

January 14, 1981

LB 140-151

SPEAKER MARVEL: Item #5, resolutions.

CLERK: Mr. President, LR 4 is found on page 127 of the Legislative Journal. (Read LR 4.)

SPEAKER MARVEL: The Chair recognizes Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker. I will be very brief. This resolution is self-explanatory. Those of you who remember the recent election, the effect that it had was rather profound on certain local officials in terms of their re-election or defeat. At seven o'clock as you recall the newsmedia, television primarily, declared the winner to be President Reagan-elect and as a result it has been brought to my attention that not only on the west coast but even it affected our own state. Those who were going to the polls suddenly decided the election was resolved and why stand in lines. So what this resolution does is encourages Congress to seriously review the problems and try to correct them by the next presidential election so this does not reoccur. This resolution is being introduced by numbers of other states and the same resolution is being sent to Congress and hopefully they will act positively. Thank you.

SPEAKER MARVEL: The motion is the adoption of LR 4 as explained by Senator Koch. Is there any other discussion? All those in favor of that resolution vote aye, opposed vote no. Record the vote.

CLERK: 27 ayes, 0 nays on adoption of the resolution, Mr. President.

SPEAKER MARVEL: The motion is carried. The resolution is adopted. Do you want to go to the next one? Do you have another resolution? Okay, the next item is the introduction of new bills.

CLERK: (Read LB 140-142.) (See pages 144-145 of the Journal.)

SPEAKER MARVEL: ...(mike not turned on)...need to be processed so if you have some or anticipate some maybe we can get some more in today before we proceed with other business. The Clerk has some items on the desk that he may read in.

CLERK: (Read LB 143-151.)

Mr. President, Senator Koch would like to be excused on Wednesday, January 14 through Friday, January 16 and Senator Marsh would like to be excused all day January 15 and 16.

LB 19, 76, 102, 103, 107, 146,
147, 200, 284, 290, 305, 306,
316, 318, 326, 338, 371, 374,
389, 398, 441, 487

March 19, 1981

to LB 290. Have you all voted? One more time, have you all voted? Four. Have you all voted? Okay, record the vote.

CLERK: 16 ayes, 23 nays on the adoption of the DeCamp amendment.

SPEAKER MARVEL: The motion fails.

CLERK: Mr. President, a series of materials to read in: Senator Schmit would like to print amendments to LB 284. (Amendments printed separate and on file in the Clerk's office. Request No. 2118.)

I have an Attorney General's opinion addressed to Senator DeCamp regarding LB 76. (See pages 1026-1028 of the Journal.)

Senator Koch asks to be excused Monday and Tuesday of next week; Senator Fitzgerald excused next Monday.

Your committee on Public Works whose chairman is Senator Kremer reports LB 200 to General File; 326 to General File; 146 to General File with amendments; 147 as indefinitely postponed; 398 as indefinitely postponed, (Signed) Senator Kremer as Chair. (See pages 1028-1029 of the Journal.)

Your committee on Public Health reports LB 389 to General File with amendments and 107 as indefinitely postponed, (Signed) Senator Cullan. (See pages 1030-1032 of the Legislative Journal.)

Senator Chambers would like to print amendments to LB 76. (See pages 1032-1036 of the Legislative Journal.)

Senator Cullan reports LB 487 to General File with amendments, (Signed) Senator Cullan. (See pages 1036-1040.)

Education reports LB 305 to General File; 316 to General File with amendments; 318 to General File with amendments; 338 to General File with amendments; 371 to General File; 441 to General File with amendments, (Signed) Senator Koch. (See pages 1040-1042.)

Mr. President, your committee on Revenue reports LB 19, 102, 103, 306, 374 all indefinitely postponed, (Signed) Senator Carsten, Chair.

SPEAKER MARVEL: Is that it?

CLERK: Yes.

April 10, 1981

LB 134, 146

SPEAKER MARVEL: The motion is the advancement of the bill. All those in favor of advancing LB 134 to E & R for review vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 28 ayes, 4 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: Okay, the motion is carried. The bill is advanced. Do you have any other items to read?

CLERK: I have a series of amendments from Senator Rumery to 146, Mr. President. That is all I have. (See pages 1419-1421 of the Legislative Journal.)

SPEAKER MARVEL: Senator Haberman, do you want to adjourn us until Monday at nine-thirty?

SENATOR HABERMAN: Mr. President, I move that we adjourn until nine-thirty, Monday morning.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. We are adjourned.

Edited by:

Marilyn Zank
Marilyn Zank

April 14, 1981

LB 40, 376, 326, 146

SPEAKER MARVEL: Go ahead, read the bill.

CLERK: (Read LB 40 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? Record the vote.

CLERK: (Record vote read. See pages 1465 and 1466, Legislative Journal.) 30 ayes, 15 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed. The next order of business is General File, item #7.

