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LB 21

SENATOR CULLAN: I would perhaps like to analyze this a little in more detail, Senator Schmit, and perhaps on Select File we may or may not want to consider an amendment which would require the Director of Water Resources to consider riparian rights in the particular basin as one factor which should not be adversely affected before they grant these permits, and I am not suggesting that at this point in time but I think it is something you and I may want to take a careful look at. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Nichol.

SPEAKER NICHOL: Mr. Chairman and members of the Legislature, Senator Schmit, I would have a question if you would respond, please.

SENATOR SCHMIT: Yes, Senator Nichol.

SPEAKER NICHOL: A couple of years ago or so when the Supreme Court came down with their decision on transbasin diversion, I had a conversation with Attorney Pat Heaton out at Sidney, Nebraska, who is an old timer in the law of water and he was saying at that time that when we start in on transbasin diversion we should be extremely careful because what we do within the State of Nebraska may have a bearing on our pacts with Wyoming and Colorado which were made way back about the turn of the century. My question is, have you had anybody really dig into this question seriously to see if this may or may not be true? I am not so much concerned or I am not trying to harpoon your bill at all, but I really am concerned about this larger question.

SENATOR SCHMIT: Well, Senator Nichol, we passed as you will recall LB 252 several years ago which dealt with the transbasin diversion and insofar as I am concerned the bill does not allow that, has absolutely no provisions for transbasin diversion. I agree with you that if we should start that in the state, that it could have an impact upon what happens to Nebraska water. But that is not dealt with here and this is a very narrowly applied statute, Senator Cullan. I think it will be used very infrequently. Someone described a situation out in western Nebraska where an area that had been formerly under an irrigation district became a country club and that water right then was lost and was not transferred to any area which resulted in reduced income to the district. This is the sort of a situation we are talking about. Also, for example, this year with the payment in kind program there will be areas that will be diverted from normal crop use. It may be possible for the landowner to utilize that water on another parcel of land. But it is not going to be applied very widely, I am sure.