

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

[LB78 LB258 LB275 LB285 LB310 LB345 LB394 LB472 LB486 LB548 LB618 LB651  
LB729 LB758 LB881 LB882 LB1017 LB1088 LR287 LR297 LR298 LR299 LR300 LR301]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fourteenth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Senator Riepe. Would you please rise.

SENATOR RIEPE: (Prayer offered.)

SPEAKER SCHEER: Thank you, Senator Riepe. I call to order the fourteenth day of One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SPEAKER SCHEER: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SPEAKER SCHEER: Thank you. And are there any messages, reports, or announcements?

CLERK: There are, Mr. President. Enrollment and Review reports LB285, LB258, LB310, LB472, LB78, LB345, LB486, LB275 and LB618 to Select File, some having Enrollment and Review amendments attached. Hearing notices from the General Affairs Committee and from the Revenue Committee. Senator Geist would like to put an amendment to LB394. Revenue Committee reports LB881 and LB882 to General File. New Resolutions, Senator Ebke, LR297. That will be laid over. And a conflict of interest report statement filed, Mr. President, acknowledged, offered by Senator Bolz. Mr. President, there will be a Banking Committee Executive Session at 9:20 in room 2022, Banking Committee at 9:20. That's all that I had, Mr.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

President. (Legislative Journal pages 401-413.) [LB285 LB258 LB310 LB472 LB78 LB345 LB486 LB275 LB618 LB394 LB881 LB882 LR297]

SPEAKER SCHEER: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR287. Mr. Clerk, we'll go to the first item. [LR287]

CLERK: Mr. President, the first motion this morning. Senator Krist would move to withdraw LB1017. (MO178, Legislative Journal page 363.) [LB1017]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Krist, you're recognized. [LB1017]

SENATOR KRIST: Thank you, Mr. President, good morning, colleagues, and good morning, Nebraska. I don't like what I'm about to do, but I need to put some things on the record. Potentially, I'm just talking to the newest Senator if she's here, because the rest of you have heard this spiel from me before, and if you take offense to me lecturing, so be it. I believe that one of the things that we do in the legislative process is continue with traditions that have worked for years and years and years. It is the case with LB1017 whose subject matter is clearly, clearly, eminent domain and relationships between tenants and leases and easements, clearly. If you look at your legislative referencing guide under standard committees, and it is a guide, I will give you that, but a guide that is not being followed by the Executive Board this year or last year, and I would challenges several of their decisions, but this is the one I will challenge this morning. If you look at your legislative guide...if you don't have a copy of it, I'd be happy to have the pages hand it out and give it to you. Under the Judiciary Committee, item 10, real property conveyances, liens, condemnation, eminent domain, landlords, and tenants. Black and white, and yet we had a member of the Referencing Committee stand up and say, well, it's eminent domain, it's pipeline, it needs to go to Natural Resources. And the precedent that they set last year was a bill that had to do with eminent domain that Senator Watermeier introduced, and again I would argue, they misreferenced it last year, so they set a precedence last year and they continue with it this year. Folks, if you don't want something to come out of committee, if you don't want it heard on the floor, if you don't want to debate about it, bury it in a committee that you can control and make sure that it's not going to come out of. I contend, and it is my opinion, it is my opinion that

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

that's exactly what happened when these five individuals voted to send it to Natural Resources. This bill has very little to do with water. It has something to do with petroleum, which that word exists in the referencing guide, and I'm sure my young friend, Senator Tyson Larson, is going to get up and say, it is only a guide. Well, let me tell you something about this guide. It has been tried and trued and tested for over 50 years. The content, what happens in the Referencing Committee is the content is reviewed on each bill, and someone with experience, a lot of experience, comes to that committee and says, I think it should go. Our opinion is it should go here. Historically, this has gone there, and that was the case last year, and that was the case this year. Three members, and I will thank them for their diligence in this effort in terms of objecting to where it went to. Senator McCollister, Senator Bolz, Senator Crawford, thank you for looking at the guide and for doing what should have been done. The other five, I have no idea why black and white and why the recommendation of over 50 years of experience and referencing was overwritten. I'm sure you have your reasons, and I'm sure we're going to hear about them because Senator Tyson has his light on to tell us just exactly according to the Bible of Tyson where it should be. But I'm going to tell you about this bill because it's the only chance I'm going to get to tell you about it. These statutes were set up during a time where we had a Special Session on this subject matter. The Governor of the state of Nebraska, Governor Heineman and our national representation said, kick it back to the Legislature and let them deal with this issue, this pipeline issue because it's a hot potato. It's a political football. We had a Special Session. We made a recommendation that had constitutional issues and it got kicked back to the Governor, who kicked it back to the PSC. Public Service Commission met and has just recently rerouted this pipeline, and for the record, my recommendation was that this pipeline should go down the eastern side of the state where we have another pipeline going down, and there are easements there. This bill highlighted the fact that the Governor no longer is involved in the process, and you can look through the entire bill. On page two there's two references of the Governor will. On page four there's another reference, Governor will. That's not applicable anymore. So if anything it could be considered a cleanup on just those aspects. I supported and talked on this floor about this pipeline going down the original course, the original place where there were easements. But the other thing that this does is solve an eminent domain issue and talks about it in legalese, and that should have gone to Judiciary. There's no question about it. The last thing I'll say about the bill itself is, we have easements that aren't doing our counties or our state any good. They need to be long-term leases. Those leases need to be paid for the lifetime of the pipeline, and there is no

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

provision right now for cleanup if anything happens. Now, I've had argument from the lobby and people who have said, well, if you're going to ask for a \$100 million bond you're never going to get somebody who's going to build a pipeline through Nebraska. I disagree. I disagree. And my opinion on this matter is very clear. If you have a spill and a problem like you had in the Dakotas, \$100 million is going to come close to keeping everybody whole, and it's a bond, remember. It's not \$100 million cash. So at the end of the discussion this morning, I am going to ask you to vote to withdraw LB1017. I'm going to get a call of the house, and I'm going to put everybody on record to say that they have been here, they have heard the argument, and I will have done my due diligence. And for those of you are going to be around next year who take this seriously, this will be in my top right-hand drawer, or I'll send it to you electronically, so you can bring it up again. I'm serious about this matter. I'm serious about the constitutional right of owning property. I'm very serious about protecting the citizens of this state and their right to own that property and not be taken advantage of in any way. I'm also serious about the jobs that would come and will come with future business efforts, but the balance between the protection of the jobs, the lifelong lease that could be in place that will help our counties and our state, and also protecting our citizens is critical. Thank you, Mr. President. [LB1017]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Larson, you're recognized. [LB1017]

SENATOR LARSON: Thank you, Mr. President, and you know, members, referencing is something that many of us take very seriously. And Senator Krist has his opinion, and every member of the Exec Board has their opinion on where to reference things. There's been a member of this body that has been a member for over 40 years, and for much of that time he has spent on the Exec Board referencing. And I would contend a lot of things over those 40 years has been improperly referenced and to committees, mainly one committee, specifically Judiciary, continuing to grow and expand when many of the subjects could be handled just as well, if not better, in other committees. But we hear about this historical precedent that has been set. I would argue that one member specifically has set that precedent by pulling more and more and more bills into a specific committee. Now, LB1017 specifically deals with pipelines, and as Senator Krist said, the eminent domain of those. Last year, we referenced, and I would have to go back and double-check, but I don't think...I'm pretty sure it was prereferenced, so we followed the guide, but if I'm wrong I'll admit that I was wrong, but we referenced an eminent domain bill that

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

dealt with public Power to Natural Resources. Like I said, I will check, or double-check the prereferencing, but that was referenced properly as well because that is the committee that best handles that. Now, there are a handful of us here that were here for the Special Session in 2011. Senator Krist being one, Senator Smith, Brasch, myself, but of those members I'm the only one that sat on the Judiciary Committee at the time and actually heard a very similar bill to this on the Judiciary Committee, and I can remember at that time saying, really the Natural Resources Committee should be dealing with this. It was specifically dealing with every other issue that the Natural Resources Committee was dealing with. So we can all disagree and we can all point fingers of what should go where, and as our prereferencing often states, bills can go to multiple committees. It is up to the Executive Board to decide where it fits best. And LB1017 was properly referenced to the Natural Resources Committee because they deal specifically with these issues day in and day out. Now, I'm sure we're going to continue to hear how bad the five of us were from a select group of individuals on why we referenced it wrong. But I would like, as I said, to point out that things, in my opinion, have been referenced wrongly...some things have been referenced wrongly for 40 years, therefore setting the historical precedence that now this Legislature has to follow. That's not right. So I appreciate the difference of opinions, but the bill was properly referenced. It's dealing with an issue that the Natural Resources Committee deals with. I've dealt with this issue on Judiciary and thought it should go to Natural Resources at the time. [LB1017]

SPEAKER SCHEER: One minute. [LB1017]

SENATOR LARSON: And so I would encourage all my colleagues again to vote for the withdrawal of LB1017, but if you have questions about referencing, feel free to ask. I think at this point, besides Senator Chambers, Senator Hughes and myself have spent the longest time...well, I think Senator Watermeier has been there four years as well. We all have a plethora of experience when it comes to this topic, and I appreciate being able to speak on this issue. [LB1017]

SPEAKER SCHEER: Thank you, Senator Larson. Senator Chambers, you're recognized. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Larson is right about the amount of time that I've spent on the Reference Committee, the Exec Board, which is the Referencing Committee. And since they had that, what they call a coup, where they got their 27-claque members, there have been many political decisions taken from the electing incompetent people to be chairs of various committees to misreferencing bills. Because I say it ad nauseam, I respect the Legislature as an institution. I respect our policies and our procedures. I even made motions on the floor to properly rerefer bills that the majority of the Executive Board misreferred. None of those motions was successful, but I did it to make a record and to do what I could. Everybody on this floor is familiar with Senator Larson. I know the work he did to undermine my bill yesterday. And he feels very powerful, but we have many days left in the session and there will be a time for us to consider whether when things are done in haste, those who do it enjoy repenting at leisure. We're going to have a bill coming up this morning that was introduced...before I say this, I got to find out who the chairperson of the committee is. Is Senator Hughes in the building, and if so would he yield to a question? [LB1017]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB1017]

SENATOR HUGHES: Of course. [LB1017]

SENATOR CHAMBERS: Senator Hughes, are you the chairperson of the Natural Resources Committee? [LB1017]

SENATOR HUGHES: Yes. [LB1017]

SENATOR CHAMBERS: Oh, thank you. I wanted to be sure. We have a bill coming up, Senator Hughes's bill. It was referred to his committee. The irony is that that bill deals with the counties more than anything else. The budget or the tax base of the counties. That argument about the word "county" being in a bill is why gun bills were referred to the black hole committee. I mean, the Government Committee. And why other bad bills that shouldn't go places will go there because they know that they'll come out. A bill dealing with the death penalty wound up in Senator Murante's committee. It's clear, and people won't say it, but I will because I'm going to tell the truth as I see it and call things as I see them. He's been angling for a higher office for a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

long time. He's a panderer and that's what he is doing. They know that if they send something to him and give the high sign, it will die in that committee. Senator Krist is taking an action which is available under the rules. I'm going to see if this body departs from a practice they've had ever since I've been here, which is, to allow a person to do with his or her bill what he or she pleases. There are bills that I have voted with the introducer to withdraw because that was the will of the introducer, although that bill would have been... [LB1017]

SPEAKER SCHEER: One minute. [LB1017]

SENATOR CHAMBERS: ...a fertile field for me to do the kinds of things that I want to do. But the bill was the introducer's who had asked the Legislature to allow him to withdraw it, and that's how I voted. Now, I'm going to watch and see how many of you who know Senator Larson, and how he operates very well, is going to be able to prevail on you to vote against allowing Senator Krist to pull his bill. When I am dealing with something, I'm prepared for anything this Legislature will do. I've been around white people all of my life. I know how traitorous they can be, and that has happened on this floor. So before you all start looking, you need to be aware of what it is that I'm talking about and the history of my presence in this Legislature. [LB1017]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Chambers. Senator Krist, you're recognized. This is your second time at the mike. You would have your close left. [LB1017]

SENATOR KRIST: Okay, thank you, Mr. Speaker. Good morning again, colleagues, and good morning, Nebraska. To set the record straight, LB547 in 2017, state Legislature findings and change provisions relating to eminent domain and review by Nebraska Power Review Board, recommended by our own 50 years of experience, when she came down to the Exec Board, she recommended it go to Judiciary and the same five people sent it to Natural Resources. So there's a new resource, or there's a new precedent, however you want to look at it. How do you look at that referencing guide and show it going to Judiciary on one of those lines saying, eminent domain and the relationship between a tenant and a lessee, how do you look at that referencing guide and with a straight face say, oh, it has something to do with this or has something to do with that. It's the preponderance of what the bill is trying to do is where the referencing should go. So I knew the first day of last session that you own the Legislature, you took over, you

