totally different than the goals and the objectives of the natural resources districts in the Republican River Valley and west of Grand Island. I would defy any...I mean, I know, at least I feel like I know, what the goals and objectives of the natural resources district, the Papio-Missouri Natural Resources District are. Flood control, obviously we can go on and on. Here's my point. Can we treat...we can look at these type of things that Senator Mines brought up--legislative offices, county seats in general--that don't always require specific types of possibly engineering knowledge or things that a natural resources district board member might have to have in order to do his or her job appropriately. Those type of local control issues that an NRD board member is going to bring up and say, you know what, I don't do any of those things that the guys out on the eastern part of the state do. We don't do that, we don't deal with that; it's all irrigation, it's all XYZ. These guys in the Papio NRD aren't dealing with that. There are local control issues here and... [LB17]

PRESIDENT SHEEHY: One minute. [LB17]

SENATOR FRIEND: ...maybe Senator Mines could shed some light on some of the subject matter because, like I said, I'm not just playing games here. This whole process this morning, as far as I'm concerned, I wasn't used to. Two days in a row we're just flying through these things and I've only read three of those bills. So forgive me for that. But I got news for you, this is probably the fun part. Maybe not for Senator Mines at this moment, and Senator Gay, I apologize. We shouldn't even get to his bill today. Sorry, Senator Gay. That's not my call. What is my call is to differentiate and to try to figure out why...whether the conflicts of interest that Senator Mines has eloquently brought up outweighs the factor that we need to implement as far as local control is concerned for these NRD boards. I think... [LB17]

PRESIDENT SHEEHY: Time, Senator Friend. [LB17]

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SENATOR FRIEND: ...we should have a discussion about this. Thank you, Mr. President. [LB17]

PRESIDENT SHEEHY: Senator Engel, followed by Senator Mines, Senator Schimek. Senator Engel. [LB17]

SENATOR ENGEL: Mr. President, members of the body, I have a question as far as conflicts of interest on these boards. Could be NRD, county board, or whatever. I know there was a situation up in my area where the county commissioner who is currently the road superintendent and he ran for county commissioner. And according to what was explained to me up there, he could serve in both capacities. He could be a county commissioner and continue to be a road superintendent. And to me, that's kind of a question I had in my mind, is he'd be his own boss. You know, and I thought there's something that, if that is a fact, maybe Senator Mines could address this. Senator, you probably weren't listening, I don't blame you. But did you hear what I mentioned or not? [LB17]

PRESIDENT SHEEHY: Senator Mines, would you yield? [LB17]

SENATOR MINES: Sorry, Senator Engel, I was engaged in conversation. [LB17]

SENATOR ENGEL: No, I know you were engaged and I understand that. Up in my area, we have a county road superintendent that ran for county commissioner and, of course, was elected. And according to what, I was informed that he could serve in both capacities. He could still keep his job as county road superintendent and the county commissioner. And of course, to me, I always thought that's a problem. I think basically that's quite a conflict where you're going to be your own boss. And I wonder, is that anything in your agenda is to correct something like that or do you think it is a problem? [LB17]

SENATOR MINES: Senator Engel, I hadn't considered that one, but that's a great example. No, my consideration was the setting of tax levies. You have competing interests if you're sitting on two different boards. You have competing interests when it comes time for land condemnation, whether it's the NRD condemning for flood control and/or a county interested in some other purpose. I just see too many conflicts of interest and that was the purpose for this bill. [LB17]

SENATOR ENGEL: Thank you. And I don't want to muddy up your bill but later on between now and Select File, we can talk about, maybe we can get something in there. Thank you very much. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Engel. Senator Mines. [LB17]