CLERK: Mr. President.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, several years ago a major bill came up and I foolishly took it up when a party that was extremely interested in it was in the hospital, my good friend Senator Cope. I vowed that I would never do that again without heavy consultations with the party. Senator Clark has as deep an interest in this legislation as I do. I would ask to pass over it until such time as I and others can get together with Senator Clark and find out what he wants, when he will be back, and till we can work out a mutually agreeable date. With permission of the Chair, I would ask to pass over it.

SPEAKER MARVEL: Any objections? Hearing no objections, so ordered. Next item, 326.

CLERK: Mr. President, LB 326 was a bill introduced by the Public Works Committee.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: (Mike off) Senator Kremer is not here today, I would like to ask permission to pass over the bill.

SPEAKER MARVEL: The request is to pass over LB 326. Any objections? If not, so ordered. Next is item LB 146.

CLERK: Mr. President, LB 146 was a bill introduced by the Public Works Committee. Senator Beutler, are you going to go ahead with this one?

SENATOR BEUTLER: Yes.

CLERK: (Read title.) The bill was originally read on January 14th, referred to the Public Works Committee for hearing, the bill was advanced to General File. I do have committee amendments pending by the Public Works Committee, Mr. President.

SPEAKER MARVEL: Senator Beutler, are you going to handle the committee amendments?

SENATOR BEUTLER: Yes. Mr. Speaker, members of the Legislature, this bill has to do almost exclusively with groundwater pollution and giving NRD's authority to set up control areas in situations where there is or is reasonably expected to be or to have groundwater pollution problems. Right now I will just be talking about the committee amendments, but, let me say to you that the committee amendments have the overall effect of making the regulations contained in 146, the provisions of 146 generally less severe. So unless you are in favor of severe pollution, groundwater pollution controls, then you'll probably react favorably to the committee amendments. Just to refresh the memory of those who do not deal with water problems day in and day out, our state, as you may know is divided up into 24 Natural Resource Districts and each one of those NRD's has a local autonomy by and large in how it deals with groundwater problems, in how it deals with Natural Resource problems and in particular how it deals with groundwater problems. The exclusive control of groundwater in the State of Nebraska lies with the local NRD's. The first. . . one of the first authorities that they were given was to set up control areas where water quantity was a problem. In that regard it is required that they initiate a hearing and then there is a hearing before the Director of Water Resources and the Director of Water Resources approves or disapproves the setting up of a control area. That's with regard to groundwater quantity problems. With 146 generally we are talking about using the same system, the same set up, the same frame work, and proceeding to give the NRD's power to deal with situations that involve groundwater pollution as opposed to groundwater quantity problems. That is the general thrust of 146. Now going back again to the committee amendments, they make the provisions of the original 146 less severe. They do that in a number of ways. First of all they modify the original definition of groundwater pollution which was in the bill to a definition which is less expensive. Secondly, they delete

all reference to surface water provisions. We have had a long standing problem in our water law that we treat differently and handle in accordance with different rules and different... completely different framework, surface water and groundwater and there was an attempt made in the original 146 to start to put surface water and groundwater together. Because certain members of the committee objected to that procedure we deleted from the bill all provisions with regards to surface water so that the bill deals only with groundwater. The third part of the committee amendments were to adopt portions of LB 147 which also dealt with the groundwater management act, specifically, and these are not major items, but specifically it provided for example that the spacing protections written into the law already would apply only to registered wells in an effort to encourage people to register their wells. It gave NRD's more flexibility with regard to the types of regulations that they could enact. That is they can enact regulations that are appropriate for the type of uses being made of the water and do not have to adopt one overall set of rules and regulations applying to all uses. Lastly they increase the penalties for violation of NRD's cease and desist orders. So that is the sum and substance of the committee amendments and I think that probably if philosophic questions and the general concept is what you have questions about then that would be best addressed in the debate on the bill as a whole. The committee amendments again make the bill less severe. Thank you.

SPEAKER MARVEL: Senator Lamb, do you wish to speak to the committee amendment?

SENATOR LAMB: Yes. Mr. President, members of the Legislature, if you will look at the committee statement in the bill book you will see that I was present but not voting when the bill was advanced. At this point I would like to explain my action in that regard. I did not vote to advance the bill, not because I don't support it because I do support the bill and the committee amendments. I think that pollution of groundwater is something that we all need to be concerned about. The reason I did not vote to advance the bill was because I had gotten what I thought was an agreement among the committee members that LB 146 and LB 375 would be advanced at the same time. My reason for asking about that was because I saw these matters as being related, 375 and 146. I thought that it would be a disservice to advance one without the other. So at one point the committee agreed with that thinking and said we won't advance one bill without the other. Well as time passed and upon assurances from Senator Hoagland and others that LB 375 would not be delayed, unduly, the committee decided to advance 146 and leave 375 in committee thinking that 375 would be following immediately thereafter. I was not sure that that commitment

would be adhered to. As it turned out that was not the case 375, as you know, is still in committee and so while I am supportive of 146 that is the reason I voted not to advance the bill. Thank you.