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

decided to do what you wanted to do. I don't think this bill has a snowball's chance in Haiti of coming out of that committee. I don't think I have a chance to pull that bill, if I did have a fair hearing in that committee. I've done the math. I've added it up. I understand who's in charge, but I want the people in Nebraska to understand that there are two sides of this issue, and the past Governor and current Governor have kicked this can down the road and they've given it to the PSC, and this piece of legislation, this statute needs to be changed, if for no other reason than to reflect what we actually do in the state. Words mean something to me. I know they mean something to everyone else. I'm saving you a whole bunch of time. You don't have to have a hearing. You don't have to listen to me pull it out. You just have to listen to me talk about, number one, referencing and how I feel that you need to pay attention to your bills and figure out if they're actually being referenced where they need to, and again in my opinion, bill last year, LB547, and this one, LB1017, were misrepresented and misreferenced. But we're going to do what we want to do with it. We're going to bury the subject matter, and Senator Chambers, you're not the only one that's going to stand up in this Chamber and call it like it is. You don't want something to come out of a committee, put it in somebody's committee who's not going to let it out. Okay, I'm not going to beat this dead horse anymore, and I apologize to horses for even making that reference, but that part of it has been done. When you look at this bill, you tell me...look at it on your machine. Look at it on your computer. You tell me that this was not supposed to go to Judiciary. You tell me that the subject matter that we're talking about in this bill had any place going to Natural Resources. If anything, Senator Walz or Senator Crawford, one of the two of you came up to me a little while ago and said, you know, if we're dealing with pipelines, why isn't this going to Transportation? The word pipeline is specifically referenced in Transportation. It's not a science. It's a guideline, and I understand a guideline. It's something...it is a plan from which to deviate, but, folks, we are deviating from those plans because it's convenient. Because you don't want something to come out of a committee, and the garbage about sending too many things to Judiciary. Really? [LB1017]

SPEAKER SCHEER: One minute. [LB1017]

SENATOR KRIST: Then make it a five-day committee. Is that a minute? Make it a five-day committee. Don't misreference something to take the load off of us. And by the way, I'm on the Judiciary Committee, and we spend some...we will spend some incredibly late nights this session



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

because we're over 120 bills. We're not shirking our responsibility and we're certainly not sending things off in different directions. I hope you're listening, Nebraska, because this is another factor of your independent, nonpartisan Legislature or lack thereof. Thank you, Mr. President. [LB1017]

SPEAKER SCHEER: Thank you, Senator Krist, and I erred, my low math does now quite work out. That was only your first time, so you do have one more plus the close. Senator Larson, you're recognized. [LB1017]

SENATOR LARSON: Thank you, Mr. President. One thing that I forgot to mention, and I think that is important, and I appreciate Senator Krist of the prereferencing for the NPPD eminent domain was prereferenced to Judiciary. I'll stand by my statement. We referenced it properly last year, and referenced this one properly this year, but specifically on LB1017, the simple argument is that it makes changes to the Major Pipeline Siting Act. That is the crux of LB1017. It makes changes to the Major Oil Pipeline Siting Act, which specifically came out of Natural Resources in 2011 and went back there in 2012, if I'm correct. The issue is a natural resources issue. It was correctly referenced. I understand that we want to...some want a grandstand on this issue and make those political points, but I will stand up for the Executive Board. I will stand up for the referencing process because it was done correctly. Senator Chambers opined earlier today that he thought that we improperly referenced bills last year. But in the end, the body agreed with the Referencing Committee and said they were properly referenced. The body agreed with us. Now, I don't know if Senator Chambers didn't hear me right, I will vote to withdraw Senator Krist's bill. I would urge everybody to do so. I have never voted to not let a sponsor withdraw his bill, as Senator Chambers says he hasn't. So if you didn't hear me correctly, colleagues, or if I misstated it, please vote to withdraw Senator Krist's bill. Thank you. [LB1017]

SPEAKER SCHEER: Thank you, Senator Larson. Senator Chambers, you're recognized. [LB1017]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'll take Senator Larson's word with reference to the last comment that he made, but what Senator Larson knows and other people know, and especially outside this Chamber, when the body agrees with

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

something that was done inappropriately that I challenged, the body is voting against me. There's a knee-jerk reaction to me and things that I do on this floor, and that's known by people not just in this place, but I can show you articles written by reporters and columnists in other states where they talk about the way this backward--they didn't use that term--this body reacts to me and the things that I bring. But my community had sense enough to send somebody who is very strong. You might say that I have the armor of a turtle, but I move with the speed of a cheetah, and I have the wisdom that reputedly is possessed by an owl, but it has been demonstrated they are not wise. They say that because it looks like they're wearing eyeglasses. But we can check the records of people in this Legislature, not just now, but down through the years, and you will see one person's name emerging when monumental changes occur in the law or in procedures and processes. One person who has gotten a judge removed and several judges disciplined. Lawyers disciplined and removed. People in this Legislature are aware of the same things that I am. I'm preparing a very brief rhyme to memorialize what my goddaughter, Senator Pansing Brooks did, by achieving what I tried, but sometimes when an issue pertains to the best interest of women, a woman makes the best case, but no woman had spoken out prior to my being deeply offended. Now, the ACLU did. It had to do with certain, they're called sanitary or feminine products. Women in prison shouldn't have to pay anything for them at all. But I could not persuade the director to do what I felt was the right thing that my goddaughter did what her godfather was unable to do, so we collaborate. We work together. But I still see many issues that women, not just in the Legislature, ought to take the lead on, but they've been conditioned, educated, bullied, buffaloed, made to feel that they're to take a subordinate position, to take the submissive position, and it goes all the way back to the "Bible" where the woman is pushed to the side. And because some crazy man wrote that a woman should suffer pain in childbirth, for many centuries it was against religious principles to allow anything that would alleviate a woman's pain during childbirth to be administered because God, some fool played like he was speaking for God, speaking to other fools who knew that this was a way to overwhelm women, went along with it. I'm going to continue behaving in the way that I've done all of these decades. And this session I said I was going to take time, and I shall. I stopped going to the Executive Board when they were functioning as a Referencing Committee. I pointed out to them...

[LB1017]

SPEAKER SCHEER: One minute. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR CHAMBERS: ...and I've said it on this floor, that I tried for a while to persuade that committee to do as it should based on the principles and standards established by the Legislature and follow traditionally. I attempted to get the body to do the right thing, but I'm not going to waste my time going to a committee such as that, so I stopped going, and nobody can make me go. Nobody can make me do anything. However, when I'm aware of what the rules are, and I've agreed when I came here to follow by the rules, when the Speaker or whoever is in the chair says, time, then I stop. I agreed to play by those rules. I have to learn the rules of my opponents and beat them at their own game, which I've done down through the decades, and I'll continue to do. Thank you, Mr. President. [LB1017]

SPEAKER SCHEER: Thank you, Senator Chambers. (Doctor of the day introduced.) Mr. Clerk. [LB1017]

CLERK: An announcement, Mr. President. The Health Committee will have an Executive Session under the south balcony at 9:45; Health Committee, 9:45. [LB1017]

SPEAKER SCHEER: Thank you. Those waiting in the queue: Senator Groene, Brasch, Walz, Ebke and others. Senator Groene, you're recognized. [LB1017]

SENATOR GROENE: Thank you, Mr. President. I'm not involved in the Exec Committee or either one of those committees, Judiciary or Natural Resources, but I stand in defense of the integrity of this body and how it operates. Part of the Executive Committee's duty is to manage our time. Sixty days. As many in the Exec Committee have told me on my own bills, they could go to any committee, a couple of committees. I had one recently--and I'm supposed to be part of the gang--that I wanted to go to Government and it got sent to Natural Resources because it dealt with NRDs, but it also dealt with open meetings. I understand. Senator Ebke, would you take a question? [LB1017]

SPEAKER SCHEER: Senator Ebke, would you please yield? [LB1017]

SENATOR EBKE: Of course. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR GROENE: You're a three-day committee, is that correct? [LB1017]

SENATOR EBKE: That is correct. [LB1017]

SENATOR GROENE: How many bills do you have still in committee? One-hundred fifty. [LB1017]

SENATOR EBKE: Yeah, I don't know, 150. We had 101 that were referenced to us this session. [LB1017]

SENATOR GROENE: 101. [LB1017]

SENATOR EBKE: And we have, I don't know, quite a few still in committee. [LB1017]

SENATOR GROENE: I think it was 155. You have 102. Senator Hughes, would you take a question? [LB1017]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB1017]

SENATOR HUGHES: Of course. [LB1017]

SENATOR GROENE: You're a three-day committee? [LB1017]

SENATOR HUGHES: That's correct. [LB1017]

SENATOR GROENE: How many bills do you have in committee yet? [LB1017]

SENATOR HUGHES: 25. [LB1017]

SENATOR GROENE: How many were new this year? [LB1017]

SENATOR HUGHES: 15 and one LR. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR GROENE: Thank you. So apparently in referencing, Senator Ebke has more influence than Senator Hughes does, or depends how you look at it, as she says, less. Senator Hughes didn't get a lot of bills, did he? I look at the membership of the Exec Board, and I'm trying to figure out which five are the bad guys: Watermeier, Kuehn, Bolz, Chambers, Crawford, Hughes, Larson, McCollister, Scheer and Stinner. Well, Stinner doesn't get a vote. He just gets to attend them. I'm trying to figure out who the five bad guys are. I could see votes going either way. I look at the Judiciary Committee, my honorable colleagues, and I'm trying to figure out who are these on that committee that lean to not supporting a pipeline and which ones would. I look at the Natural Resources Committee and I have the same problem. Then I think if I was on the Exec Committee, what would I do to time manage? Late in the session as bills are dropped, I would look at them and say, this bill could go here, this bill could go there. Do we send it to a committee that already has 102 bills or do we send it to one that has 16? Because we are colleagues, and we believe each of us will treat each of our bills with collegiality. We're bipartisan, I'm told, so what is the concern about where your bill goes? If it is good legislation and the majority of Nebraskans want that legislation, I am sure it will come out of committee. Plots and schemes I hear about, but I don't see. I applaud the Exec Committee for the work they do. They should have distributed...they could have took a couple of mine and sent them to Judiciary if you wanted to in the Education Committee, but there's no conspiracy here, citizens of Nebraska. Time management. The Judiciary Committee will be meeting on recess days to try to hear all the bills. In fact, if I had a bill in Judiciary Committee I would be really concerned that it would get a fair hearing and a timely hearing. But Senator Ebke is going to have a time management problem. There are good bills in Judiciary, but they're overwhelmed. There's no conspiracy here. I think the bill should stay alive. LB1017, it should have a hearing. The public out there wants to come. [LB1017]

SPEAKER SCHEER: One minute. [LB1017]

SENATOR GROENE: There are two houses. It's not Senator Krist's bill or my bill, it's the people's bill. And they want to come into the Natural Resources Committee and have a voice. I wouldn't think anybody would deny that of them. Thank you. [LB1017]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Brasch, you're recognized. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR BRASCH: Thank you, Mr. Speaker, and good morning, colleagues, and good morning, Nebraska. I hesitated to stand this morning until the dialogue kept spiraling downward and tempers seem to be flared and accusations made, and now I'm standing up simply because enough is enough. And what has happened didn't happen the first day of session in my view. I understand that prior to the first day of session when senators have legitimate caucuses according to their congressional districts, a meeting was held in Omaha. Agreements were made and things were done and a domino effect took place. Before term limits, there were senators here who were elected and reelected because of performance. With their constituents' interaction, we are here because people have voted at the polls. That's why we're here, whether it's for four years or eight years, but that institutional knowledge and experience went by the wayside when it was determined that a long-time senator who had the years behind in the Legislature, not necessarily in age, was bypassed to be on the Executive Committee. When I first started eight years ago, it was as you're here, the longer you're here, that's a prestigious committee to get on. You have to pay your time, do your dues, and eventually you'll get there, but because of the early caucus meeting the domino effect took place, and good or bad, things changed. And I think in some cases, good. The turnover is good. The new leadership has been good, and...but when there's speculation of I do the math or there's the numbers of 27, why not go for transparency? Let's open the votes. Let's see who voted what and then you can say, this senator or that senator, or he or she, or they or it voted this way, and then we don't come back because we don't get voted in by our constituents. This last week I said something to a group of individuals that said, but, Senator, it takes me seven and a half hours to get here in Lincoln, and I told the group, drive here like your life depends on it because it does. Each of us have a constituency that we represent, a district, a structure has been created. We changed that structure with term limits. It has benefits, and it also has its liabilities. And I do believe we are seeing and experiencing and showing constituents where things have significantly changed, perhaps, and it could all be good. Change can be good. And as far as Senator Chambers speaking of women and on women and what we can do or can't do and what the Bible has us do, there was a movie by Mel Gibson, What Women Want. And as a woman, I will tell you that many women choose and want different capacities in life, and we have that defined in the Bible. We have that defined by our families and our beliefs. And it's good to stand up and speak for women and of women and at the same time... [LB1017]

SPEAKER SCHEER: One minute. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR BRASCH: ...that is all I've known, so to have this enter into the dialogue also broadens. This is going to be the only time I talk on this because I see we are just basically running out the clock, not just today but of this session. Thank you, colleagues. Thank you, Mr. Speaker, and thank you, Nebraska. [LB1017]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Walz, you're recognized. [LB1017]

SENATOR WALZ: Thank you, Mr. Speaker. Well, Senator Groene, with all due respect, I am the type of person who really does want to know why, and if there...you asking what is the concern about where a bill goes. Maybe, sometimes just maybe, the bill isn't going to the right place, and I feel that the bill should go to the committee that best understands the issue, so I really want to understand why. Senator Kuehn, would you yield to a question, please? [LB1017]

SPEAKER SCHEER: Senator Kuehn, would you please yield? [LB1017]

SENATOR KUEHN: Yes, I will. [LB1017]

SENATOR WALZ: Thank you, Senator Kuehn. So pipelines is specifically mentioned in...or under the Transportation Committee as well. Can you...please tell me why it went to Natural Resources as opposed to Transportation where it is also specifically mentioned. [LB1017]