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SENATOR MINES: Thank you, Mr. President. I'd like to address Senator Langemeier's amendment. I completely agree with it. The language was stricken as...or is it striked? Striked, stricken by Bill Drafters and I believe that they thought that since 1997 all dual holders had since been flushed from office. But that's not the case and I think Senator Langemeier has a great solution to that problem. And Senator Friend had brought up a couple points. I just want to point out that we're dealing with the idea of a natural resource district officeholder and other officeholders. Whether they're in Omaha or they're in Gering, we're dealing with the principle, not exactly the application. The principle, I believe, should be that we should limit the amount of potential conflicts of interest in any officeholder. This just happens to be one that caught my attention because I saw dual officeholders, one in county government and one in natural resource district. So I think it's worthy. I agree with the amendment and would ask for your support. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Mines. Senator Dubas. [LB17]

SENATOR DUBAS: Thank you, Lieutenant Governor. I'd just like to make a couple of points. I think Senator Mines has brought up some interesting points as far as conflicts of interest. But the farther west you move, and I think Senator Friend kind of alluded to this, we struggle with the availability of human capital, you know, the population. You know, who's available to run for these offices? And so we have a lot of people in the various communities and counties who do wear multiple hats just because there aren't enough people to go around for all of the jobs that they need. And I would go back to the voting booth and when we go into the voting booth to vote for these various people, we know that there's a possibility that we might be voting these people into multiple offices. And so we have that choice, we have that chance to keep them from holding multiple offices in the voting booth. And so I have some serious concerns with what this legislation would do, especially to rural Nebraska. [LB17]

PRESIDENT SHEEHY: Thank you, Senator. Senator Chambers. [LB17]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I want to ask Senator Mines why he does not object to a county attorney serving as the county attorney in more than one county. [LB17]

PRESIDENT SHEEHY: Senator Mines, would you yield? [LB17]

SENATOR MINES: Senator Chambers, it's statute presently and I just didn't approach that. I'm sorry, I didn't look at that. [LB17]

SENATOR CHAMBERS: Why not? [LB17]

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SENATOR MINES: Because I was looking at other high officeholders and particularly looking at a natural resource district. However, I wouldn't object to it, to removing county attorneys from that language. [LB17]

SENATOR CHAMBERS: Okay. So if I would offer an amendment to do that, you would support it? [LB17]

SENATOR MINES: Absolutely. [LB17]

SENATOR CHAMBERS: With his having said that, I'm going to sit back and listen to the remainder of the discussion. Thank you, Senator Mines. Thank you, Mr. President. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Wallman, Senator Friend, Senator White. Senator Wallman. [LB17]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Mr. Mines, I'd like to know if this includes spouses or children, too, in this bill? [LB17]

PRESIDENT SHEEHY: Senator Mines, would you yield? [LB17]

SENATOR MINES: Senator Wallman, no, this is just the officeholder. You have to be an individual holding two simultaneous offices. So any other individual, whether it's a family member or not, is not included in that. [LB17]

SENATOR WALLMAN: Thank you. [LB17]

PRESIDENT SHEEHY: Senator Friend. [LB17]

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, my intent is not to make Senator Mines angry and, frankly, I don't have a problem as time progresses. I don't believe my state of mind right now and I don't have a problem moving this bill onto Select File. That's not my goal. Let me throw out a couple of hypotheticals here. I don't like the idea of an NRD board member at the Papio-Missouri NRD serving as a county board member. So I would share that concern. I have a problem with one of them serving as a city council person. I would have trouble with one of them serving as mayor. I think you see my point, I think you see where I'm going with this. Here, I think, is the pertinent analogy though. If I'm living in Cheyenne County and I'm the mayor of...quick, give me a city in Cheyenne County. Thank you. I'm living in...well, no, Sidney is too big. Look, there's a small town somewhere in Cheyenne County. Thank you, folks, thank you. I've got ten cities now. Let's say one of them has a mayor with an engineering degree. That person happens to be serving on the natural resources board in that district. Now look. The people wanted that person serving in