SPEAKER MARVEL: Senator Beutler, do you wish to close on your amendments? The committee amendments?

SENATOR BEUTLER: Yes, Mr. Speaker, I think that I would just a couple of things briefly. I don't think that Senator Lamb's comments were necessarily directed at the committee amendments so I'm not sure that it is appropriate to respond to his comments at this point in time but I think in all fairness to the members of the committee there was no agreement as far as I know tying those two bills together in any absolute sense. It was agreed that nobody in bad faith would hold up 375. Now LB 375 is a comprehensive bill that sets up an entirely new mechanism called a management area into the groundwater management act. It is a revolutionary concept. It is something that has needed five sets of amendments already in the committee and we are still trying in good faith to deal with it. There is a lot of disagreement, philosophically, not just in two directions but three or four different directions. Lastly, as far as the relationship of 146 and 375 substantively is concerned, they really don't deal with the same thing except except insofar as they deal with the groundwater management act. 146 is a response to the Natural Resource Commission and the state water plan and the studies that were done under the state water plan. 146 was a recommendation that came from them to deal specifically with groundwater pollution, with water quality problems, pollution problems. LB 375 basically addresses itself to the groundwater quantity problem again. So, the two bills, in my opinion, are not related in any way and I hope that we can have a fair and frank discussion on 146 today just as we will have on 375 when it comes around. Thank you.

SPEAKER MARVEL: The motion is the adoption of the committee amendments to LB 146. All those in favor of that motion say aye, opposed vote no. Record.

CLERK: 26 ayes, 0 nays on the adoption of the Public Works Committee amendments, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendments have been adopted. Senator Beutler, do you want to explain the bill?

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, going back and repeating myself just a little bit, the bill deals with groundwater pollution. It allows for the NRD's to set up control areas after a hearing and after approval by the

Director of Water Resources for groundwater pollution. Now this is not structurally, this is not new. This is the same procedure that we use for groundwater quantity problems, now we are allowing it for groundwater pollution. Groundwater pollution is defined as the degradation of the quality of groundwater sufficient to make such groundwater unsuitable for present or reasonably foreseeable beneficial uses. Okay, so this is basically what we are talking about. It allows for certain types of controls in the control areas, basically the controls that are allowed for groundwater quality problems. In addition it provides for well metering and in addition it allows for the setting up of programs on irrigation scheduling. Those are the main items. Those are the principal points on the bill, the ones that I feel that people may want to discuss. With that, I would move, Mr. Speaker, I would end and allow others to pick up the conversation. Thank you.

SPEAKER MARVEL: Okay, the Clerk has two amendments on the desk.

CLERK: Mr. Speaker, the first I amendment that I have is offered by Senator Rumery and the amendment is on page 1419 of the Journal.

SENATOR RUMERY: Mr. President, members of the Legislature, we discussed this with Senator Kremer and we have a situation in our area where the Platte Valley Irrigation District has been issuing and discounting general fund warrants whenever the agency needed some money. The trouble of it is the statute provided in 1929 that they could pay 5% interest. Well the bank is having difficulty in meeting this situation and I think we can all understand that with the price of money these days. So, what this does, in a nutshell, it would raise the, it would change the law from 5% to 10%. Mr. President, I move the adoption of the amendment.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: I would like to speak on the bill Mr. Speaker, so I will wait.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: A question of Senator Rumery.

SPEAKER MARVEL: Senator Rumery, do you yield?

SENATOR HABERMAN: The request 2288 on page 1419 and 1420 it changes from 7% to 10% per annum.

SENATOR RUMERY: Yes.

SENATOR HABERMAN: Is that the only thing it changes in the statute? Or is the whole thing a new statute?

SENATOR RUMERY: Yes, but it is. . .it is recopied from the original law. The main thing that it does is it hampers the district from getting money from the bank. They issue warrants and the only interest they could charge is 5%. So what. . . .

SENATOR HABERMAN: My question is, the only thing your amendment does is change the amount of interest from 7% to 10%?

SENATOR RUMERY: Yes, it actually.

SENATOR HABERMAN: This election. . . .election and submit it to the qualified electors that is already in the law then?

SENATOR RUMERY: Yes.

SENATOR HABERMAN: Thank you, Mr. President, that is all.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, perhaps a question of Senator Beutler or whoever might answer it. I noticed and I heard you mention that surface water was taken out of the bill and I wondered why and also how you separate the two? Especially in my own particular area where the surface water and the groundwater are almost the same.