SENATOR KUEHN: I can explain to you what I did in terms of preparing for understanding where that bill may potentially be referenced, and so as I stated during the Referencing Committee meeting and the discussion on the topic, so it's on record at the time of the discussion, that morning because there's multiple committees that this bill overlaps in the referencing guide, as you identified there's the pipeline issue, which is a Transportation issue. There is historical Natural Resources precedence with the siting of pipelines, and there's the eminent domain issue with Judiciary. So there's three committees, all of which per the referencing guide might be suitable. So before we went to session that morning, I asked my staff to look at the sections of statute that were impacted by this bill and what the historical precedence had been on referencing bills that affected that section of statute. And so when you look at those particular sections of statute and bills that had amended that in recent history, all of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

those amendments had gone to Natural Resources. So there had been a clear precedence that there was expertise both among the committee counsel and committee staff in that section of statute, and that there had been precedence for referencing bills that have impacted that area of statute and those sections by prior referencing boards. So that established a clear pattern that there was support for sending it to that committee with that level of expertise. [LB1017]

SENATOR WALZ: Okay. Can you tell me, we just talked about this, was Transportation considered? Was the Transportation Committee even considered? [LB1017]

SENATOR KUEHN: To my recollection, no. There was no discussion about a reference to Transportation Committee. In the process the discussion was, is there another alternative with regard to, does Natural Resources have authority as well, and so that was where the discussion was. To my recollection Transportation was never discussed in the meeting. [LB1017]

SENATOR WALZ: Do you think it should have been? [LB1017]

SENATOR KUEHN: I think everyone has an opportunity to look and decide where they see things fit within the legislator's guide. It was not brought up. It wasn't one that was initially on my radar, but I think considering all options should be a good part of the process. So I don't think there was any negligence in the process at that point, but certainly considering it is a great option. [LB1017]

SENATOR WALZ: Thank you, Senator Kuehn. [LB1017]

SENATOR KUEHN: Thank you. [LB1017]

SPEAKER SCHEER: Thank you, Senator Walz and Senator Kuehn. Senator Ebke, you're recognized. [LB1017]

SENATOR EBKE: Thank you, Mr. Speaker. A couple of things. First, Senator Krist, you mentioned 120-some bills, and I will correct you. We thought that we were going to have 120 bills in the Judiciary Committee this year. We actually ended up with 102, plus three or four



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

constitutional amendments. Just for the record. I do want to pay homage to my colleagues on the Judiciary Committee because they are and will do yeoman's work over the next month or so as we sit through many, many, many hours of hearings. I don't anticipate...on Wednesday mornings when I leave the house I tell my husband I'll see you sometime, (laughter) and that happens every Thursday morning after I roll out of bed, and on Friday morning as well. So we will be busy. That being said, I'm not complaining, and we are happy to take bills that belong in our committee. There is a legitimate case to be made, I think, for considering the expansion of the Judiciary's days to four or five days, to make it a four- or five-day committee in light of the number of bills that we get. And that is not to say that those bills ought to be going someplace else because there are a lot of bills that are and should be referenced, I think, to the Judiciary Committee just because the Judiciary Committee is kind of the subject matter expert. And you should send bills, and I'm not on the Referencing Committee, but you should send bills where it makes the most sense from the standpoint of subject matter. Now, I'm the first to admit that there are times when a bill could fit into a couple different subject matters, so then it rests with the Referencing Committee to decide which one is the dominant interest, which one is the dominant subject matter. I think referencing is probably something of an art with guidelines as Senator Krist has noted. Somebody asked me the other day, during the snow day, what my biggest disappointment about being in the Legislature was. And as a general rule I think most of us would argue that this is a very encouraging and a very...most of the time, enjoyable experience. My biggest disappointment is that I came in with this idealistic notion that a legislative body is a deliberative body, and that we would actually talk about things. That we would, you know, deal with things in a serious manner. That debate could actually sway positions, and then we would vote, and we would live with the consequences. And sometimes I think that we pick our sides too early and we don't even bother to listen to what the debate is. So if I had any words of wisdom, if there's such a thing, I would say that, to my colleagues, as we have more bills come to the floor that we need to listen to one another more. We need to talk about these issues some more and truly be a deliberative body. And with that if I have any time left I would be happy to yield it to Senator Chambers. [LB1017]

SPEAKER SCHEER: Senator Chambers, 1:40. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Madam Ebke. The chairperson of the committee on which I have sat for decades. Those of us on that committee know what we're in for. I come to the hearings. I participate more actively than prosecutors, gun nuts, and others prefer, but I'm going to do my job as I see it. I'm going to give you an example of something. See that? This is from the gun nuts. All sent to me on the fax machine. How many of you got this much? And this is just from yesterday. Huh? And you all think I'm just like you. I tell you that people outside this Chamber separate me from the rest of the people here, and I explain to them that there are other people in the Legislature who think, who work hard, who do due diligence with reference to what it is that they are assigned based on their understanding of their duty is. But I, due to my upbringing, the experiences that I've had, I will just reach farther afield than other people and take on issues that somebody from a district like mine shouldn't take on, perhaps, because I'm helping the enemy who are oppressing the people in my community. [LB1017]

SPEAKER SCHEER: Time, Senator. [LB1017]

SENATOR CHAMBERS: And, again, acknowledging the rules. I know my time is up at this point. Thank you, Mr. President. [LB1017]

SPEAKER SCHEER: Thank you, Senator Ebke and Senator Chambers. Senator Bolz, you're recognized. [LB1017]

SENATOR BOLZ: Thank you, Mr. President. Some of what I wanted to say was covered by the exchange between Senator Kuehn and Senator Walz, and I really rise to use my voice around the subject of institutional integrity, and I think Senator Kuehn made some comments about it. Referencing is a judgment call, but it's a judgment call with guidelines. And those guidelines include subject matter, precedence, and the preponderance or the majority of the subject within the bill. And we all have to use our judgment to try to send the bills to the place that we think is appropriate. And so, I wanted to discuss this because I think it's easy to project a motivation on another senator when you're not in the room, when you haven't been a part of the process, and when you don't agree with the decision. But the role of the Executive Board is to use the information that they have and frankly, the experience with different bills that we have in order

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

to try to send the bill to the appropriate place. And that is all I can do as an Exec Board member is to try to respect the integrity of the institution and the history and guide rails and to try to be fair and consistent because, as we all know, our bills will be next. So I rise only to say that we should be cautious and thoughtful and careful when we're questioning one another's thoughts and ideas about what our motivations are because there are judgment calls to be made, and every individual senator has to do their due diligence. That said, there are two things that any member of the body can do if you are concerned about the referencing process. The first is to work with bill drafters to talk with them about how to craft your bills in ways that are clear, and that help you achieve your goals as you introduce them. And the second is to elect members from your caucus to the Exec Board that you think will uphold the integrity of the institution and to talk to them about what you do or don't understand as it relates to referencing. I disagreed with where this bill was referenced, but that was my judgment call. And other members in the room had to make their judgment call, and that's how this process works. It may not be a perfect process, but it only works if we're all trying to protect our own integrity and the integrity of the institution, and I'll continue to do my best to represent the first district caucus in that manner. So if you have any questions about any of the bills that have been referenced, I suggest that you talk to me or talk to another member of the Executive Board. And I think the conversation about protecting institutional integrity is an important one to have on the floor. Thank you, Mr. President.

[LB1017]

SPEAKER SCHEER: Thank you, Senator Bolz. Senator Krist, you're recognized. Senator Krist waives. Senator Wishart, you're recognized. [LB1017]

SENATOR WISHART: Thank you, Mr. Speaker. Senator Krist, would you yield to a question? [LB1017]

SPEAKER SCHEER: Senator Krist, would you please yield? [LB1017]

SENATOR KRIST: Yes. [LB1017]

SENATOR WISHART: Senator Krist, does LB1017 deal with who is responsible for cleanup in the case of a pipeline spill? [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR KRIST: It does. [LB1017]

SENATOR WISHART: Can you explain to me a little bit about that portion of the bill?  
[LB1017]

SENATOR KRIST: I refer you to page 5, it starts on line 16. I'll just read it for you. The applicant shall present proof of a construction and performance bond in the amount of at least \$100 million to condition for approval. That bond is intended to make sure that during the construction process if there is damage, that it would be recoverable. And during the life of the pipeline, should there be a problem, the damages should be recoverable. I'll go on. Line 19, the applicant shall provide a plan for periodic payments to landowners for the use of their land that cover the term of the pipelines being used. Such periodic payments shall reflect the economic benefit received by the applicant as a result of obtaining a property interest in such private property. That's a relationship that I talked about before, a lessor or lessee as opposed to easements. So the relationship is there and there's ongoing income that comes from that private...for profit business into the state. I'll go on. Line 24, the applicant shall provide a decommissioning plan that provides for removal of a pipeline at the end of its useful life and restoration of property to its original state...sorry, to its original state upon removal of the pipeline and damages. So it very clearly goes a step beyond creating more civil action, which again is one of my arguments for Judiciary who have that kind of experience. [LB1017]

SENATOR WISHART: And we've talked off the mike, but it is my understanding from our conversation that without passing this legislation, after 15 years, a landowner would be responsible for the cleanup of a potential spill, is that correct? [LB1017]

SENATOR KRIST: As I understand the act, the term...in terms of actually paying for the pipeline to be in place with the easement, that condition stops and terminates at 15 years. And then there is a genuine question, and the lawyers that I have been in touch with and have consulted with, about who is responsible for both the removal at the end of the usable life as well as the cleanup of the property. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR WISHART: And so then, just to be clear, last year we had a Keystone pipeline spill in South Dakota that leaked 210,000 gallons of oil within 15 minutes. Just to be clear, if we don't pass your legislation, potentially a landowner could be responsible for that level of the leak after 15 years of that pipeline? [LB1017]

SENATOR KRIST: Well, the statute is in...I can't speak to what the Dakotas have done within their patchwork of allowing those pipelines to be built, but I can speak to what ours are saying today. And there is a gray area, there is a question of whether that fault or that liability would fall on to the property owner, the county, the state itself. All of that has to be put into consideration. That's essentially the guts of this bill was to go further to define from that Special Session to all of the things that have happened and the PSC ruling just recently on what would happen if. [LB1017]

SENATOR WISHART: Thank you, Senator Krist. Colleagues, I think this is a wet paper-bag motion. This bill deserves a public hearing and I will be voting in opposition for the motion to withdraw. Thank you. [LB1017]

SPEAKER SCHEER: Thank you, Senator Wishart and Senator Krist. Senator Chambers, you're recognized and this is your third time at the mike. [LB1017]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, we have a long session in front of us. Not in terms of days, this is the short session, but in terms of how that time is going to be spent. Now, people like Senator Larson, to a lesser extent Senator Hughes, Senator Groene, will have things to say but they are not going to be as actively involved as I intend to be. And Senator Groene is one of the last people who ought to discuss how things go in another committee. Had it not been for that 27-member clique, he would not be chairperson of the Education Committee. He gained from that chicanery. So part of that is to remain loyal, be true to his school. So he can do all of the talking he wants to about the work of the Judiciary Committee, but if you just look at your worksheet, just look at the bill load of the Revenue Committee. Why didn't he mention the Revenue Committee? Because the chair of that committee is somebody who is probably more in line with how Senator Groene thinks, so he's not going to say that the Revenue Committee has too many bills, send those bills somewhere

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

else, manage the time better. And as for Senator Hughes, the only argument is that there are not many people who bring bills that go to that committee, so the argument should be, not that the Judiciary Committee has too much work, Senator Hughes's committee has too many days. They have too much time. They're not going to ever have a workload, in my opinion, based on the time I have been here, justifying a three-day committee based on how we look at the Judiciary Committee and some of the others. Too many times, some of you all come to me after we're off the mike and tell me how glad you are that I'll speak. And you all know who you are because I give my standard response, you got a mouth, why don't you speak? Well, the district I come from, or the senators, or the Governor, and I'm not going to call you out. See secrets of some kind, I keep better than the one who brings it to me. And one time a person said, how can you say you'll keep my secret better than I'll keep it. I say, well, you tell me and I won't tell anybody. But we have to establish at the beginning that this is one of those matters that I will not discuss with anybody else. If it goes to a matter of policy and how I do my job, I'm not going to cut corners for anybody. Don't tell me what you don't want me to say about certain subjects, but I'll let you know that. If there are other types of matters where you need a "father confessor" talk to me. When I went to Creighton, there was a priest who came and we would meet in the stacks of the library and he would pour out his heart to me. He knew I was not religious. He knew that I would not tell on him. And he told me one time that the thing he regretted most about being a priest is that he wanted to have a family. I said, well, you're a grown man. You don't have to do what they tell you to do. If you don't like being without a family and you're not going to commit--what would be considered sinful conduct with a woman--get out of the priesthood. He said I can't do that. I said why not? And by the way, he was considerably older than I was at that time. He said, I've been in this vocation for so long, I wouldn't know how to have a conversation with a woman on that level. If I had children, I don't think I would know how to be a father. That's what he told me. I said, you don't know until you try. [LB1017]

SPEAKER SCHEER: One minute. [LB1017]

SENATOR CHAMBERS: He stayed a priest for all the time that I was at Creighton, but I never outed him. There are people with all kinds of problems and you would be surprised at some of the people who will come to me. But despite all of that, I can carry that and I'm going to do my job in the Legislature also. But because I spend so much time here and doing this work, it's