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those two, you know, categories for a reason. Now my guess is, on the NRD board because of the engineering skills and the ideas that that person can bring to that job, as mayor, possibly because the person likes to talk to people and glad hand and is very, very happy in the community, he's been there a long time. Do you see the problem here? Nobody else might want that job or it's quite possible that few people have shown any interest. Now you're going to say, well, wait a minute. If we put this into law, we're going to find out if there's any interest. Go ahead and let somebody else be mayor and take this person's expertise and the information that they can provide an NRD board and use it wisely. Eliminates the conflict of interest. I guess what I'm asking is, can legislation like this be enhanced to provide some local, for the ability to provide some local control? Now the answer might be no. Senator Mines, I'm guessing, is probably correct here. An NRD position might need to be included in the fray. If that's the case--and like I said, I'm guessing it is--we might have to move this on. But I'd like to hear from some of my rural colleagues. I don't live in those communities. I have in the past, but I don't now. And I don't know what kind of handicap this is going to place. And again, I'm not going to apologize for this again. If I'm slowing the process down, tough. The only one I'll talk to about it is Senator Mines. But I think it's a legitimate concern. When I was on Natural Resources Committee with Senator Louden, Senator Schrock, and others, we heard over and over instances of people coming and saying, look, we got guys all over the place on all these boards. [LB17]

PRESIDENT SHEEHY: One minute. [LB17]

SENATOR FRIEND: And they're serving in all...pardon me, Mr. President? [LB17]

PRESIDENT SHEEHY: One minute. [LB17]

SENATOR FRIEND: Thank you. We've got people serving in all kinds of different roles. The electorate knows that they're serving in those roles and they find it legitimate. Now expansion of power and ego can play a role in some of this stuff. Does this bill solve that problem? I don't really know. Let me leave it at this. A, I'd like to hear from some of my rural colleagues. This could be a problem, maybe not. If it's not, I'll stand down. And as it sits right now, if I don't hear from them, I'm going to help to move this, I'm going to help Senator Mines, Senator Langemeier, and Senator Chambers, after he drafts up whatever he's going to draft up, move this onto Select File. That's all I had, Mr. President. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Friend. We have Senator White, followed by Senator Wightman, Carlson, Dubas. Senator White. [LB17]

SENATOR WHITE: I'm addressing the issue with regard to county attorneys. Historically, that has existed because of the extreme difficulty in the rural parts of the state, sparsely populated counties, getting competent prosecutorial talent to come in

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and prosecute their crimes. What we've done as a state is allow an attorney to represent four or five different counties. There aren't that many crimes. Many of these counties cannot afford a full-time prosecutor but it is an extremely important job and it is a specialization inside of the legal profession. It's very difficult for a person acting as a prosecuting attorney in one case, for example, to then cross-examine a State Patrolman in the next county if he is trying to make a living. So what we have done in order to get better talent is allow them to represent multiple counties. I believe that has also improved the quality of the legal system in these areas. One of the most important aspects of being a county attorney is knowing when to prosecute and when not to and having the confidence to say no to law enforcement, that the case isn't there, that it shouldn't be prosecuted. It concerns me any time we make it harder and more expensive for rural counties to get high-quality prosecutorial talents. And therefore, I was concerned about the proposal, that perhaps it should be amended to include county attorneys. Historically, that has not been in the best interest of the people in Nebraska. [LB17]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Wightman. [LB17]

SENATOR WIGHTMAN: Mr. President, members of the body, I rise to echo the sentiments of Senator Dubas with regard to what this limitation may do out in rural areas. Probably some of the Omaha, Lincoln, Sarpy County senators are not even aware of the fact that we may have as many as 20 counties in the state of Nebraska that do not have a single attorney residing within that county. But any thought that we would expand the proposed effect of LB17 to include county attorneys would meet with a lot of resistance from me. But I think it's also true that we have to consider the fact that there are a lot fewer people to hold these seats, elected seats if you will, out in the rural districts. And I think sometimes we'll be really eliminating a lot of people from consideration that would probably serve well on the NRD as well as maybe a county board or another elected office. But I certainly agree with Senator Friend that this should be taken into account in any vote that we have here. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Wightman. We have Senator Carlson, Dubas, Harms, Christensen, Chambers. Senator Carlson. [LB17]