SENATOR BEUTLER: Senator Kahle, I think that there were several different problems that the committee had. First of all groundwater and surface water do mix them together as you and I well know. The committee has for some time been trying to deal with the problem of how you relate surface water to groundwater and as of yet we have come up with no good answer to that. As you are well aware surface water is regulated by an appropriations system and to tie surface water into a groundwater control area would be to shift authority, one of the problems it would cause would be shifting authority over to the NRD over some surface water and the questions arose as to what effect that would have on the rights of other surface water users who are not in the NRD and a whole host of legal problems rose up before us and we don't have the solutions yet. In addition if I may make one more comment Senator Kahle I'm sorry that I'm taking so much of your time.

SENATOR KAHLE: Go ahead.

SENATOR BEUTLER: But the state water planning process has

a specific study in it which is directed to surface water-groundwater relationship. There was some feeling in the committee that we should wait for awhile until the results of that study have developed, have come forward so that we can use that material in trying to deal in a more comprehensive fashion with the relationship between groundwater and surface water.

SENATOR KAHLE: I might ask you one more question. Is the only control we have over surface water in the hands of the Environment Control Council now? Or are there other means to control surface water?

SENATOR BEUTLER: It depends upon what you mean by "control of surface water", Environmental Control is the only one that has any control over pollution. Of course DWI has control over the water rights and the order of water rights and the issuance of water rights. That control is somewhat limited. I don't think they have any pollution controls at all in DWI, you are right, Environmental Control would be the only one addressing pollution and surface water.

SENATOR KAHLE: Is there a difference between nitrate pollution and sewage pollution for instance in the eyes of the NRD or the Environmental Control Council? Or do you know?

SENATOR BEUTLER: In the eyes of the NRD it wouldn't make any difference so long as it came under the definition of degradation of the quality of the groundwater sufficient to make it etc., etc. They would treat all types of pollution the same. As far as environmental controls are concerned I can't address that precisely. I don't know the answer for sure. I know that they are concerned about sewage. I know that would come under it. I don't know about nitrates.

SENATOR KAHLE: I'm sure that it is a difficult problem, very difficult but I wonder how you could control the pollution of the groundwater without also controlling the pollution and the surface water. I know that it is not in this bill and perhaps it can be done another way, but that is where it all starts, I believe. Thank you.

SPEAKER MARVEL: Senator Rumery, do you wish to close on the amendment?

SENATOR RUMERY: Yes, Mr. President, members of the Legislature, I neglected to tell Senator Haberman awhile ago that there is one other thing that it does. That is it designates the warrants up to \$10,000 in size. They were just up a \$100 before this and

as an example the headrate on the canal of this district went out and they have to spend \$75,000 so we thought that it would be only proper to raise the denominations up to \$10,000. If there is nothing further, Mr. President, I move the adoption of the amendment.

SPEAKER MARVEL: Motion is the adoption of the Rumery amendment. All those in favor vote aye, opposed vote no. Record the vote.

CLERK: 26 ayes, 0 nays on adoption of Senator Rumery's amendment, Mr. President.

SPEAKER MARVEL: Motion is carried, the amendment is adopted.

CLERK: Mr. President, Senator Vickers now moves to amend the bill. (Read Vickers amendment as found on page 1466 of the Legislative Journal).

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKER: Mr. President and members, the amendment that I am offering to LB 146, make no mistake about it is a major, major step in a major direction from my point of view and I am sure that it is going to be very controversial by some of the members of this body. I think that Senator Kahle pointed out, just a little bit ago, the reason for this amendment, although he was talking at that time about pollution. The section that I am attempting to amend is Section 46-658 of the statutes on page. . . . Section 3 of 146 pages 4 and 5. This is the section of the statutes that sets down the criteria that the Director of the Department of Water Resources necessarily follows when a control area is asked to be established by a Natural Resources District. These are the criteria that the Natural Resources District has to meet and the Director has to agree with before a control area can be established. At the present time, under the statutes, as you will notice, the only reason for a control area to be established is because of an inadequate supply of groundwater, in other words a declining situation. The committee, with LB 146, is attempting to expand on that criteria by putting pollution of groundwater is also a reason for a control area to be established. My amendment would answer, in my opinion, the concerns of the people of the Nebraska sandhills and many other areas of the State of Nebraska who, as Senator Kahle indicated earlier, can recognize the difference between the correlation between underground and surface water as it relates to their areas. Now, being a former member of the Public Works Committee I understand the complexities of the situation and the difficulties when you are attempting to control the two uses of water but this is not in the area where you are controlling the two issues. This