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

neither my life nor my wife. This is my third time on this matter, but Senator Hughes's bill is going to give me time to say much more about many more things. Thank you, Mr. President. [LB1017]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Schumacher. [LB1017]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, and members of the body. It's a great pleasure to serve with the folks in this body. And I think, particularly the freshman and the sophomore class, maybe at this point in their careers already begin to realize that everybody here is pretty decent folk. And we really, really can accomplish quite a lot if we behave as pretty decent folk. But we can get all knotted up if we pretend that we are Washington, D.C., and there are political whips who tell us what to do or which way to vote or which committees to be on or who to vote in unison with, and that messes us up. And we can play Washington, D.C., and we can say, okay, we can manipulate the rules this way on Referencing Board or Executive Board or election of chairs or whatever, but I think you're beginning to realize, and I hope you are, that that impedes the work of the people. Some, a year ago, were painted with pretty big horns and others with shiny halos. And it's pretty clear after being here awhile, the horns are pretty short and the halos can be pretty rusty, and we got a job to do. And what we're seeing today and we'll probably see again and again a few times before the effects of last year's adventure wear off, is how bad things can become, how little sense can be made when this specifically designed nonpartisan body decides to fall prey to the passions of partisanship. We got a job to do. And what might be a good bill, might be a bad bill, I'll be honest, I haven't read LB1017, may be forced to be heard. I don't know how you pass a bill in the opposition of the sponsor if this would go forward. Why? Because simplicity was probably set aside in favor of some sophisticated theory that aligned with somebody's ambitions. So if in, I think I'm in about 46 days left here, carry on with common sense and resist that manipulation that can come from one of these who would like to be in Washington rather than in Lincoln. Thank you. [LB1017]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Krist, seeing no one else in the queue, you're welcome to close. [LB1017]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR KRIST: Thank you, Mr. President, and again, good morning to my colleagues and to Nebraska. I brought a few things forward for your consideration this morning. Many of you disagree with my opinion. Many of you agree with my opinion. I think that there's enough interest in what we have said this morning to think that potentially this bill will see the light of day next year, or at least parts of it. And I think it's worth your consideration looking at the pipeline structure. Let me be very clear. I am not for scrapping a project that brings jobs and potential revenue into the state. But I think we have to be very careful about where that pipeline is routed, and we have taken now about nine years to try to site it correctly. I don't agree with what the PSC proposal is in terms of siting. I think there are still some dangers. But I support the jobs and I support anything that will turn our economy around. I can't support allowing a piece of legislation to sit here pretty much in the same state that it had which was deemed to be almost unconstitutional after we ended a Special Session. The changes that I would be asking for would be to take the Governor completely out of the loop, which he is already, change that reference to the PSC, allow for some reasonable amount of a bond that would provide for the protection of the people in the state once their property is taken for this purpose. I won't say anything more about referencing because it is what it is. Again, I want to thank Senator Bolz, Senator Crawford, and Senator McCollister for looking at the issue and for voting the way that they did in terms of referencing. I'm hoping that this public discourse over this issue will convince many of you that it is something that still needs to be looked at. I look forward to watching this on NET next year or from another television someplace else. With that, I would ask for a call of the house and I would ask for a roll call vote in regular order. The motion that I have before you, and the Speaker again will repeat it, is to withdraw LB1017 from being heard this year. [LB1017]

SPEAKER SCHEER: Thank you, Senator Krist. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1017]

CLERK: 29 ayes, 1 nay to place the house under call, Mr. President. [LB1017]

SPEAKER SCHEER: The house is under call. Senators, please record your presence. Those unexcused senators outside of the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

Vargas, Harr, Lindstrom, Wayne, Linehan, please return to the floor. The house is under call. Senator Vargas, Senator Linehan, please return to the floor. The house is under call. Senator Linehan, please return to the floor. The house is under call. All senators are accounted for. Mr. Clerk, record vote, roll call vote in regular order, please. [LB1017]

CLERK: (Roll call vote taken, Legislative Journal pages 413-414.) 40 ayes, 7 nays on the motion to withdraw, Mr. President. [LB1017]

SPEAKER SCHEER: Thank you, Mr. Clerk. The bill has been withdrawn. Next item, Mr. Clerk. Raise the call. Items for the record, Mr. Clerk. [LB1017]

CLERK: Thank you, Mr. President. Yes, sir, thank you. Mr. President, hearing notices from the Appropriations Committee; from the Executive Board; from the Natural Resources Committee; Health and Human Services Committee. Those all signed by the respective Chairs. An amendment to be printed: Senator Wayne to LB729. Confirmation report from the Natural Resources Committee, and new resolutions: LR298, Senator McCollister; LR299, Senator Kolterman, and LB300 is Senator Kolterman. Those will all be laid over at this time, Mr. President. That's all that I have. (Legislative Journal pages 414-420.) [LB729 LR298 LR299 LR300]

SPEAKER SCHEER: Next item.

CLERK: Mr. President, LB758, a bill originally introduced by Senator Hughes. (Read title.) Introduced on January 3 of this year. At that time referred to the Natural Resources Committee. The bill was advanced to General File. There are committee amendments pending. (AM1573, Legislative Journal page 382.) [LB758]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Hughes, you're welcome to open on LB758. [LB758]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. I introduced LB758 in response to the affect that some counties have felt due to natural resources districts run

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

stream flow augmentation projects. The stream flow augmentation projects of N-CORPE and Rock Creek that led to this legislation are located in Lincoln and Dundy Counties. Those projects have been developed due to the Republican River compact between Nebraska, Kansas, and Colorado. It has taken years of litigation between Kansas and Nebraska to come to a resolution. About a year and a half ago Kansas and Nebraska signed agreements on how the Republican River would be shared and managed. N-CORPE and Rock Creek have effectively resolved the state's legal battle with Kansas over the Republican River Basin that has been ongoing since 1999. LB758 is the next chapter in what is my attempt to resolve a couple of the local issues surrounding stream flow augmentation projects. N-CORPE and Rock Creek were conceived and are being paid for locally to solve the state of Nebraska's problem with the Republican River Compact and the Platte River Recovery Implementation Program. I introduced this bill in response to concerns from the communities where N-CORPE and Rock Creek augmentation projects are located. What we have heard since the beginning is that Lincoln and Dundy Counties have been harmed by the removal of land purchased for those projects from the property tax rolls. 16,000 acres of irrigated land were purchased in Lincoln County for N-CORPE and were retired. In Dundy County, around 5,200 irrigated acres were retired for the Rock Creek project. While it has always been the NRD's intention to pay property tax on the land they purchased, it came to their attention that the Nebraska Constitution did not allow property owned by a government subdivision to be subject to taxation when the property was being used for an authorized public purpose. Compact compliance is a public purpose confirmed by a TERC case litigated last year which ruled that neither N-CORPE nor Rock Creek were subject to property taxes. The counties where those projects are located have appealed the TERC rulings and the cases are pending in our Supreme Court and the Court of Appeals. LB758, as amended, would allow payments to be made in lieu of taxes by public entities owning land being used for stream flow augmentation. I'll describe the bill in more detail when I open on the committee amendment. Thank you, Mr. President. [LB758]

SENATOR LINDSTROM PRESIDING

SENATOR LINDSTROM: Thank you, Senator Hughes. As the Clerk stated, there were committee amendments. Senator Hughes, you're welcome to open on AM1573. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR HUGHES: Thank you, Mr. President. The committee amendment will become the bill. AM1573 would authorize NRDs or entities formed under an interlocal cooperative agreement to make payments in lieu of taxes to the counties where they purchased land to develop a stream augmentation project. You will recall that N-CORPE and Rock Creek are currently and have been paying property taxes, but under protest. While N-CORPE and Rock Creek had always planned to pay property taxes, it was questionable under the state's Constitution whether they could lawfully do so. The TERC Board Tax Equalization and Review Commission ruled that N-CORPE and Rock Creek were public projects serving a public purpose and were constitutionally exempt from paying property taxes. As I mentioned, the affected counties, Lincoln and Dundy have appealed those rulings to the state's higher courts. The language is permissive giving N-CORPE and Rock Creek the opportunity to make agreements with their respective counties on how such payments will be made. The bill will also require a notice of hearing process before moving forward on an augmentation project, require a project to get input from county officials and adjoining landowners, and require an annual report that provides specific information about that or any stream flow augmentation project. Finally, based on the concern that has been expressed by the Lincoln County Assessor, the bill will require that leases of land owned by an augmentation project be submitted to the proper county assessor within 30 days of their effective date. What I would like the body to keep in mind is that water issues are very complex and the legal stakes are very high. The agreement between Kansas and Nebraska says that Kansas gets the water they are entitled to, just when they need it. This past year they didn't need all of their portion, so Nebraska was able to keep more than 9,000 acre feet in the ground and it looks like we may not have to pump any water this year. In addition, the water management actions taken by the NRDs, we are able to comply with the Interstate Compact as required by law because of N-CORPE and Rock Creek. We're in a positive place now with Kansas and the compact because of the flexibility and certainty that N-CORPE and Rock Creek provide. Kansas has agreed to the terms of the resolution based on the fact that N-CORPE and Rock Creek can flip a switch and get them their water when they need it. It is not an option to put the compact or the project at risk. We also recognize the importance of the role of N-CORPE will play in the Platte River Basin. The Twin Platte NRD in North Platte has state and federal obligations to increase flows in the Platte River under the Platte River Recovery Implementation Program. If these obligations aren't met, ag producers in Lincoln County will be limited in their ability to irrigate. Those in the Platte River basin will rely on N-CORPE to avoid

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

such consequences. LB758 is an important step toward solving a couple of the issues surrounding N-CORPE and Rock Creek. I believe there are more steps that might be taken, so we will have...so we will be sure neither project will be jeopardized and the state's obligation to adhere to the Republican River Compact and meet the federal requirements of the Platte River Recovery Implementation Program were met. Thank you, and I ask for your support for AM1573. It came out of committee 8-0. Thank you, Mr. President. [LB758]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Hughes. Going to discussion on AM1573. Senator Groene. [LB758]

SENATOR GROENE: Thank you, Mr. President. I stand in support of AM1573 which actually becomes the bill. I cosigned it with Senator Hughes. As many of you know, Dundy County is in his district, and Lincoln County is my district. It's one of the issues I ran on was the N-CORPE situation; 6.5 percent of our irrigated acres have been taken off the tax rolls. We have lost an average...this last year, if that was still in irrigated land, we would have received \$730,000 in property taxes. Instead of that we will receive \$196,000, that is, if this bill passes and that is, if they voluntarily pay it. The bill because of the Constitution has the word "may" or "voluntarily" because we cannot...it's actually foolish if you think about it, it's called double taxation. What we are doing when we do in lieu of taxes, we're taxing one individual and then paying that...government entity is paying another tax to another government entity. That's what this bill does, and only on NRD's water augmentation projects. But that said, sometimes a bad answer is better than a worse situation. For four years, since 2012, N-CORPE has paid their property taxes. They made that commitment they would. If anybody knows anything about N-CORPE, it happened overnight basically. This land came for sale, we were up against the wall with Kansas, Colorado, and Nebraska on the Republican River Compact and the Platte River Compact with Wyoming and Colorado. They did it in a rush. One of the issues was, what happens to the property tax? They said they would pay them. Paid them for four years and then their legal counsel decided that that wasn't constitutional and they took it to the TERC Board. The TERC Board said, no, you should not pay those property taxes. The main reason I support this bill is the grandfather clause in it that says they will not have to...those taxing entities might, Wallace

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

School District, Hershey School District, Maywood in Senator Hughes's district will not have to pay back four years of taxes. That's a big hit on them, and the TERC Board could rule that way. As I said, it's a bad answer to a worse situation. And I applaud Senator Hughes for working on it. He's got the same problem. We want the land sold, everybody knows that. Senator Hughes said this is part of the answer to the situation. When my LB1023 comes up, it will be the final answer and we'll allow NRDs that have augmentation projects to sell the land. Nothing new. We have exceptions to water law in many different forms to the common law of water law in the state of Nebraska. This will just be another one. But as of now, I encourage you to support AM1573 and hopefully when LB1023 is passed and comes out of the Natural Resources Committee, this will be not necessary. It will be a law unused because those NRDs can sell the land. But for now, it needs to pass. So I would appreciate supporting Senator Hughes, the Natural Resources Committee and my county and my school districts and my NRD themselves who will have to come up with three to four years of taxes and resubmit them back to N-CORPE. The same thing will happen in Dundy County. \$190,000 is minimal to what the economic impact my county took because of 7 percent of our irrigated land out of production. It's minimal. [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR GROENE: The disaster of how the land had been managed, the cost of the land, the management, the \$190,000 is minimal. I will give you an example when government runs something, folks. We will collect \$8.20 an acre tax on that grassland now. N-CORPE, because it's owned by government with a \$1.4 million budget, it costs the taxpayer \$72 an acre to manage grassland that wouldn't rent for \$20 an acre. We need to sell the land. Small government is best. If we pass LB1023, the state will be held whole because it will allow the augmentation project to continue and Lincoln County will become whole again. Thank you. LB1123, I left...my bill is LB1123. [LB758]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Harr, you're recognized. [LB758]

SENATOR HARR: Thank you, Mr. President. I'm not on Natural Resources. I don't know a lot about water law, so I listen very closely to introductions, and I read committee statements. I read

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

fiscal notes. I even read some of the testimony that was said in the hearing and I still don't know what the heck this bill does. Senator Hughes, would you yield to a couple of questions? [LB758]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB758]

SENATOR HUGHES: Of course. [LB758]

SENATOR HARR: Thank you. So earlier you stated that water law is complex. So if you would bear with me, I don't understand a lot about it. I'm just a simple cave man lawyer. What, first of all, is the difference between the bill and the amendment, that becomes the bill? [LB758]

SENATOR HUGHES: I learned early on from Senator Chambers that if you want a bill to go to a specific committee, you write it so it goes to that committee. That's what we did. We wrote the bill so it would go to Natural Resources. Once we got it to Natural Resources, the committee looked at the amendment that became the bill and we changed the bill to make sure that it accomplished the goal. [LB758]

SENATOR HARR: Okay. That's what I'm trying to figure out is, so what did you add to the amendment that wasn't in the original bill, or take away that wasn't in the original bill? [LB758]

SENATOR HUGHES: Nothing. The intent of the original bill was just clarified by the amendment. [LB758]