SENATOR CARLSON: Lieutenant Governor and members of the body, first of all, I would agree with Senator Friend in that I've felt the last couple of days that things are moving along at a pretty good clip and maybe a little faster than I'm comfortable with. And we've done a good job of slowing it down today. The other thing, the hair stood up on my neck just a little bit and I may have interpreted something out of place. But this idea that those of us in rural Nebraska are a little bit limited in terms of the number of people who can serve, I don't agree with that at all. The other evening, my wife and I went to a Farm Bureau meeting in Franklin. I'm the only one there with a tie. I was dressed out of place. Afterward on the way home, my wife talked to me about what we

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had listened to and concerns and thoughts. And she said, those people are smart. And we have a lot of people in rural Nebraska that can serve admirably in many different positions and I don't care for the idea that we are limited in any way. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Dubas. [LB17]

SENATOR DUBAS: Thank you, Lieutenant Governor. When I spoke of limitations earlier in my comments, I did not mean them, limitations as far as capable people available. I meant the numbers of people available. And when you get into the more sparsely populated areas of the state, that is a real concern, and so I do stand in opposition to this bill as a rural senator, Senator Friend, because of the possible lack of human resources, and also the voters' knowledge when they put those people into more than one capacity, that they're doing it, full well understanding what they're doing. I do have a question for Senator Mines, if he would yield. [LB17]

PRESIDENT SHEEHY: Senator Mines, would you yield? [LB17]

SENATOR MINES: Yes, Mr. President. []

SENATOR DUBAS: Thank you very much. You mentioned in your opening about...I think you used the number of six members who you know of that are currently holding multiple offices. Where are these officeholders situated in the state? [LB17]

SENATOR MINES: Senator Dubas, I know of three. Senator Langemeier had the others...said that there are six. The three that we came up with in my office, just randomly took an hour or so, there's a dual officeholder Lower Platte South NRD and he is also the Cass County Commissioner. There's also the Lower Elkhorn NRD board member, and he's on the Madison County Commission. And also the York County, is the commissioner as well as the Upper Big Blue NRD board. Those are three. [LB17]

SENATOR DUBAS: Thank you very much. I would reiterate my statement that I see this having a negative impact on rural Nebraska, and I stand in opposition. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Harms. [LB17]

SENATOR HARMS: Mr. Chairman and colleagues, I am a little bit offended by the fact that we think that rural America does not have people that are prepared to participate. I agree with Senator Carlson. Where I come from is pretty rural, and I'm here to tell you, there are capable people to take on those positions. I think we should get away from our conflicts, because there are conflicts. I don't think it's appropriate. And what Nebraska lacks, quite frankly, is a leadership training program to prepare people to take on the lead. And in rural America, these issues will continue, and as population continues to leave and come to urban America, where are we going to be with leadership? We can't

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fill all these position and so, quite frankly, we need to put together a leadership program that prepares people for the future and can participate in these issues. There is conflict today and unless we change this there will be conflict tomorrow, and I don't think we can allow that to happen. So what I'm saying to you is that rural America can step up and can deal with these issues, and quite honestly, we have enough people to be able to do this. We have to encourage them, we have to develop them, and we have to grow these people so they can participate in leadership roles in this state. If we don't do that, then we're void, and we're going to be sorry 5 years, 10 years, 15 years from now. I rise to support Senator Mines' position. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Christensen, Senator Chambers, Senator Friend, and others. Senator Christensen. [LB17]