is in the area where asked for the control area to be established controlling groundwater development. Without my amendment, I don't believe that the situation in the Nebraska sandhills or other areas in the State of Nebraska with groundwater development is or will possibly be affecting the surfacing water in the area. A couple of examples of those would be the wet meadows in the Nebraska sandhills, the Dismal River perhaps, or a good example close to my district, in my area of the state is the Red Willow Creek. The Red Willow Creek, the headwaters of the Red Willow Creek are close to the large development that many of you read about in the papers that Prudential Life Insurance Company is developing in southwestern Nebraska and as a use of this groundwater increases many, many people in those areas are concerned about how the stream flows that their cattle water from, and the wet meadows that they raise their hay on will be influenced. When you are in an area of the state that has several hundred feet of aquifer thickness and the only criteria is a decline, then a significant amount of decline or a significant amount of pollution would have to be introduced in order to degrade the water or to use up a significant amount of the aquifer while at the same time if you reduce the...lower the aquifer by just a matter of a few feet it is certainly going to upset the area as it relates to surface water, as it relates to sub-irrigation of the wet hay meadows and things of this nature. It seems to me that we have come to a point in time where this Legislature should recognize what many people in rural Nebraska already know that there is a correlation between surface and underground water and when we are talking about development of underground water we should take that correlation into consideration. So I would urge this body's adoption of this amendment and once again point out to you that I understand full well that it is a substantive change but a change that I feel very strongly needs to be made and I think that many people in this state do also.

SPEAKER MARVEL: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature I'm not sure how many people were listening to Senator Vickers other than Senator Vard right ahead of me. Okay, one or two were but as Senator Vickers mentioned this very short amendment there has far reaching implications. Connecting the surface water and underground water is one of the things that the Public Works Committee has been struggling with in the past and will be in the future. It was determined by the Public Works Committee that this bill should not contain this feature. I would invite Senator Vickers to bring in a bill next year which would attack this problem. But to attach it to this bill is going to be counterproductive. I predict that if this amendment is adopted then this bill will fail. This bill will be

down the drain. We think that while this bill, LB 146, is certainly not solving all of the water problems in this state, it is a modest start. So I urge you to defeat this amendment, pass the bill as the Public Works Committee has brought it out of committee and we will make one small step forward in attacking the water problem in this state. Thank you.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Senator Vickers, could I visit with you a bit? With your short amendment you are still talking about the pollution of water, are you not?

SENATOR VICKERS: Not necessarily, no.

SENATOR KAHLE: What does it do then?

SENATOR VICKERS: It talks about quantity.

SENATOR KAHLE: Your amendment has nothing to do then with water quality?

SENATOR VICKERS: Not my amendment, necessarily.

SENATOR KAHLE: Directly?

SENATOR VICKERS: No, not directly.

SENATOR KAHLE: Okay, that is what I wanted to find out. Because the other part of the bill does talk about pollution and water quality.

SENATOR VICKERS: Well the next section. The section that I am amending is Subsection A of Section 3, Subsection D is where it begins to talk about pollution. Then the new language that the committee has in 46-658.

SENATOR KAHLE: Okay, then that clarifies that part of it. The question that I have and I'm not sure that it pertains to this amendment. Has anyone diagnosed what pollution is yet? That is when I get up-tight about any of this legislation. We hear about that there are so many parts per million of nitrates in the water for instance in the Grand Island area I haven't had anybody tell me yet whether that is a critical level or not or whether we can live with it and for how long. I guess I would be worried about putting in statutes just that vague language about pollution for the NRD's to decide what they thought might be pollution. I'm sure that this doesn't relate to the Vickers amendment so I'll quit and talk later perhaps on this issue.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the legislature, let me tell you a little more of the history since Senator Lamb touched on it. LB 146 is kind of like a very fragile egg shell and it is held together with glue that can be easily taken apart if you put too much water on it. Let me start out by saying I think Senator Vickers' amendment goes to the heart of many of our water controversies, the issue of conjunctive use. Right now the, what is it, the State Water Planning and Review Process have studies on this specific subject, conjunctive use. But this very fragile egg dealing with pollution was put together very carefully in the Public Works Committee by eight people that all had a little bit of divergent views and everybody was kind of suspicious of the other guy. What we ended up with we thought was a pretty good bill that goes to the heart of the pollution issue and could structure something in that area. Now, if you interject this noble cause, I'll call it, of Senator Vickers, at this point, I think that you jeopardize step one, let's say, which is LB 146 and you probably jeopardize what help ~~it~~ to do the conjunctive use issue, because I think it will torpedo the bill. So not that he is on the wrong track but maybe he is slightly premature or maybe it has to be dealt with in a separate bill, but I wouldn't really think that you would want to risk what has been carefully put together in 146 by putting that amendment on at this time.

SPEAKER MARVEL: Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, I'd like to ask Senator Vickers a question. Could you give me some examples where the NRD could affect the control area with the interference with present or reasonably foreseeable uses of surface water in the district?