SENATOR HARR: Well, there you go, folks, I have no idea. I still don't know what this bill does. I still don't know what this amendment does. We seem to be talking in circles here. Senator Groene, would you yield to a question or two or five. [LB758]

SPEAKER SCHEER: Senator Groene, would you please yield? [LB758]

SENATOR GROENE: Yes, I may. [LB758]

SENATOR HARR: Thank you. You're on Natural Resources. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR GROENE: No, I'm not. [LB758]

SENATOR HARR: You are not, you're on Education. [LB758]

SENATOR GROENE: Because I'm 50 miles away, I'm an expert though. [LB758]

SENATOR HARR: All right. Thank you. What does the amendment do or how does it differ from the underlying bill? [LB758]

SENATOR GROENE: Well, the underlying bill I don't believe had the grandfather clause in there. [LB758]

SENATOR HARR: Doesn't have what? [LB758]

SENATOR GROENE: The grandfather clause or the look back that dated it backwards so they wouldn't have to repay the taxes they already paid. I believe it puts some transparency in it about meetings. I don't think that was in the original bill. I think what Senator Hughes did was drop the bill, call it a shell bill, and then after getting all these experts together, he introduced the amendment to clarify it. [LB758]

SENATOR HARR: Okay. Thank you. [LB758]

SENATOR GROENE: That happens a lot. [LB758]

SENATOR HARR: Are we...we're not forgiving taxes are we with this bill? [LB758]

SENATOR GROENE: No, because the government shouldn't be paying taxes in the first place on government property. We're allowing them to do it in lieu of tax. [LB758]

SENATOR HARR: So I hear there's this TERC out there and it's being appealed, correct? So if a...let's just hypothetically say Supreme Court says, oops, that tax is owed. Are we forgiving that tax with this bill? [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR GROENE: No, they were paying the tax...basically they were paying the tax illegally. The state Constitution says a government entity cannot pay taxes on property. They were paying the taxes. [LB758]

SENATOR HARR: They being...? [LB758]

SENATOR GROENE: The NRDs. [LB758]

SENATOR HARR: And who challenged and said NRDs, you shouldn't pay the tax. [LB758]

SENATOR GROENE: The NRDs, their legal counsel did. It was not our...it would have been foolish for our assessor to do it or any school district to do it, we were our getting money. [LB758]

SENATOR HARR: So the NRD said we're not going to pay this tax anymore that we have been paying. Is that correct? [LB758]

SENATOR GROENE: That's correct. [LB758]

SENATOR HARR: Okay. And then the county said... [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR HARR: ...you owe that tax, correct? [LB758]

SENATOR GROENE: They were already paying the tax. The county, of course, defended the county and said the land was not part of the purpose of the government. It was the water they needed. Therefore, the land was since it was not a government purpose they should pay taxes on the land. The TERC Board ruled against them and there isn't a higher court. They appealed to the TERC Board, our county did. [LB758]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR HARR: Okay. So it's been appealed to TERC and so, I guess this is North Platte NRD versus Lincoln County...or who are the parties? [LB758]

SENATOR GROENE: Four NRDs. There's three...it's an interlocal agreement. There's the three Republican NRDs and the Twin Platte NRD. [LB758]

SPEAKER SCHEER: Time, Senators. [LB758]

SENATOR GROENE: The joint venture. [LB758]

SPEAKER SCHEER: Thank you, Senator Harr, Senator Hughes and Senator Groene. Senator Chambers, you're recognized. [LB758]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I tell you that bad bills come before this body and you all put me in a position where I have to read them because you all don't. But before I proceed, I'm going to look at the committee statement. I'd like to ask Senator Albrecht...or she's not...I would like to ask Senator Bostelman a question if he would yield. [LB758]

SPEAKER SCHEER: Senator Bostelman, would you please yield? [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

SENATOR CHAMBERS: Senator Bostelman, you're a member of the committee that heard this bill, Natural Resources Committee? [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

SENATOR CHAMBERS: I couldn't hear you. [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR CHAMBERS: Okay. Would you speak in your mike and then I wouldn't have to keep saying that. [LB758]

SENATOR BOSTELMAN: Sure. [LB758]

SENATOR CHAMBERS: Did you participate in the crafting of this committee amendment that is now before us? [LB758]

SENATOR BOSTELMAN: No. [LB758]

SENATOR CHAMBERS: Did you read it? [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

SENATOR CHAMBERS: Did you understand it? [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

SENATOR CHAMBERS: Tell me about this grandfather clause that Senator Groene mentioned. [LB758]

SENATOR BOSTELMAN: What the grandfather...he refers to it as the grandfather clause, what it allows us for the N-CORPE to pay those...not cause the counties to have to return the money or those tax entities to return the monies to N-CORPE, which they don't have. [LB758]

SENATOR CHAMBERS: Did you read the original bill? [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

SENATOR CHAMBERS: Did you read all of it? [LB758]

SENATOR BOSTELMAN: Yes. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR CHAMBERS: What did the original bill do? [LB758]

SENATOR BOSTELMAN: The original bill just set up the opportunity for which the N-CORPE would not have to address the taxation issue as far as repaying those taxes which they have already paid, which the county would have to...basically N-CORPE would have to forgive and allow the counties to keep it. [LB758]

SENATOR CHAMBERS: Thank you. That's not exactly what the original bill did. That's all I'll ask you, Senator Bostelman. The original bill had nine pages. The new language was on page 8 and continued on to page 9 and this is what it said, starting in line 30 on page 8. A natural resources district or districts that acquire private land to develop and operate a water augmentation project for stream flow enhancement, pursuant to subsection...subdivision (3)(e) of this section shall collaborate with representatives of the county in which such land is located in order to lessen any impact to such county's property tax base while ensuring that the objectives of the project are met. That's not saying what you said. It doesn't mention any grandfather clause. It doesn't mention any of those things, and I venture to say that people on the committee did not read and pay attention to that new language that was in the original bill. Maybe they had been told that you can ignore that because that's not what the bill is about. Now what Senator Hughes stated was that he learned something from me and that is to draft a bill in such a way that it goes to the committee you want it to go to. If Senator Hughes would yield, I'd like to ask him a question or two. [LB758]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB758]

SENATOR HUGHES: Of course. [LB758]

SENATOR CHAMBERS: Senator Hughes, when this bill was referred...oh, for the record, you are the chairperson of the Natural Resources Committee, is that true? [LB758]

SENATOR HUGHES: That's correct. [LB758]

SENATOR CHAMBERS: You are the drafter of this bill, is that correct? [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR HUGHES: I am the introducer of this bill. [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR CHAMBERS: The introducer of the bill. Did you have it drafted in such a...well, who provided the language that was in the original bill? [LB758]

SENATOR HUGHES: I worked with my committee counsel to get the language drafted. [LB758]

SENATOR CHAMBERS: So we can say that you are the drafter of that language because you're responsible for what comes out of your committee. [LB758]

SENATOR HUGHES: My name is on the bill. [LB758]

SENATOR CHAMBERS: Okay. I'm going to ask you some of these questions which are not designed to trick, but they may. I can't tell how a question will be perceived. When you drafted this bill it did not change anything about the Integrated Water Management Act, did it? [LB758]

SENATOR HUGHES: I would have to consult with my committee counsel to answer that question. I do not believe it did, but I don't want to say it explicitly. [LB758]

SPEAKER SCHEER: Time, Senators. [LB758]

SENATOR CHAMBERS: Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator Chambers, Bostelman, and Hughes. Senator Groene, you're recognized. [LB758]

SENATOR GROENE: Thank you, Mr. President. If you remember what I said when I stood up in support, I said I supported the amendment, not the bill, and I would support the bill when the amendment was adopted, because if you do read the original bill it did nothing. It did nothing. It

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

said they could collaborate or whatever with the county and make an effort to pay the tax. Well, they could have went down there and paid a dollar and said this is the best effort we make and we made an effort. In fact, the legislation...not to criticize Senator Hughes or the writers of the bill, they had to fit it inside the Constitution. In fact, when you say voluntary, they could come in and negotiate that they want to pay \$2, maybe \$3 an acre. They made an effort. That's why I said a bad answer to a worse situation. The best answer is put this land in private hands where it belongs. And to let the state...let's correct a problem here. One of my county commissioners said it best. We thought there was a compact between Kansas, Colorado, and Nebraska. We have come to find out, is the compact between Kansas, Colorado, and Lincoln County. You're welcome state of Nebraska, we bailed you out. My county did with the loss of 7 percent of our irrigated acres and our natural resource that is being pumped into a river. We have broad shoulders, but we are a free market people and we want that land in production. We want the economic benefits of it to be in production. My LB1023, or LB1123, I'm sorry. I'm good at the language of numbers, I'm good at the language of English sometimes even though I use double negatives, Ernie, but when I mix the two, I confuse them. So anyway, according to LB1123, it solves it. The state is kept whole. We still bail out the state of Nebraska and we...we...save 300,000 acres in southwest Nebraska of irrigation, Lincoln County does. You're welcome. All we want is the land sold, give us some of our tax base back. Get rid of five government employees and pickups running around in our county with an infestation of tumbleweeds and we will bail the state out. We will bail out Dundy County, Red Willow County, Furnas County, and all the rest of the counties that have kept their irrigated acres because of our efforts. This is a bad bill and fixes a worse situation. And I'm going to stand with Senator Hughes because he is trying to fix this problem too. It is in our districts. Sell the land. We will continue to support this. It's the best answer to the tax problem that we can come up with a constitutional barrier that belongs there. It has to be voluntarily and the terminology, which I call a look back. Citizens pass laws not lawyers, folks. So I'm talking to you in citizen language. The lawyers can worry about their language later after citizens pass laws. The look back I refer to, the grandfather clause I referred to in this bill says, including any year prior to the effective date of this act. The amount of the payment in lieu of tax for any year shall not be more than the real property taxes, including any year prior to the effective date. That's the grandfather clause. [LB758]

SPEAKER SCHEER: One minute. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR GROENE: That's the look-back. That is why I support this amendment. That is the main reason I support this amendment and the bill after the amendment is adopted. Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Harr, you're recognized. [LB758]

SENATOR HARR: Thank you, Mr. President. Senator Groene, would you yield to some questions? [LB758]

SPEAKER SCHEER: Senator Groene, would you please yield? [LB758]

SENATOR GROENE: Yes. [LB758]

SENATOR HARR: Thank you. You want this land eventually sold, is that correct? [LB758]

SENATOR GROENE: Yes. [LB758]

SENATOR HARR: And you want people to...private people to own the land, is that correct? [LB758]

SENATOR GROENE: Yes. [LB758]

SENATOR HARR: And you want it to be used for purposes that hopefully make money for the county, is that correct? [LB758]

SENATOR GROENE: They will pay taxes and hopefully they improve. The government is not improving the land. These owners for their own pocketbook will improve it. They will make sure the grass grows. Some of it will return back into dryland farming which will increase the value because there are areas that adaptable to farming yet without irrigation. [LB758]

SENATOR HARR: Would you be okay with prairie dog towns? (Laughter) [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR GROENE: Fine. I'm fine with them. Just as long as when they cross my fence line I can shoot them. You know, the government ain't worried about them. That's what I'm concerned about, there might end up being buffaloes and prairie dogs out there and that's worse yet. Along with tumbleweeds. [LB758]

SENATOR HARR: All right. Thank you. I'm starting to understand what this bill does. Senator Hughes, would you yield to some questions? I'm trying to clarify the record. [LB758]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB758]

SENATOR HUGHES: Of course. [LB758]

SENATOR HARR: Thank you, Senator. Payment in lieu of taxes, do we have those in other parts of the statute? [LB758]

SENATOR HUGHES: Yes, I believe so. [LB758]

SENATOR HARR: Okay. And I think we have our public power districts pay...make payments in lieu of taxes and I think some are utility, Metropolitan Utility District in Omaha I believe does, as well. How is this voluntary payment, in your mind, in the legislation set up? [LB758]

SENATOR HUGHES: It just allows the owners of stream flow augmentation projects the ability to pay in lieu of taxes and not worry about being sued for doing so, which is currently the case. [LB758]

SENATOR HARR: Well, they may all be settled by the time it goes to the Supreme Court though, is that correct? [LB758]

SENATOR HUGHES: If the Supreme Court rules that the augmentation projects are not a public purpose, then they have to pay the taxes. If the Supreme Court rules as TERC did to begin with, then it is a public purpose and they're not supposed to be paying the taxes. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR HARR: And this would then allow them to voluntarily make payments, is that correct? [LB758]

SENATOR HUGHES: Correct. Correct. [LB758]

SENATOR HARR: And if they're suing and using money and paying evil people, we'll call them lawyers, money to not pay taxes, why would they then turn around and voluntarily pay taxes? [LB758]

SENATOR HUGHES: Because it has been the goal of everybody that is involved in this project that I have talked to that they need...they understand that they need to keep the counties as whole as possible. It was never their intent to not pay property tax on the land they own and they have always paid it. The only reason they protested was because it was pointed out that they were doing something unconstitutional. It is very complicated. [LB758]

SENATOR HARR: Well, it hasn't been ruled unconstitutional...well, we think may be unconstitutional. I think this bill may have a good intent, but it's a little premature in that we don't know if, in fact, it is unconstitutional. We're waiting to hear from the Supreme Court. We have TERC, which is nice, has ruled one way. But there is no ruling out there that says, look at this, the way we're currently doing it is unconstitutional, is there? [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR HUGHES: I've heard this many times, everything is constitutional until it's not. [LB758]

SENATOR HARR: Yeah, thank you. Folks, we're creating law for a problem that may not exist. We have a limited amount of time. How much time do we want to spend on a bill like this that doesn't really...well, solves a problem that may not exist. Let's concentrate on the people's business. Let's look at what really...the real problems that really do exist and not something down the road that the Supreme Court may decide on, may not decide on. But I don't think this is...I'll use the term ripe, at this time for discussion. I don't think it's ripe for us to be determining before