SENATOR CHRISTENSEN: Mr. President, thank you. Fellow colleagues, you know, I don't...I agree with Senator Carlson and Senator Harms on the fact that we have plenty of capable people. Where I find the problem is willing people. And the Upper NRD sat up there three months trying to find somebody to fill a position, and we sat there looking and finally found somebody that was on the school board to fill the spot. It's not a lack of capable people, because there's all kinds, but the problem was the willing people in the district that it had to come from. And that was the issue in the Upper Republican, so we went three months without somebody there. It's a nonpaying job, it's a thankless job, and it's a difficult job, and people run away from it even though they should step up and learn and be willing to serve, as each one of us do. We didn't have anybody willing; had lots of capables, because we went and talked to a number of them. And the education part that Senator Harms brought up would be great, because if we could educate them to come forward to work, I could support this. But after going through the situation of can't find somebody to fill the position that was willing, it made me sit and think about what Senator Mines has brought forth here. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Chambers. [LB17]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask my new colleague, Senator White, a question or two. [LB17]

PRESIDENT SHEEHY: Senator White, would you yield? [LB17]

SENATOR WHITE: I'd be pleased to. [LB17]

SENATOR CHAMBERS: Senator White, what is the difference between the existing county attorney system that exists in Nebraska where, at least theoretically, each of the 93 counties could have a county attorney or...and what is the difference between that system and a district attorney system? [LB17]

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SENATOR WHITE: Yeah, you mean as it exists in other states? [LB17]

SENATOR CHAMBERS: Yes. [LB17]

SENATOR WHITE: It's a geographical limitation of power. The county attorney system limits the ability to prosecute cases to the actual boundaries of the county. A district system defines those as something other than the boundaries of the county. In this case, in our state as you know, the Attorney General can step forward under circumstances to prosecute in lieu of a county attorney, either because of conflict or unwillingness or inability to serve. [LB17]

SENATOR CHAMBERS: But if there were a district attorney system, we probably would not have 93 individual prosecutors, would we? We might have 93 people working, but I meant as chief prosecutors. [LB17]

SENATOR WHITE: No. Absolutely, and what the existing statute does is, as opposed to replacing the county attorney system, it just permits a more flexible approach, that individual counties can hire one attorney with the skills sufficient to be a county prosecutor, and to serve several or more counties. So it's an ad hoc remedy intended, I hope, to get the best quality of prosecutorial talent serving the people at the lowest possible cost. [LB17]

SENATOR CHAMBERS: And regardless of how it might rub people--the right way or the wrong way--this statute is an acknowledgement that there are not capable people in the rural areas willing to serve as county attorney. [LB17]

SENATOR WHITE: I would disagree with that, Senator. [LB17]

SENATOR CHAMBERS: Then what do we need this for? [LB17]

SENATOR WHITE: I would indicate that there is not, thankfully, the level of crime necessary to support a single full-time prosecutor in these counties. [LB17]

SENATOR CHAMBERS: So then... [LB17]

SENATOR WHITE: There are certainly attorneys who could develop those skills throughout the state. Now they may not be living in that specific county, but I think the more salient point is that many of these counties will go a decade without a serious crime in that county. [LB17]

SENATOR CHAMBERS: No, here's what I'm talking about. In each county,...there are counties where there is no person qualified to serve as county attorney; isn't that true? [LB17]

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SENATOR WHITE: There are counties where there are no attorneys. [LB17]

SENATOR CHAMBERS: So there would be nobody there qualified to serve as county attorney if you have to be an attorney to hold that position; isn't that true? [LB17]

SENATOR WHITE: If you have to reside in that county. [LB17]

SENATOR CHAMBERS: That's what I said, in those counties. If you don't have... [LB17]

SENATOR WHITE: Yes. Yeah, you mean residing, but there are... [LB17]

SENATOR CHAMBERS: Yes, residing in the county. [LB17]

SENATOR WHITE: ...attorneys, for example, in cities nearby. [LB17]