SENATOR VICKERS: Uses of surface water? No, I'm not saying about uses of surface water, I'm saying interference with present or reasonably foreseeable uses, okay? Give you some examples. An example would be practically anywhere in the Nebraska sandhills, the concern of the people in the Nebraska sandhills. Remembering that you, I think that you were also in attendance at the Basset hearing that the Public Works Committee had last fall. The major concern of the people in the Nebraska sandhills is how underground development is going to affect their wet meadows as they know them today. The wet meadows that provide many of the hay meadows that the ranchers use and also as it might affect the streams and rivers and lakes in the Nebraska sandhills. That's how it seems to me that underground development could affect surface water uses, remembering that that is the top of the aquifer but it is surface water when it is on top of the ground.

SENATOR SIECK: Could not this water also be affected by pollution?

SENATOR VICKERS: I'm sure it could and that was part of the committee's original bill.

SENATOR SIECK: So you could kind of tie these two things together then in other words?

SENATOR VICKERS: Well I suppose. . . .I'm not attempting to.

SENATOR SIECK: No, no, I realize that.

SENATOR VICKERS: Because I know the problems the committee was faced with with attempting to tie the two uses together as it relates to pollution and to the control of those two uses. This is not attempting to do that. Senator DeCamp and Senator Lamb are wrong on that respect.

SENATOR SIECK: That is what I gathered and I felt that you were trying to correct the subirrigation problem within the sandhills, is that correct?

SENATOR VICKERS: That is correct.

SENATOR SIECK: Okay, I stand in support of this amendment. I think it is a good amendment. It is not doing what Senator Lamb and Senator DeCamp says that it is doing. It is correcting a surface water problem or could correct a surface water problem in the sandhill area. I do support the amendment.

SPEAKER MARVEL: Senator Vickers do you want to close on your amendment?

SENATOR VICKERS: Well if there are no other lights on, Senator Marvel, I guess I will. I think that there has been some misunderstandings as to exactly what I am attempting to do with this amendment to 146. Senator DeCamp and Senator Lamb pointed out that this is a substantive change and that is correct. I mentioned that in my opening. They also pointed out that there was some problems with surface water in 146 as it was drafted and then amended it out in committee. I am aware of that. I was a member of that committee when that bill was drafted. I knew what the problems were going to be. The problem or the difference is, it seems to me, is that the committee amendments dealing with surface water and underground water were in relation to the use of controls to. . . .because of pollution of those two waters. Now the problem is that surface water is administered from the state, surface water is administered on the first in time first in use basis. Underground water on the other hand is administered from a local level on a correlative rights basis and when you start talking about how you are going to control the amounts of water as it relates to controlling pollution then that is when you run into the troubles. How are you going

to do that when the two waters are handled so differently? That is what the conjunctive use issue that the state water planning and process hopefully will address. They are right in that respect. We are not ready to address that issue yet. I'm not addressing that issue. What I am saying with this amendment, very simply, is that when underground development is going to effect surface water in that area where the underground development is taking place as it relates to the use of surface water for present or for foreseeable interference with present or reasonably foreseeable uses of surface water in the district or reduction or loss of subirrigation within the district. I can assure you that this is not an attempt to put the Natural Resource District's in the business of regulating the amount or the use of surface water. It is putting them in a position where they can address the underground water usage if, and remember this is all this section is permissive. It is permissive as far as the Natural Resources District is concerned. I was a little bit surprised at Senator Lamb saying that it should come in as a separate issue, a separate bill next year. I can assure you I probably will, Senator Lamb. But, because of the fact that this wasn't in the statutes is probably the reason the control area was turned down up in that area last year. Now you have got a bill that would have a vote of the people and that is certainly all right with me. But, it seems to me that since there is a correlation in those two waters in the sandhills and in the area south of North Platte that I represent and since the use of underground water certainly affects that surface water, then the tools should be in the statutes to allow the local people through the Natural Resources Districts to address that situation if they so desire. It is that simple. If we think that any of the bills that we are going to process this year other than perhaps the one that would allow the people to make the vote of the people and make the decisions themselves, if we think that any of the other bills are going to address the concerns of the people in the Nebraska sandhills, we are just kidding ourselves because it is not. It is not. I repeat the concern of the people in the Nebraska sandhills is how the use of underground water is going to affect their wet meadows, the surface water, if you will in that area. For us to completely ignore that correlation of those two waters, I think is wrong. When we know that there is a correlation, we know that is the concern and it seems to me that we are at that point and time where we should put it in the statutes and let those local people use it if they so desire. Mr. President, I would urge this bodys adoption of this amendment to LB 146.

SPEAKER MARVEL: Motion is the adoption of the Vickers amendment. All those in favor vote aye, opposed vote no. The Vickers amendment to LB 146. Have you all voted? Senator Vickers.

SENATOR VICKERS: Mr. President, I guess I'm going to have to ask for a Call of the House and a roll call vote.