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

there's been a determination by the Supreme Court. And then NRDs say they want to pay it. Where do you think that money comes from? All we're doing is taking money from this pocket and we're just going to dance it across and move it to the left pocket. [LB758]

SPEAKER SCHEER: Time, Senator. [LB758]

SENATOR HARR: Thank you. [LB758]

SPEAKER SCHEER: Thank you, Senator Harr, Groene, and Hughes. Senator Chambers, you're recognized. [LB758]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Harr is stealing some of my thunder. I had said when I first spoke, that I have to read these bad bills but I didn't tell why it's bad. Senator Hughes does not even understand his bill because he has somebody he hired as a staff person who is drafting it. I drafted my bill on the prairie dogs and you all didn't read it. Senator Hughes didn't read it but he led the effort to kill it. I read his and I see what's wrong with it and I'm not a member of the Natural Resources Committee. I don't have to talk to anybody. But I would like to ask Senator Hughes a question or two if he's had the opportunity to inquire into some of the issues that might be of concern to me. [LB758]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB758]

SENATOR HUGHES: Of course. [LB758]

SENATOR CHAMBERS: Senator Hughes, if you remember the question that I had asked you and you said you would talk to your staff, did you obtain a response, or you didn't have a chance to check yet? [LB758]

SENATOR HUGHES: I have checked and the committee counsel did affirm that your assertion was right, that it is part of the water management. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR CHAMBERS: Thank you. Does your committee deal with the Integrated Water Management Act? Does your committee deal with that or do you have to talk to your staff? If you do, then I don't mind... [LB758]

SENATOR HUGHES: I believe we do. [LB758]

SENATOR CHAMBERS: But you're not sure? [LB758]

SENATOR HUGHES: I'm not a lawyer, so I can't tell you that emphatically. [LB758]

SENATOR CHAMBERS: But you're the chairman of that committee, aren't you? [LB758]

SENATOR HUGHES: I am. [LB758]

SENATOR CHAMBERS: And you don't know the subject matter of your own committee? [LB758]

SENATOR HUGHES: We deal with a lot of different subject matters. I'm not completely familiar with every detail. [LB758]

SENATOR CHAMBERS: But this is...this is water and we're dealing with something more than just a detail. Do you know what that Integrated Water Management Act is that I referenced? Do you know what it is? [LB758]

SENATOR HUGHES: I believe my... [LB758]

SENATOR CHAMBERS: You either do or don't. [LB758]

SENATOR HUGHES: ...my knowledge of that, it's that it is the NRDs' responsibility to manage the water within their districts. [LB758]

SENATOR CHAMBERS: So you...that's what you feel that act does basically, correct? [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SENATOR HUGHES: Yes. [LB758]

SENATOR CHAMBERS: Okay. Now when this amendment was drafted, and when I say this amendment, I'm talking about the green copy because that would have been an amendment to the existing law. Your staff member drafted that amendment, is that correct...that amendatory language in the original green version of the law? Of the...that we're dealing with. [LB758]

SENATOR HUGHES: The change to the original bill, if that's what you're talking about? [LB758]

SENATOR CHAMBERS: Yes. The green copy. [LB758]

SENATOR HUGHES: Yes, she did it along with me and we had others help us. [LB758]

SENATOR CHAMBERS: I'm not criticizing staff. I want things into the record to show you that I take what you do more seriously than you all take what I do. I looked at that trash that's in the statute now known as the Black-Tailed Prairie Dog bill. You weren't concerned about private property being invaded. You weren't concerned about people having their land go into foreclosure because they didn't do something to manage prairie dogs. You didn't read that there was no court process involved in any of that and there was no judicial remedy provided in that law, but you led the effort to kill it. Then Senator Friesen popped up and talked about a rural/urban or something like that. He didn't know what the law did. And he joined it. [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR CHAMBERS: And I've got the list of the rest of you and I'm not going to embarrass all of you, but you all didn't know what that law said and you don't know what the original of this bill said, and you don't know what the new amendment is that would replace everything and become the bill. I'm saying that as an assertion, not as a question, and nobody can stand up on this floor and tell me that what I'm saying is untrue, and if you tell me that it is untrue, I'm going to question you closely on the language of the original bill as drafted, and then this amendment that is to take the place of the bill. And some reference has been made to it. Payments in lieu of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

taxes. In lieu of, means it takes the place of. So, a tax is due and owing and an arrangement is made with those who run the tax system for the state. [LB758]

SPEAKER SCHEER: Time, Senator. [LB758]

SENATOR CHAMBERS: Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Hughes. Senator Friesen, you're recognized. [LB758]

SENATOR FRIESEN: Thank you, Mr. President. The Management Act I think that Senator Chambers is probably talking about would have been LB962, which was when we recognized the relationship between groundwater and surface water in the state and up until then we had not ever recognized the commingling of those waters in certain areas and so now NRDs and the DNR are responsible for management...joint management of those conjunctive uses of water in the state. I mentioned this before and I've said this to Senator Hughes, but if I would have been in a place to stop N-CORPE when it first was developed, I would have stopped it. I'm a firm believer in fixing water issues within a basin and not reaching out anywhere else to fix a problem. The Republican Basin has been a contentious issue for a number of years in the way the agreement was made with Kansas, and I will go back to the agreement I guess that was brokered with Attorney General Don Stenberg. And so the Republican Basin issue, I've always maintained is more of a state issue and the state should have stepped in with more responsibility in fulfilling its obligation there because of that agreement reached back then. N-CORPE project was a willing sale of a large tract of land that came up. It wasn't condemnation or anything else, it was just available and somebody saw an opportunity and what it did when they purchased that and started pumping water, they saved the state of Nebraska a lot of money in the lawsuit with Kansas. And so it fulfilled its obligation. It's still doing that. When you get into the agreement that was made with Kansas, it is variable and hard to...until they learn how to manage water a little better, the N-CORPE project is going to be needed. It meets those flows in periods of drought when Kansas is going to demand water, and so I see a beneficial purpose for it at this time, but I would hope that longer range that that project could go away. And I don't know what kind of time period it will take. I have not been involved lately in how they are approaching that

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

management of the Republican Basin. But this is an agreement between several NRDs, the four NRDs the way I understand it. And what this in lieu of taxes does, when they purchase that land and reach this agreement, their idea was to hold school districts and everybody harmless and everybody would pitch in and pay the taxes because the land is all located in one area. And the process they used, obviously, was found unconstitutional. I think this is the best way to fix it. It does help hold those school districts that are impacted the greatest in the county. It does help hold them harmless because what has happened in that basin with N-CORPE has helped the whole basin. It is to the benefit of the whole basin. They all should be paying that area that was impacted the greatest. But if push comes to shove, I would say the state of Nebraska should have picked up that whole tab because it probably helped the state of Nebraska more than it's helped that entire basin. So there is a long history of water use and the Republican Basin is, you know, when we want to talk water use down the road, the Platte Basin is a separate issue and I know we'll talk about some NRD funding issues down the road. But the Platte Basin is a totally different basin to manage than the Republican Basin. And Kansas recently has been really good to work with. They have changed attorney generals. They've changed administrations there and they have been able to work with the state of Nebraska in... [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR FRIESEN: ...coming up with a plan that I think is beneficial to both states and takes...hopefully, keeps the idea of a lawsuit off the table. So again, I look at this bill. I'm very supportive of it because I think it accomplishes things that were intended to be done in the beginning and didn't get done, and it helps to hold those school districts in the county that were impacted the greatest, it helps to hold them harmless as best it can. Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator Friesen. Senator Schumacher, you're recognized. [LB758]

SENATOR SCHUMACHER: Thank you, Mr. Speaker and members of the body. Yesterday, the counsel for the Natural Resources Committee came to my office and I tried to read her mind because I could almost tell somebody had said, go talk to Schumacher. See if he sees anything

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

wrong with this bill. And she did. And I appreciated that. And so let's just quickly look at the bill before you all get all worked up. (2) says that, this joint entity or this natural resources district shall seek public input. All right. So seek public input. Number (3) and number (4) says, this is the tree planter state. We grow lots of trees. We need another report. And we need some leases duplicated. So fine. Let's get another report and duplicate some leases. So the meat of this then is in (1) that says this joint entity, which is an agreement forming a...from a club of local entities or the natural resources district can give the county some money if it wants to. They call it a payment in lieu of taxes. They don't say how much it should be, if they have to do it, but they can if they want to. So what's so wrong with that? Let's talk just briefly about what these payments in lieu of taxes and why they probably created a wrinkle. Apparently, the NRDs and the counties and everybody got together and found a solution. And for the most part, everybody was happy with it except a lawyer because the lawyer read the state Constitution and the state Constitution says a local government can't be taxed. He was right. Okay, and apparently TERC Board said, yeah, you're right. But they still wanted to all get along. So they said, you know, we kind of need some authority to all get along the way it looks. So let's call this thing a voluntary payment in lieu of taxes and then the natural resources districts can make it right with the county and we can all get along, which isn't the worst thing in the world to do. But, and this is some of you who want to take on a cause. This payment in lieu of taxes, we have a lots of them in the state. Game and Parks pays in lieu of taxes to counties because they take land and it comes off the tax rolls and that creates a big fuss. So they do it. Power districts. There's a different rule for them. They got to make a payment in lieu of taxes that is the same as they would have paid in the year that they took whatever property they took over. Lots of screwy rules accumulated over the years for these payments in lieu of taxes, all of which might be problematic if their legal counsel did what the legal counsel for the NRDs did here. So as I see this bill, it's a whole lot of to do about nothing. Fine, seek public input. Kill a few trees to make another report. And if the joint public entity or the natural resources district wants to make a payment to the county as part of some local accommodation to make life move simply and smoothly, fine. Go ahead and do it. I'm not even sure they need this bill to do that because if they cleverly draft an interlocal agreement, they probably could do it without this bill. But this bill makes it simple and saves them some legal expense from drafting a clever interlocal agreement. I see nothing wrong with this bill. It doesn't change life much at all. You know, I've got to support the amendment and the bill and I enjoyed the discussion. Thank you. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator McCollister, you're recognized.  
[LB758]

SENATOR MCCOLLISTER: Thank you, Mr. President. Good morning, colleagues. I rise in support of AM1573 and the overlying...the bill itself, LB758. During my three years on the Natural Resources Committee, I've had a front row seat to this controversy in Lincoln County. Now I'd like to commend Chairman Hughes for putting this law together because it has not been easy, I assure you. I actually visited the N-CORPE site in Lincoln County two years ago, not last year when they held a meeting out there, and it's a good, good project. You know, diverts water from a rich area of groundwater and it moves it down toward the Republican Basin, which is what we're obligated to do with the compact that we settled with Kansas and Colorado. Good solution to a bad problem, so I'm in support of what we've done there. Also this bill answers Senator Groene's legitimate issues on the N-CORPE project. You know, with this solution that we have, we provide in lieu of payments to Lincoln County and the other areas in the other counties in the area, and it also provides good transparency and accountability, which we didn't have before. So it is a good thing to deal with. In lieu of tax, and I'm familiar with the concept during my time at MUD, is also a good solution. You know, a public entity cannot be obligated to pay property taxes, but yet this gives everybody an ability to be made whole. So I rise in support of the amendment and the bill. Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator McCollister. Senator Groene, you're recognized and this is your third time at the mike. [LB758]

SENATOR GROENE: Thank you, Mr. President. Yes, there are other entities that do pay in lieu of taxes, Game and Parks, school lands, but they usually rent that out and it's not being used with public service. Somebody donated land, I believe, to Game and Parks. They still rent it out to a farmer. They pay in lieu of tax. N-CORPE doesn't have any revenue we're speaking about. The grass is in terrible condition. It won't bring in a lot of money. There are eight pivots, still eight quarters that are still irrigated. They bring in some property taxes because that's truly in lieu of tax that they rent to a farmer. Eventually those eight pivots will disappear. They're trying to do a land swap now. This is truly double taxation. The farmers out there are paying \$10 an acre occupation tax. And, in fact, the county farmers in Lincoln County are triple-taxed. Because they

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

lost their tax base, their tax rates went up. And then they're going to get charged ten bucks an acre, all right, for an occupation tax. And then some of that is going to go and replace now, taxes to that they paid earlier because their taxes went up. I mean, it's a zoo. Sell the land. Put it back into production. We saved the state of Nebraska millions of dollars, Lincoln County did, by the use of our natural resources. Millions. Yes, the state owns the groundwater. Yes, they do, but they took it under our county to settle this dispute. And all we want is the land back in production...our land back. Can anybody...I have asked over and over again why do you need the land? Never an answer. Oh, if we sell it, Denver will come in and take our water. Can't happen. There are statutes in place about transfer of groundwater from state to state. Why do you need the land? Never an answer. Quite frankly, it's big boys beating their chest. Somebody wants to take credit that they saved 300,000 acres of irrigated in southwest Nebraska and by golly, it's their project, it's their land. That's what I think is happening here. Sell the land. Senator Friesen made a point. Sell the land, let's do the augmentation. I look at the augmentation project, I hope those wells rust in place. They're an insurance policy. That's what they should be. They should sit there as an insurance policy never turned on. If we get past this dispute about the land and the augmentation, then we can focus. Senator Hughes and I can focus, and Friesen, and Stinner and Brewer, and Erdman, Lowe. All of us that are in those overappropriated areas and we can get an answer. We can fix this thing. We can start working on sustainable, conservative policies. But all we're doing is fighting over big boys banging chest about selling the land without an answer why they need it. My statute, my bill, LB1123, fixes it. It carves out an exception to the common law. NRDs involved in an augmentation project to sell the land and put a deed reservation on it that they control the water. It happens all the time, folks. There is an exception to the common law on agriculture. You can keep the reservation on the water, sell your land, and pump the water over to a farm that you own somewhere else. The state can do it or the NRDs can do it to settle problems with the EPA. We do it all the time. Cities do it all the time, folks. They put a well in. [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR GROENE: They put a well in, don't own all the land, and they pump it into the city and service hundreds of thousands of people. Those exceptions are in the statutes. We can make another one to the common law. Please, my fellow Senators, when they come around to you and tell you we can't sell the land, ask them why they want the land. One last thing. There is an North



