

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 6, 2001

LB 170

perhaps an issue which there might be some disagreement, in particular if you believe that Bartlett was a constitutional decision. You would say that what is being proposed by the committee cannot be done, but I think that's... I think it can be done, at least that's my view, I don't view Bartlett as a constitutional issue. Now market areas have become controversial in various parts of the state, in particular they have become controversial in Dawes and Box Butte counties. In other parts of the counties, market areas have been used both for agricultural lands and for other kinds of property without substantial controversy, at least that I'm aware of, and they have been employed in ways that I think have produced equitable assessment of taxes within counties and if they're used within neighborhoods or used within municipalities, within neighborhoods within the municipality. The issue again that's addressed in the green copy and in the committee amendment is simply the ability of TERC to adjust values within those market areas. Now the green copy of the bill had another issue in it, and that is what is characterized as a mailbox rule, and again that is directed at producing a different result than a recent Supreme Court decision; not the Bartlett case, this is one that involved a hospital. The green copy of the bill and the committee amendment both provide for a mailbox rule. You have got to file your appeal from a decision within 30 days, but your appeal is going to have to be postmarked or received within 30 days after the date of the decision appealed from to be valid. It's going to... you have to do that in order to be jurisdictional, and you have to pay the filing fee. And many people thought that's what the law was, but the Supreme Court said otherwise; we're going to make a statutory rule that makes clear what the rule is. You've got to pay the fee, you've got to have your appeal postmarked within the appeal period in order for it to be valid. And then we're going to add a requirement that the appeal form be accompanied with a copy of the final decision appealed from. There's always been some concern about the record and exactly what you're doing or what you're appealing from, and so we're asking or we're going to require that that be made a part of the appeal form. Now there was... there's one other issue in the green copy of the bill and that concerns the level to... for equalization purposes, to which TERC will adjust. The current law says that you will adjust to