

May 14, 1981

LB 146E

was it 243 to advance? Was it 243, Senator Schmit?

SENATOR SCHMIT: That's right.

SENATOR KOCH: Okay. I would appreciate your stating one more time just what you are attempting to do that has removed objectionable matters from your previous bill.

SENATOR SCHMIT: That is correct, Senator Koch. As you will recall, there was some concern that there would be excessive litigation because of the inability to determine the amount of recreational benefits that might be derived from a project. Now during the time that I served on the Watershed Board, we as a Board used to determine that amount and we used to put it in the cost benefit ratio. What I am saying in the statute is that in the event that the NRD wants to build a project that has recreational benefits attached to it, the Natural Resource District Board of Directors shall by their action determine the amount of the benefits that are due to recreation and that amount then shall be taken as prima facie evidence in any subsequent litigation that might occur. And it should remove the problem of who will determine the benefits. The second point then is that in event, for example, in the Omaha area or the Lincoln area a project was determined to be necessary that did have benefits for recreation in excess of 75 percent and was still felt to be desirable by the Board, the Natural Resource District Board could ask the Legislature for approval of that particular project which is identical and consistent with the procedure which is used by Game and Parks Commission in the event they feel it necessary to condemn property for recreational purposes.

SENATOR KOCH: Thank you for that explanation. One last question, Senator Schmit. Do you feel that this amendment is germane to the bill that we are speaking to now, or addressing?

SENATOR SCHMIT: Yes, I do, Senator. I have asked legal counsel for an opinion and they think it is germane.

SENATOR KOCH: Okay, thank you.

SPEAKER MARVEL: Senator Sieck.

SENATOR SIECK: Mr. President and members of the body, I question whether it is germane. The bill is from Chapter 46 and this section is from Chapter 2 of the land acquisition. We are talking about groundwater problems in Chapter 46. In Chapter 2 we are talking about land acquisition. So I