

May 7, 1981

LB 252

SENATOR KILGARIN: I move the E & R amendment to LB 252
be adopted.

SENATOR CLARK: The motion is to adopt the E & R amendments
to LB 252. All those in favor say aye, opposed no. The
amendments are adopted. Do you have anything further on
the bill?

CLERK: Yes, sir, I do. Mr. President, the next amendment
I have is from Senator Vickers and it is on page 1535 of
the Journal.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Pat, did you tell the number of the
Journal page that it was on?

CLERK: 1535, Senator.

SENATOR VICKERS: Thank you. Mr. President, members, the
amendment that I am offering to LB 252 is another attempt
on my part to make this bill in the middle of the road
instead of leaning toward one side or the other. The
amendment would strike all of Section 5 and put in all
new language. Part of the problem as we discussed earlier
with Section 5 is that the criteria set down is more in...
about five of the seven I think are in favor of the basin
of origin and it seems to me that we should have equal
treatment to both the basin of origin and the requesting
basin when we are dealing with transbasin diversion, realiz-
ing that we are not the ones that are allowing the trans-
basin. We are not the ones that are allowing the appropria-
tion. We are simply the body that is supposed to set the
criteria that the Director of the Department of Water Re-
sources and the courts of this state would follow in their
determination of whether or not to allow applications to
be granted for transbasin diversion. So the amendment has
twelve different criteria and I have attempted to set them
out so that there are six on either side, six for the basin
of origin and six lean toward the requesting basin, however,
they are not drafted in that fashion. As you will notice
transbasin or the basin of origin is not mentioned because
of the intent language at the top of Section 5. Now part
of the problem I think we face there is this very simply.
The Constitution of the State of Nebraska says that the
right to divert unappropriated waters of every natural
stream for beneficial use shall never be denied except
when such denials demanded by the public interest. Now
that is what we are attempting to set up with LB 252 is
criteria as to what the public interest is. Now since the