

March 18, 1982

LB 726

PRESIDENT: All right, we will pass over it. Okay, the Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise to support LB 726 and I would urge you to support it as well. Let me say initially that there are some who are concerned about handling more water legislation and there are some who are concerned about this conflicting with LB 375. And I see no conflict between the two pieces of legislation. I think it is perfectly consistent to vote for both of them, and I think LB 726 is one of the most significant pieces of water legislation that we have dealt with in some time. Senator Beutler has already explained to you what the bill does, and as a Senator that represents a good piece of the Sandhill, I would like to talk to you about why the bill should be enacted. One of the main reasons I have for concern is that groundwater users are the only water users who have available to them the mechanism to protect or ration water in the best interests of their district. Persons owning subirrigated land presently have only one option, wait until they can prove loss of subirrigation and then proceed with court action to establish damages. Now that is difficult first of all because damages are difficult to prove and difficult to establish in a law suit. But more significant than that, by the time that that litigation has ripened, by the time that you can file those law suits and they can be successful, the damages have occurred, the injury has occurred and the subirrigation is gone. That is a remedy after the fact. Court cases in western Nebraska have set precedent by awarding damages in this type of litigation, but these actions are an after the fact recognition of the rights of water users. LB 726 allows Natural Resource Districts the option to protect and preserve these water users. There is no guarantee what their decision will be, but the Natural Resource District Board can make their decision on the best information available to them before they apply for a water control area. This is the key point in the process since they must manage their natural resources in the best interests of their locality. The persons affected by these decisions could then proceed accordingly. It all sets up the process of some common sense in the development of our natural resources. We cannot continue to ignore these water user's rights to at least attempt to preserve their basic resources. Loss of subirrigation is an early warning sign of overdevelopment and an appropriate time for consideration on preserving subirrigation or allowing continued groundwater development. I feel that