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

Platte NRD going around lobbying you guys. That is not my NRD. That is the Panhandle of Nebraska's NRD. Mine is the Twin Platte and the Middle Republican and they are doing a great job. The farmers stepped up, paid \$10 an acre, and our levy has been cut in half. That's called good management. Some NRDs do it. Thank you. [LB758]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Harr, you're recognized and this is your third time at the mike. [LB758]

SENATOR HARR: Thank you, Mr. President. And my third time in listening to debate, I think I have a better idea of what is really going on here. And it's as much as anything, it's what I found out talking to the lobby. A lot of people say lobbyists are bad. They influence voters. Well, they're also a resource. And I think I understand what's going on. And if I'm wrong, someone can correct the record. But as I understand it, Senator Groene, is upset because this land is sitting fallow. Well, it's not. It's being rented out. So let me talk about what happens in some of these other nonprofits or government entities and then what's happening here. So if I have a nonprofit or a government entity that owns property, let's say it's a courthouse, and I rent part of that property out to a for-profit, for a for-profit purpose, that land is no longer tax exempt. And the county would have to pay property taxes on that portion of the courthouse if they own the courthouse, assuming. Then you have your NRDs. Your NRDs have taken this land out of irrigation. We're no longer watering this land. It may be used for pasture. It may be used for sorghum. It may be used for prairie towns...prairie dog towns. Whatever it's used for, but it's being leased out. And then what happened is for whatever reason--and I don't know why--the NRDs decided, hey, you know what? There's not clarity. Is this lease...make us a property, have to pay property taxes, or is the underlying purpose for owning this land the water underneath? I don't know. TERC said, hey, it's the underlying issue, or it's being held for the underlying purpose of keeping the land from being watered, irrigated. It was never a problem. This was a problem of the NRDs creating, and now they want us to come in and create legislation to fix that issue. When, in fact, it's still a question in dispute. I'm not sure why we're coming in to save their tail from a question they raised that still hasn't been answered. Let the system work. Let's see what the Supreme Court says. Let's see if they say, you know what? If you're leasing and you're making money off it, you got to pay property taxes, and this thing goes away. Let the system work. I had a bill a couple of years ago that Senator Chambers might recall, meant the Woodmen

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

of the World to me. And in that bill a lot of people said, let the system work. Don't override. Let's not do that. I don't know, maybe Senator Chambers was right. But folks, this isn't the time or the place to be having this debate. And I'm not sure why the NRDs created of their own making this debate, because I feel, as I think Senator Groene does, if they're leasing the land out and they're making money... [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR HARR: ...they should pay property taxes on it. And if they're not leasing the land and they aren't paying property taxes on it, how in the world are they going to be able to afford to pay those taxes? They're going to have to raise a different tax. Right? And then at that point all we're doing is robbing Peter to pay Paul. Would Senator Chambers yield to a question? [LB758]

SPEAKER SCHEER: Senator Chambers, would you please yield? [LB758]

SENATOR CHAMBERS: Yes. [LB758]

SENATOR HARR: Senator Chambers, have you ever heard the term, robbing Peter to pay Paul? [LB758]

SENATOR CHAMBERS: Yes. [LB758]

SENATOR HARR: Do you know the basis of that statement? [LB758]

SENATOR CHAMBERS: Well, most people don't know, but I know the real story behind that. There are not two individuals. There is one individual, his name is Peter Paul. And the right-hand pocket is for Peter; left-hand pocket is for Paul, but there is only one entity, one person involved. [LB758]

SENATOR HARR: Yep. So I get to tell a history lesson today with Senator Chambers. Ahhhh. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SPEAKER SCHEER: Time, Senator. Thank you, Senator Harr and Senator Chambers. Senator Chambers, you're recognized. [LB758]

SENATOR CHAMBERS: Thank you. Mr. President, people could learn a lot from me if they'd listen, but they don't want to learn anything. They think I don't know anything and what you missed was where Senator Harr mentioned an issue that came up some years ago and Senator Chambers was right. This is a shell game. That's what we're dealing with here and I've got an IPP motion that I'm going to put up there. And I've got other motions and amendments I'm going to offer to fix you all for what you all did to me yesterday. Yesterday, ignorance won. And there's an expression, when I'm sad I sing, then the whole world is sad with me. People have heard me say that I love music. They ask, then why do you torture music in the way you do when you try to sing? Well, music has an answer to everything. Even that. You always hurt the one you love. The one you shouldn't hurt at all. You'll always take the sweetest rose and crush it until the petals fall. You'll always break the kindest heart with cruel words you can't recall. And if I broke your heart last night, it's because I love you most of all. That's why I butcher music. I love music so much that I hurt it. Now you all know why I go ahead and sing. And by the way, that saying, music soothes the savage...it's not beast. Music soothes the savage breast. But there are a lot of sayings people give that are incorrect. They're not going to listen to anybody like me because they see my color. And the first thing some white people say to show me they're not a racist, I don't see your color. I say, then you couldn't see me because if there is not something color for light to reflect from, you wouldn't see anything and that's why Ralph Ellison wrote his book, the Invisible Man, talking about us. It's not that you don't see us. You choose not to. Brothers and sisters, friends, enemies and neutrals, the eye sees everything, but it cannot behold itself. That which is all seeing does not see all because it does not see that which gives it its existence and makes it possible to be. The "Professor" the other day had me scrambling talking about motion and an object and so forth. And we're going to talk about that again at some point. But here is what you all are doing here today. First of all, this bill was misreferred. It's dealing with the county, pure and simple. It should have gone to Murante's committee and he would have sent it off. They've got a deal with each other. When I say deal, an agreement. Murante is one hand, Senator Hughes is the other hand, and they wash each other and they clap together. You cannot have a hand clap with one hand. One scratches the other. They're in it together. Murante would have sent this bad piece of legislation out here, and any amendment that was crafted and drafted,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

he would have had his committee put it on. And it would be out here anyway. But this bill having gone to Senator Hughes's committee shows a corruption of the system because if you read it, there is nothing in the original bill that changes that Integrated Water Management Act. Nothing... [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR CHAMBERS: ...affecting that at all. If anything, when it talks about taking private property, that would relate to eminent domain and it should go to the Judiciary Committee. But since it talks about the county, it should have gone to Senator Murante's committee. That's where county business is sent. And if it didn't deal with that, then it should have gone to the Revenue Committee because it's talking about taxation. You all don't think, you don't read, you don't pay attention, and I get tired of having to come here and deal with ignorance. And that's what I deal with here. I watch Senator Brasch, the chairperson of a committee who voted to send a bill out here that she was nonvoting. Senator Albrecht, and I'm going to read how she questioned a person who spoke against my groundhog bill...not groundhog, prairie dog bill, and then she voted against the bill. That's what happens here. I watch it. I watch you all. But she was a part of that group who got a chairpersonship because she was one of the wicked 27. [LB758]

SPEAKER SCHEER: Time, Senator. [LB758]

SENATOR CHAMBERS: You said time? [LB758]

SPEAKER SCHEER: Yes, Senator. [LB758]

SENATOR CHAMBERS: Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Albrecht, you're recognized. [LB758]

SENATOR ALBRECHT: Thank you, Speaker Scheer. And colleagues, I do sit on the Natural Resources Committee and I do rise today in support of AM1573 and support of the bill, LB758.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

You know, we talk a lot about whether a bill should be in one committee or another committee. But I'm here to tell you that we spent many, many hours listening last year and this year. I commend Senator Hughes for working on this to bring all parties together. You know, the state of Nebraska is the one that was in the major lawsuit with Kansas and Colorado over this 19,000-acre piece of ground that they decided to purchase for an exorbitant amount of money. And you know when they purchased that land, they purchased it for, I believe, \$89 million. I might be wrong, it might be \$87 million. But for 19,000 acres, they purchased that ground as irrigated ground. And now today, they're only going to be taxed on \$16 million of that ground. But because they're a governmental entity, they shouldn't be paying taxes on it, but they had been paying taxes, we found out last year, for five years. So supposedly what was told to us in committee is that the N-CORPE, supposedly they were told that, gosh, you really shouldn't be paying for this because you're a governmental entity, so we really shouldn't have been charging you for the last five years. Okay. So did the assessor really say that to N-CORPE or did N-CORPE really realize after five years that, gosh, we shouldn't have been paying it, so that's why they went to TERC. Regardless of the situation, we need to take care of, because the state of Nebraska imposed this on Lincoln County, and I feel that if Lincoln County residents could lose their schools and lose their resources for every other entity that whether it's the fire department or their roads or their county or anybody having to pay taxes in that county and substitute for 19,000 acres taken out of their tax base, is something that we should be responsible for. And whether we should be waiting for the courts to decide whether they should be paying this or not, if N-CORPE came to Senator Hughes, and the residents of that particular county, I would certainly hope that if something like this was happening in my backyard, that everyone in the state would take a look at this. This was something that was created by our state because we weren't giving enough water to Kansas. So this project has to go on. The people in Lincoln County are working with N-CORPE to try to either rent that ground, 19,000 acres when you're a cow-calf operator and you need a place to go with animals and we don't have enough green space, yes, we would like to see that put back into production. Whether someone rents it from them or if they want to purchase a portion of the 19,000 acres, whatever needs to be done. But we need to help the people of Lincoln County understand that we're here for them, too, because we too, as a state, created this problem for them. So again, I stand in support of this bill. Thank you. And I'll yield my time to Senator Hughes if he would like it. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SPEAKER SCHEER: Senator Hughes, 1:20. [LB758]

SENATOR HUGHES: Thank you, Senator Albrecht. Yes, I appreciate the time. I'd like to clear up a few of the misconceptions that are going on. This is a good bill and Senator Chambers said that he's doing what he's doing to this bill because of what you did to my bill yesterday. This is a good bill. This solves a problem that is needed to be taken care of that's been festering for four or five years in southwest Nebraska. The local farmers in that area stepped up to solve the problem for the state of Nebraska. It is the state's problem. The state was out of compliance with a federal compact that we had to be. And rather than risking shutting down the entire economy of southwest Nebraska, the local irrigators stepped up and said, we can fix this. We're willing to pay the price to fix this and that's what we have done. We're taxing ourselves for irrigated acres in order to fund Rock Creek and N-CORPE. The water that is coming out of N-CORPE, the majority of it does lay in the Republican River Basin. A portion of it does lie in the Platte River Basin. [LB758]

SPEAKER SCHEER: Time, Senator. [LB758]

SENATOR HUGHES: Thank you, Mr. President. [LB758]

SPEAKER SCHEER: Thank you, Senator Albrecht and Senator Hughes. Mr. Clerk. [LB758]

CLERK: Mr. President, Senator Chambers would move to amend the committee amendments with FA92. (Legislative Journal page 421.) [LB758]

SPEAKER SCHEER: Senator Chambers, you're welcome to open on FA92. [LB758]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, there's a group that's saying some of you may be familiar, Creedence Clearwater Revival, CCR. And this is what I would suggest to my colleagues. (singing) Don't go out tonight, you're bound to lose your life, there's a bad moon on the rise. A bad moon rising is one of the worst kind of moons you can have. It's worse than that blood moon. It's worse than the blue moon. It's worse than all of those. And see, the difference between me and a lot of you all, I tell you what I'm doing because I want

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

you to know. I don't want to attack you from ambush. I want you to know what I'm doing and why. Senator Hughes says this issue that he's dealing with in this bill has been festering. The issue I dealt with--attempted to--has been festering longer than this one and I brought the bill more than one time trying to correct you all's law, which is atrocious. Here is what you all are doing. I'm straightforward with mine. I wanted to get rid of a bad law and I took the step to do it. What courts look at sometimes is what is behind the issue that is brought. And if it's a critical enough issue and it implicates constitutional principles, courts have been known to say, you cannot do by indirection what you cannot do directly. We're not talking about a dispute between two people. It goes much deeper than that, much farther than that. And sometimes you ought to have sense enough to let sleeping dogs lie. Maybe there are 30 issues on the right-hand side of the table. You have one issue on the left-hand side of the table and everybody says, you should go ahead and take care of your issue on the left-hand side of the table, but issues may be contained therein which will affect the 30 issues on the right-hand side. But people don't look at all of the factors that are involved. Courts have a way of saying before they issue an opinion in support of a decision, the court being informed in the premises, whatever that means. Then they say, what often makes it appear that they're writing fiction rather than fact. But here is what you all have. It looks like a duck, Senator Hughes...oh, he's not here. Well, the rest of you. It looks like a duck, it walks like a duck, it quacks like a duck, therefore, Senator Erdman, it's a chicken. That's what you all often do. And nobody calls your hand on it because nobody cares enough to look at what it is we're actually doing and how it interplays and interconnects, interrelates with other things that are already in place. I read the original bill that Senator Hughes presented. The new language that he put into the bill didn't strike anything from the existing law, it just attached something to it. But I read the existing law. It has meaningless terms like, this particular action must be taken with a short view or the long view. That's in your law. Is it the short view or the long...what is the long view? Ten miles? No, because we're talking about time. Okay. Ten years, 20 years? A generation? No. That's what you put in. You intelligent people, the master race. The long view, in the law. They talk about potential water. I don't want to just say things and not have the documentation. In the original version of the law that is not amended by Senator Hughes, on page 4, line 14, nobody will look at it here, identify to the extent feasible potential water available to mitigate new uses. What is potential water? Do they mean to have written water that is potentially available? To potentially be available may mean there is a possibility some water will be there. But what is potential water? This in my hand was written by the master race and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

the master race has read it and they don't have sense enough to understand their own English. I'd like to ask Senator Hughes a question. [LB758]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB758]