SENATOR CHAMBERS: You're taking too much of my time. Thank you, Senator White. Members of the Legislature, I'm about to run out, and we can continue, because I'm going to put my light on. But rather than adopt a system that is suitable for a state like Nebraska, which has densely populated areas and sparsely populated areas, you're going to take an existing system and, in effect, corrupt it. That's what's being done. If you want each county to have a county attorney, that's what you should do. But if you cannot find people in each county who want to hold that position, change the system to one which embraces the reality that you find in this state, and that would be a district attorney system. But rather than that, you nibble here, you nibble there. It's like somebody, who every time... [LB17]

PRESIDENT SHEEHY: One minute. [LB17]

SENATOR CHAMBERS: ...he or she develops an itch, scratches it. Then when you run out of enough arms to scratch, you grow a new arm and a new hand. Then you got 30 arms and 30 hands to scratch, when all you need to do is take that nasty carcass and throw it in a tub of hot, soapy water and cleanse it and get rid of all the itches. So what Nebraska Legislature has a tendency to do is build a new arm and new hand for a new scratch. We need to change the system, and I want my new colleagues to understand that Senator Friend pointed out the necessity of somebody like me who will slow down this process, and you will see it done. But who raised the necessity of doing that? Senator Friend. Who expressed concern about how fast things are going? One of my new colleagues. You all keep that in mind when I begin to find the necessity to unfurl the Chambers method. [LB17]

PRESIDENT SHEEHY: Time, Senator Chambers. [LB17]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB17]

PRESIDENT SHEEHY: Senator Friend. This is your third time. [LB17]

SENATOR FRIEND: Third? Boy, time flies. (Laughter) Look, members of the Legislature--thank you, Mr. President. My first or second year here--I don't remember which off the top of my head, and it's almost irrelevant--I stood up on the floor, probably in a fairly overconfident and brash way, proceeded to more or less lambast in my own way the Revenue Committee, or their work, I should say, the product of the Revenue Committee, the Appropriations work--not the people, the work--and I lambasted something else, which is probably irrelevant. I sat down, and I was sitting right where Senator Karpisek is, and I listened to, I believe, four speakers get up and say, Senator Friend, you're wrong. Boom, boom, boom, like cannon fire, okay? I've never told this story before, but I'm telling it now. Even he's not going to believe it. Senator Chambers comes sprinting up to the floor--must have been watching it somewhere, I don't know where he was. Now I've had, I would say, some vigorous debate with Senator Chambers, mostly in committee, not necessarily out here. We talk about Wellington and Napoleon and fun things like that to waste time. But at this point we hadn't had too many vigorous debates. He took the microphone and he said--and I'm going to say the same thing to you; I'm not lecturing, this is true--you've been elected by 33,000 people. You can say anything you want when you take this microphone. You can waste as much time as you want, providing the Chair, Lieutenant Governor, doesn't gavel you down. You've earned that right. He was the only one that actually stood up and said that. Like I said, it was cannon fire. Friend, you Republican, Reagan, Nazi, but...well, it wasn't that bad. (Laughter) It was actually, as lambasting goes, it was pretty nice. But that's what it was, because I was being a Republican, Reagan, bam, bam, bam. I probably deserved it. But there's one thing I took from that. One person actually said, he can say whatever he wants. That was him. Now he gets up and he says whatever he wants. You can say anything you want back to him. If you don't like this little amendment he's attaching to it, knock it down. Here's what I'm going to leave you with. I appreciate the rural colleagues standing up and clearing my head in regard to some of this information. I wasn't trying to make anybody's hair stand up on end or anything else. I think that there's a legitimate discussion point to be had here, as far as willingness of participants in certain areas of the state to get into the political process. I think that was legitimate. What I would ask you is, in closing, is to remember just a couple things. And again, it's not a lecture, and I'll jump off this soapbox. We're doing this, I believe, for a reason, slowing this type of thing down. I firmly believe in that, and I'll explain that as we get through the rest of this 90-day session, as time goes on. A second thing is, I believe Senator Mines' bill should be advanced. I do. I think there is a conflict of interest here, and some of you stood up and pointed that out pretty eloquently. And the third thing is, I do believe that piece about some folks in areas not willing to serve. [LB17]