April 14, 1981

LB 146

SPEAKER MARVEL: The first order of business is shall the House go under Call. Those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 15 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats. Record your presence. Unauthorized personnel please leave the floor. Senator Burrows, will you please record your presence. Senator Wiitala, Senator Koch, Senator Warner, Senator DeCamp, Senator Hefner, Senator Goodrich, Senator Fitzgerald, Senator Wagner, Senator Chambers, Senator Pirsch, Senator Warner, Senator Pirsch, Senator Hefner. Senator Vickers, Senator Warner is on his way and we are still searching for Senator Hefner. Do you want to proceed with the roll call?

SENATOR VICKERS: That will be fine.

SENATOR MARVEL: Okay.

CLERK: Roll call vote. 22 ayes, 15 nays, 7 present and not voting and 3 excused and not voting. (Vote appears on page 1467 of the Legislative Journal.)

SPEAKER MARVEL: The motion lost.

CLERK: Mr. President, I have nothing further on the bill.

SPEAKER MARVEL: Senator Hoagland, do you wish to be recognized on the bill?

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would just like to make a couple of brief remarks on the bill. I am pleased to rise in support of LB 146 and I think that if you haven't gathered this by now, it is clearly one of the most significant water bills that we will have the opportunity to debate this session. Now what this bill does is it represents another step in giving the Natural Resource Districts the statutory authority that they need to manage and conserve water. In 1969 in LB 1357 we created 24 regional locally elected Natural Resource Districts. Those newly established political subdivisions were charged with managing and preserving water, which I am sure that we all agree is our most valuable resource. They were organized regionally and they were named after river basins. In 1975 we passed LB 577 the groundwater management act. That act gave the NRDs the authority to establish control areas with the approval of the Director of the Department of Water Resources. Once a control area is established the NRDs can allocate water among land owners, they can require the wells be set so far apart and take other

measures. Now, what LB 146 does is it takes these important legislative accomplishments over the last twelve years just one small step further. It permits the MWD's to set up control areas for reasons of groundwater pollution as well as water table decline which is the limit of their current authority. Now in addition to permitting groundwater quality control areas it makes it somewhat easier for the MWD's to set up control areas for both reasons, groundwater quality problems and groundwater decline problems. Now, I passed out about fifteen minutes ago a summary of the state water planning and review process schedule. You will recall that in 1978 we directed the Nebraska Natural Resources Commission to make a series of studies in our water problems. The study on groundwater pollution was the first major report to be completed in the last six months of last year. One principal recommendation of that study was this mechanism that we are incorporating in 146 to set up groundwater quality control areas. Now I think that it is very important that we follow up on these studies when they are completed and presented to us by the Natural Resources Commission. It is an on-going process. We have completed two reports now and we have about 15 to go. The schedule shows the substance of each report and when each report is due stretching from May of this year until July of '84 and a couple of studies are even scheduled beyond but we don't have a date for completion yet. Now, in order to keep faith with the public and to keep faith with our decision to undertake these studies I think that it is important that we not let the studies languish and that we take action on the recommendations one way or another. Now, not only is 146 a product and one of the principal recommendations of the study on groundwater quality control, it is also the product of a long study and hearings by the Public Works Committee. For several years the Public Works Committee has been receiving testimony about and has been studying problems related to the pollution of groundwater principally from nitrate fertilizers and since last summer the committee has studied the recommendations of this water quality report, conducted several hearings around the state, had before it several versions of LB 146, sorted through a lot of ideas and a lot of recommendations and come to the Legislature with this final product. As Senator Lamb has indicated, it was reported out of the committee virtually unanimously. So, I think that it is really clear that this is a good bill. I strongly recommend that all of us support it and would just like to close with this reminder.

SPEAKER MARVEL: You have one minute.

SENATOR HOAGLAND: And, I know that nobody argues with the fact that water is really the single most important issue and the single most important problem that we are going to face. Thirty years from now when two-thirds of us in this Legislature are in our graves, and when one-third of us have

been long, long out of this body and off to other pursuits why this session is going to be judged, not on the Omaha sales tax and not on the distribution of the seventy million dollars and not on whether the speed limit on the interstate should be 55 or 60 or 65 MPH, and not on whether we should have one or two license plates on every automobile, but this session is going to be judged on whether we have taken thoughtful and effective steps towards managing our water problems. Now I hope you will support this particular bill because as others, including Senator Lamb have indicated, it is not going to solve all of our water problems but it is another important step in this progression of legislation that goes back to 1969. Thank you, Mr. Speaker.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Schmit, did you wish to speak on this?