SENATOR HUGHES: Of course. [LB758]

SENATOR CHAMBERS: Senator Hughes, you probably are not looking at this, but on page 4 of the language in the original bill, in line 14, it says, identify to the extent feasible, potential water available to mitigate new uses. What is meant by potential water? [LB758]

SENATOR HUGHES: That would be the amount of water...to me, that would be the amount of water available in the aquifer. [LB758]

SENATOR CHAMBERS: That's what you're saying, but that's not what this says. Do you know...that's all I'll ask you because I have some rhetorical questions. These young people might know. What is potential water? Ice is potential water. It's solid. But it potentially is water. What does potential mean? It's capable of being or becoming, but it has not yet manifested itself. So potential water, ice is potential water. It can become water. Mist is potential water. Steam is potential water. If you condense enough steam, you'll have water. Same with mist. Mist...these diffused particles when they're very small, comprise steam if it's hot, mist otherwise, but H<sub>2</sub>O is implicated. So what they meant to say was what Senator Hughes actually said. Water potentially available, not potential water. You see what I have to do with you all's language? When you drag me from that continent, which your President used an obscenity, a vulgar obscenity to describe, and I presume he meant the people who come from there, which is where my forbears came from. English is not the indigenous language of the people on that continent. But I have to learn how to speak your language better than you do. I have to learn your grammar better than you do. And then you don't listen. But a time comes when the ignorance will be shown for what it is. And let me tell you something about ignorance, because I'm going to take the rest of this morning one way or the other. You did what you did yesterday and I couldn't stop you, but I get payback. I get my pound of flesh. And if I say I'm going to get it, I'm going to get it. And you helped a lot this morning by engaging in the discussion. And you're going to have to discuss this



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

bill some more because we're not going to get to a final vote on it today. Senator Groene thinks it's a good bill. Senator Hughes thinks it's a good bill. Senator Albrecht thinks it's a good bill. And if you know anything about geometry, if you have one point to my right, one point to my left, and one point to my rear, you have defined a triangle. [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR CHAMBERS: So when the triangle, the big three say something, then that's the way it's going to be. And do you realize that if the triangles had a god, that god would have three sides? I'm putting all this together for you. We're enjoying each other here today. Sometimes when you bring these issues that pertain to water or rural areas, it's like you're going to improve my education because I don't know anything about it because I can't read or won't read. Well, be aware of this, my friends, while you're improving my education, I may improve yours. I'm not one who will lay back and swallow spit, be insulted, be demeaned, and let it go. You will pay and I will make you pay. You know why? Because I'll learn your rules and I'll beat you at your own game. I didn't know put the rules...where is that book? [LB758]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Chambers. Senator Groene, you're recognized. [LB758]

SENATOR GROENE: Thank you, Mr. President. More clarification. Apparently the lobby that wants to own this land...they probably can't buy it themselves so they want to be land barons with your tax dollars, is telling you that all is well. Senator Harr isn't here, is he? Apparently they're going to lease this land. Well, let me tell you the difference about this project. School lands are owned by the state. There's no debt on them. Game and Parks land usually has been donated by somebody, there's no debt. Nobody is being taxed to purchase them. What has happened at N-CORPE, as Senator Albrecht brought up, is that we are in \$83 million of debt, bond debt yet, the last number. Bond debt. Farmers are being charged \$10 an acre in that area to pay it off. So now let's say you did rent the land for ten bucks an acre, I wouldn't give that much for tumbleweeds, for grazing. If there wasn't any debt, that could pay property taxes. That's what school land does. If they rent it out, it should go to alev the debt. It's double taxation. Instead of \$10 an acre, they might pay \$9.50 an acre if the lease money went against the debt. We've got a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

unique situation here. They have not been leasing it out. They've been doing some deals where it's been under the table and no lease papers ever showed up. Do they plan on leasing in the future? Yes. But they're still going to have five employees out there taking tumbleweeds out of the fences, repairing fences. Hopefully, spraying some tumbleweeds, some Kochia weed. This is not your normal in lieu of tax situation. If we sell the land, we can put \$16 million or so against the debt. We can eliminate \$1.4 million in operation tax. We can put it against the debt. We can make that money now and pay it towards the debt. None of my farmers are paying \$750, maybe \$650 an acre. Again, as the NRD lobby calls you out, Senators, ask them why they need to keep the land. Who is the puffed-up government land baron who thinks they need to keep that land? The Governor of this state said he thinks we ought to sell the land as long as the augmentation part of the project remains and protects the state. Sell the land. Keep the water reservations. Happens all the time with other exceptions to common law. Ask them why they need to keep the land. They don't know. They're just beating their chest. Sell the land. Rent it out. Who cares? And then pay taxes when my farmers are getting taxed ten bucks an acre? Why not take the lease money and pay down the ten bucks? Why not sell the land, and alleviate it? You know, this reservation on water works the same way as mineral rights on oil. They will have an easement, the NRDs will, on this land if they sell it just like somebody in oil company does has a reservation in the deed on oil. They can go on that land for perpetuity, move the well to another area and drill another one, close one down... [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR GROENE: ...turn them on, turn it off. Here is the unique thing, folks. Colorado has a program like this because they have to please Kansas too, 54 pivots. Farmer owns the land, they own the wells. They have one man with a cell phone who turns the wells on and off. That's it. That's all they have. No land...they own the water rights. We could have an existing employee of the Middle Republican or the Twin Platte turn the wells on and off. Send one of their existing employees out that sprays some weeds around the wells. We pay \$1.4 million in management fees. This is a no-brainer, folks, sell the land. When they call you out, the lobby, ask them why they need to keep the land. I still have not gotten an answer. Thank you, Mr. President. [LB758]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

SPEAKER SCHEER: Thank you, Senator Groene. Senator Chambers, you're recognized.  
[LB758]

SENATOR CHAMBERS: Thank you. Mr. President, I had talked about when I'm sad, I sing and the world is sad with me. Well, when I'm having a bad time, that's the time that I will rhyme. So, based on yesterday what happened today, legislators have been known to do some bonehead things, then say/ I've not read the law, but I don't think there is a better way/ to express the principles contained therein despite the ranges,/ therefore, I'm opposed to all amendments making any changes./ If they're asked, aren't you embarrassed by a stance so simpleminded?/ No, the path of get along is what I see, this is how I find it./ What about constituents, the ones who sent you here to function in a manner competent?/ Do you toward them have no compunction?/ There is no need for us to worry of constituents, we've no fear,/ they're not overburdened with brains, for after all, they sent us here./ I judge your constituents by you. And there certainly is not an overburdening of brains here. And if you think that you're smarter than me, embarrass me on the floor. Call me out. And we will have what they used to call a battle royal. I didn't grow up in some suburb. I didn't wear fine clothes. I didn't have a nanny. I know what the streets are. I know where the streets are, I know what is in the streets, and there ain't nothing in here to compare with that. Not singly or together because I know where you all come from too, and I know what you are because I watch the kind of legislation you bring. I watch the way you change on issues. They call you out in that lobby and you come in and you change everything you did. I'm not going to do it today, but tomorrow I am going to read from the transcript of the hearing we had on my prairie dog bill. Oh, Senator Lowe, I believe is a member of the Ag Committee. Here at Senator Albrecht, put that guy from Sheridan County in his place. Came down there trying to bedazzle the Ag Committee because he's a member of a county board or commission, whichever they call it. But we had a member who used to be a member of a county board or commission and she put the lumber to him. And by the way, whereas, you all mocked my bill yesterday under the leadership of Senator Hughes who had not read the law that was being considered, that guy who came down to speak against it said Senator Chambers may have a point. He may be right about there being no legal redress. That's what the enemy said. I tried to explain it to you all. You don't listen. I cite the bill to try to show you how it interworks with the existing law. You don't listen. And somebody like Larson runs around here and tells you, don't vote that way. Don't vote that way. Then what to my wondering ears should come but the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

chairperson of the Ag Committee saying, I listen to people from the rural areas and I don't know how I ought to vote on this. She knew how to vote it out of committee. She knew how to speak in favor of it until somebody got to her. I don't know who got to Senator Albrecht, but somebody did. [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR CHAMBERS: And I'm going to read what she said to remind her of where she spoke that I'm sure helped persuade some committee members to send the bill out here. Since you all pray all the time, you all love that "Bibble" and Jesus. Jesus said, by thy words, thou are justified and by thy words, thou are condemned. By thy words. I don't set the standard that you all ought to live by. It's too high. It's unreasonable, because it would require you to treat other people the way you want to be treated. And that's a high standard. Easily stated, difficult to live by. These churches, especially the Catholic church, set up an easy life to live, but they have all this exogenous and interpretations, dogmas, that you have to be a philosopher to understand and then you don't understand it, but you befuddle people and they think you understand it. [LB758]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Chambers. Senator Harr, you're recognized. [LB758]

SENATOR HARR: Thank you, Mr. President. And I'm going to go back to church for a second. I'm going to talk about the Catholic Church. Back in the day, Catholic Church, you used to have to pay a tax. You know what that church was? St. Peter's. After reformation in England, you didn't have to pay Peter, but you still had to pay that tax. Paul. That's where robbing Peter to pay Paul comes from, the reformation. So I thought I'd bring that back to where I was earlier. And that's where we are here. Right? I hear Senator Groene say, they don't rent the land out. They will, but they don't. Okay. So where is the money coming from to pay this pilot payment in lieu of tax? If it's not coming from the land, it's probably coming from a tax. A tax. So folks, this doesn't cut taxes. This doesn't help one county over another, maybe it does. But we're not doing anything except robbing Peter, the Catholics, to pay Paul, the Episcopalians, I believe, or church of England. Right? That's all we're doing. What we should be talking about is how do we make sure that those properties are collecting rent, that that land doesn't sit fallow as Senator Groene

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

says. So we don't have tumbleweeds, so we don't have thistles, or if we do, we rent it out and we do a triple on that lease and we make that farmer responsible for that. We make that farmer responsible for keeping up the fences, for making sure the weeds are sprayed. That's the real way. This bill is a solution in search of a problem. We don't need legislation. We don't need necessarily litigation in this situation. Now the NRDs have chosen to go the route of litigation because they said, hey, we don't think we should be paying this tax. Don't get me wrong. I'd really like to be paying taxes. But you know, I mean, I'm not going to. And I'm going to spend a lot of money on lawyers to make sure I don't pay something I really want to pay. I do, but you know, I mean, this Constitution, I mean, I don't know what this means. Folks, if they really wanted to pay that tax, they'd say, we are collecting money. This is being used for revenue purpose...revenue is being collected off this land. It's beyond the nonprofit purpose which is feeding cattle. We're going to pay it. You got a problem with us paying taxes, you sue us. Which then leads to the question, voluntary. Now, all of a sudden these NRDs who are saying, we want to pay taxes, yeah, don't worry we want to pay it but we can't. But we're going to pay lawyers to say we can't pay a tax, but we really want to pay it. Are you going to turn around and voluntarily pay a tax? How much? It's not in the statute. They're going to voluntarily pay it. What are they going to pay, what they pay their lawyers now? Is that the tax? Is it going to be one cent, two cents? Ten cents? I don't know. But they're going to voluntarily pay it. I think it's a little disingenuous and I question why when no one challenges the taxes you are paying and have been paying for a number of years, do you turn around and say, I need this legislation? Oh, and I need this legislation... [LB758]

SPEAKER SCHEER: One minute. [LB758]

SENATOR HARR: ...before the Supreme Court has even ruled that I shouldn't be paying this tax that I've always paid, but now I'm fighting, but I really want to pay. Doesn't make sense. Now, maybe they can come to me and present a reason why they think the right legally and they had a constitutional duty to challenge their constitutional right not to pay taxes. Until then, I don't see a reason for this bill. Other than we're taking up floor time, which quite frankly, given some of the bills I see lower down, I'm more than happy to do at this time. But to get worked up about this bill, I mean, this bill is like a Seinfeld episode. It's a bill about nothing because there isn't a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Floor Debate  
January 24, 2018

---

problem. There isn't a right issue that we need to address. Maybe down the road after the Supreme Court comes in and says, yep, NRDs should not be paying that. [LB758]

SPEAKER SCHEER: Time, Senator. [LB758]

SENATOR HARR: Then we can address that. [LB758]

SPEAKER SCHEER: Time, Senator. [LB758]

SENATOR HARR: Thank you. [LB758]

SPEAKER SCHEER: Thank you, Senator Harr. Mr. Clerk. [LB758]

CLERK: Mr. President, items. Government Committee offers a notice of hearing. Amendments to be printed: Senator Lindstrom to LB548; Senator Linehan to LB651. Senator Chambers a motion to LB758. And Mr. President, a new resolution. Senator Hilgers offers LR301. That will be laid over. Have a motion from Senator Wayne that will be laid over with respect to the rereferral of LB1088. Senator Groene would like to add his name to LB758 as cointroducer. (Legislative Journal pages 421-425.) [LB548 LB651 LB758 LR301 LB1088]

And Mr. President, Senator Quick would move to adjourn the body until Thursday, January 25, at 9:00 a.m.

SPEAKER SCHEER: Thank you, Mr. Clerk. You've heard the motion. All those in favor please say aye. Those opposed say nay. The ayes have it. We are adjourned.