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PRESIDENT SHEEHY: One minute. [LB17]

SENATOR FRIEND: If you got a mayor with a really nice hat and he likes a lot of people in town and a lot of people like him and he happens to be an engineer, I think these are appropriate questions. Senator...I was talking to Senator Erdman and other senators off, you know, off the mike, and they said, this is a...we don't care, but this is a little bit of a problem. Well, he didn't say they don't care. They care, but it can be a little bit of a problem, because who wouldn't want one of those county board seats? Pays more than we make. Power, I don't know; I'm not really sure. And an NRD...you kind of intermingle that? Yeah, there's a conflict of interest, but might have been the only person that raised his or her hand and said, yeah, I'm interested in doing both of those. They're thankless jobs. That's the point, and that's the discussion matter out here. It's not whether they're smart people in central and western Nebraska--we know that there are. It's willingness. [LB17]

PRESIDENT SHEEHY: Time, Senator Friend. [LB17]

SENATOR FRIEND: Thank you, Mr. President. [LB17]

PRESIDENT SHEEHY: Senator Fulton, followed by Senators McDonald, Kruse, Dubas, and others. Senator Fulton. [LB17]

SENATOR FULTON: Thank you, Mr. President. I'm a rural...I was born rural and came here urban. I think that's some dynamic to remember, that a lot of people that are serving here urban started off rural, so I'd like to point that out. I also want to point out that there may be a dearth of people to serve in these offices does not negate the fact that there are conflicts of interest. I talked to my aide and I talked to Senator Mines, just to be certain about something. NRDs do have taxing authority. And if an individual is able to wield taxing authority in an NRD and simultaneously wield taxing authority in some other position, I don't know that that stands in the best interest of Nebraskans either. So that's something to bear in mind, that there may be a dearth of individuals who are capable of serving does not negate the fact that there is a conflict of interest. Therefore, I stand in favor of Senator Mines' bill. I yield the remainder of my time. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator McDonald. [LB17]

SENATOR McDONALD: Mr. Lieutenant Governor and members of the body, I'd like to ask Senator Mines a couple questions. [LB17]

PRESIDENT SHEEHY: Senator Mines, would you yield? [LB17]

SENATOR MINES: Absolutely. [LB17]

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SENATOR McDONALD: Senator Mines, did anyone ask you to carry this bill? [LB17]

SENATOR MINES: No, Senator. This is my idea. [LB17]

SENATOR McDONALD: This was your idea, great. I pulled up the committee statement, which I always do on a bill, because I like to see who testifies for it and who testifies against it. I'm seeing that there was no comments either for or against or neutral on this bill. [LB17]

SENATOR MINES: That's correct. [LB17]

SENATOR McDONALD: Could it be it was the first committee hearing of Government and one of the first bills, and maybe the information didn't get out to the people that are concerned, so we really have a broad spectrum of those in our communities that it does affect, either for or against? And I'm surprised that we didn't get any testimony, one way or another. Are you surprised at that? [LB17]

SENATOR MINES: I don't know. We set the process. The hearings get set. It just happened to be set early. I don't know. I can't offer an opinion. I don't know. [LB17]

SENATOR McDONALD: And for that reason, I'm hesitant to pass this bill because I really don't know how it's going to affect people in my district, and I think that we all need to look at that because we don't know who this hurts, who it helps. Just because someone thinks it's a good idea doesn't make it a good idea for all of us. So I think we need to look back at this and find out really how it's going to affect our district before we move this forward. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator McDonald. Senator Kruse. [LB17]

