

May 7, 1981

LB 252

we were discussing but the amendment that I am discussing is on page 1773 and in direct answer to Senator Dworak's question, it does not put the burden of proof on the other basin. As I was indicating to you it does not mention basin of origin or requesting basin at all. I will repeat one more time because of the way the Constitution of the State of Nebraska is drafted and because of the court's interpretation of that Constitution that allowed last summer the overthrow of the Osterman decision of 1936, I think that LB 252 in its present form, and I indicated I have got an Attorney General's opinion coming. I have not got it yet. It is probably unconstitutional. I don't think we can treat one application different than another and the only thing we could possibly do, and I am also asking for an opinion on that, is to split the amounts. So I am indicating that anything over 5,000 acre feet, any application of over 5,000 acre feet would have to jump through the same hoops, follow the same criteria that my amendment would put in LB 252, and those criteria, I am attempting to make them as equal as possible to the river that the water is being taken out of as opposed to...

SENATOR CLARK: You have one minute left.

SENATOR VICKERS: ...to the application for the appropriation, and number 11 and 12, I would again point out to the body, it is my belief, and I think many people's belief, that if we are going to appropriate large amounts of water in this state which I think we are going to have to do in the future, with certain areas of this state, I think we should take the water out to be used to supplement or enhance an existing beneficial use. And I think, and that is my opinion, but I think it is incumbent that we put both sides of the issue in and allow the director to make the decision. But I think the director should look at whether or not it is going to be used for an existing beneficial use or to initiate a beneficial use. That I think also should be part of the criteria. That is the only new criteria...

SENATOR CLARK: Your time is up.

SENATOR VICKERS: ...I am attempting to put into LB 252. Thank you, Mr. Chairman.

SENATOR CLARK: I would like to introduce 28 fifth grade and sixth grade students and five adults from Poseland Elementary School in Roseland, Nebraska. They have three teachers with them. They are in the North balcony. Would you hold up your hands so we can recognize you, please? Welcome to the Nebraska Legislature. The next speaker is Senator Beutler.