SENATOR KRUSE: Mr. President and colleagues, thank you. I stand in support of the amendment, because it loosens things up for us a little bit, and I thought maybe we should talk about the amendment for just a bit (laugh), and I stand in opposition to the bill because I think it would tighten things down. It seems to me we're in a strange situation when we are considering legislation which tightens up local options. These are elected positions; the people locally know that, and they can make the judgment. There is an unusual requirement of office for an NRD. The person is to be what I would call more global. They need to see the forest as well as the trees, and that's a unique ability. They, as has been indicated, are not highly paid. In our area they need to wear a protective vest once in a while in certain circles. It's not fun. I want the people to be able to elect the persons that can have that global view, if that is their judgment. And therefore, I would be opposed to the bill. Thank you. [LB17]

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PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator Dubas, and this is your third time. Senator Dubas. And this is your third time. [LB17]

SENATOR DUBAS: Thank you, Lieutenant Governor. I would like to call the question on the amendment. [LB17]

PRESIDENT SHEEHY: Do I have a show of...see a show of hands of those calling for the question? I do see at least five. The question has been called for discussion on AM71. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB17]

CLERK: 32 ayes, 6 nays, Mr. President, to cease debate. [LB17]

PRESIDENT SHEEHY: The question has been called. Senator Langemeier, you're recognized to close on AM71. [LB17]

SENATOR LANGEMEIER: Mr. Lieutenant Governor, members of the body, we've had a lot of great discussion here, but not a lot about my amendment. The amendment puts in...back in this piece of legislation that if you are currently sitting on two of these boards--currently an NRD director and on the city council--that upon enactment of this law, if it so chooses to go at the next level, you would have the right to finish both elected terms, and that's what it does. So I would ask for your support of this amendment. You've heard from the introducer. He supports this amendment. Whether you like the bill or not, we need to make it better. I'd appreciate your support of AM71. Thank you. [LB17]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the closing to AM71. The question before the body is, shall AM71 be adopted to LB17? All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Chambers, do you wish to be recognized? [LB17]

SENATOR CHAMBERS: I'd like a roll call vote. [LB17]

PRESIDENT SHEEHY: Roll call vote, Mr. Clerk. [LB17]

CLERK: (Roll call vote taken, Legislative Journal page 340.) 42 ayes, 1 nay, Mr. President, on the adoption of the amendment. [LB17]

PRESIDENT SHEEHY: AM71 is adopted. Do you have items for the record, Mr. Clerk? [LB17]

CLERK: I do, Mr. President. A motion to withdraw LB215 by Senator Ashford. That will be laid over. Your Committee on Education, chaired by Senator Raikes, reports LB95 to

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Floor Debate
January 23, 2007

General File; LB150 to General File. General Affairs Committee, chaired by Senator McDonald, reports LB64 to General File. Hearing notices: Education Committee offers notice of confirmation hearing; Retirement Systems Committee offers a series of notices, public hearings on bills; and the Urban Affairs Committee, notice of hearing for Tuesday, January 30. I have an amendment to be printed to LB581, Senator Preister. New resolutions: LR20 and LR21 are regular resolutions. They'll be laid over, Mr. President. [LB95 LB150 LB64 LB581 LR20 LR21]

A series of name adds: Senator White, to add his name to LB173; Senator Cornett to LB264; Senator Burling, LB308; Senator Stuthman, LB341; Senator Dwite Pedersen, LB428; Senator Cornett, LB700; Senator Stuthman, LB700; and Senator Harms to remove his name from LB182. [LB173 LB264 LB308 LB341 LB428 LB700 LB182]

Mr. President, an announcement: the Education Committee will meet in Executive Session in Room 1126 following adjournment; Education upon adjournment in Room 1126. And Mr. President, Senator Chambers would move to reconsider the vote taken with respect to the Langemeier amendment on LB17. (Legislative Journal pages 341-348.): [LB17]

Priority motion: Senator Flood would move to adjourn until Wednesday, January 24, at 10 a.m.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We have a motion by Senator Flood to adjourn until Wednesday, January 24, 2007, at 10 a.m. All those in favor say yea. Opposed, nay. We are adjourned.