SENATOR SCHMIT: Mr. President and members of the Legislature, I guess I am a little bit concerned. Senator Hoagland says that this is probably the single most important piece of legislation dealing with water that we are going to discuss on this floor. Senator Lamb made reference to the fact that LB 375 still languishes in committee. I would suggest to Senator Hoagland and Senator Beutler may well be remembered as the time the committee sat on a bill of some importance and could not agree on it because it did do substantive things with water. The facts are that the body has historically, and I will agree with what has been said sometimes in the past here, never wanted to meet an issue head on. Now we are going to talk about pollution of the underground water, in this instance, and we are going to make a lot of noise, we are going to say that we are going to do an awful lot of things, but I'm going to ask you to take a look at the bill and point out to me what kind of controls you are imposing that is going to reduce pollution one iota. First of all you haven't identified any sources. There is no source of pollution of underground water that has been identified. You are talking about well spacing, allocation, rotation, etc., some of you don't even know what it means. I want to point out once again that the issue of pollution of the water is going to have to be determined from some source caused by humans, as was outlined in the bill. That means that perhaps the lagoon in Belwood which has been dug into the ground water is a source of pollution. Now we have already burned down the oil station down there, blown up the elevator and I suppose with the passage of this bill we will have to drain the lagoon. I think that we want to take a good look at what we are doing. I have no objection, in fact I have been a strong supporter of bills which will do something substantive. But, this bill, I'm not going to say that I am not

going to support it, but at the present time you have not, because you are afraid, you do not have the courage to address the issue of how that water becomes polluted. Secondly, if you did have you wouldn't know what to do about it. Because you are not going to come out to my farm and regulate the amount of fertilizer that I can apply. If you did you would have to sit there twenty-four hours a day and seven days a week. If that were not enough then you would have to come out and watch the number of cattle that travel over an acre of land or over the pasture or over the corn field because cattle are also a source of pollution. And all be it, the goals of the bill are very laudable, and I admire and I respect your intentions. But I want to caution you because to pass the bill and lull the public into complacency about what we are doing in regard to pollution control of underground water is a disservice. I would like to ask Senator Beutler a question if he would yield please. Senator Beutler, does the bill in any way deal with the problem of pollution from fertilizer, chemicals, organic waste of any kind? Does it specify that?

SENATOR BEUTLER: The bill does not. I'm not sure that I understand the import directly of your question. If you are asking me whether it regulates the use of fertilizer on your fields, the answer is no, it does not.

SENATOR SCHMIT: Thank you.

SENATOR BEUTLER: If you are asking me if it allows spacing requirements and some things that might help with the leaching of nitrates through the soil, I think the answer is yes.

SENATOR SCHMIT: Okay, you tell me how the spacing of a well might affect the leaching of water or nitrates into the underground, well spacing. How would that impact upon the leaching of nitrates into the underground water.

SENATOR BEUTLER: Senator Schmit, I think that part of the problem has to do with the concentrations of nitrates in different areas. The groundwater aquifers under large areas. If you are doing a lot of irrigating in a particular area, then it is a possibility that nitrates are being leached heavily in that area and that overall the aquifer would be polluted. It doesn't. . . .

SENATOR SCHMIT: Does that mean that the more water you pump the more that you are going to draw nitrates into the soil, into the underground?

SENATOR BEUTLER: I think that it all depends upon how you are fertilizing.

SENATOR SCHMIT: That is right. It depends upon how you fertilize. It is not the pumping of the water that makes the difference, you see Senator, it is the amount of fertilizer that is there that is drawn into the water. When you regulate the well spacing for example, you might very well aggravate the problem rather than minimize it. It is a very real problem well say you apply a hundred pounds of actual nitrogen per acre and you pump ten inches of water per acre into the water per year. If you pump twice that much there is a possibility, and we don't know, we don't know, there is a possibility that the pollution rate would be diminished rather than increased. I think it is important, thank you, Senator Beutler, I respect your efforts and I respect the efforts of the committee. . . .

SENATOR NICHOL: Thirty seconds.

SENATOR SCHMIT: And, I'm not going to at this time take any definite position on the bill. But I want to caution you that you have not dealt with, number one, the source of the pollution, number two, the methods of determining the rates of pollution or the source of pollution, number three the various types of pollution that might occur and number four and five you know the industrial pollution, the pollution from lagoons, which I have mentioned, and other types of pollution which can very well have a serious impact. I think that you should take a look at this. I know that the bill has been researched a lot, but I would hope that you would take another look at it before you move it on.

SENATOR NICHOL: Before Senator Beutler closes, I would like to announce some guests of Senator Hefner in the north balcony. We have 27 fourth grade students from the Laurel Concord School of Laurel, Nebraska; Mrs. Dianna Anderson and Mrs. Mildred Monk are the teachers. They are in the north balcony. Would you please stand and be recognized. Senator Beutler, are you going to close on this?

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, a few last remarks if I may. To some extent Senator Schmit is right in the sense that this is not the solution to all of our groundwater pollution problems. This is a small step in the right direction. I guess what I find curious about Senator Schmit's remarks is that it is primarily his feelings on the subject and the feelings of others who share his philosophy on the subjects that prevent us from taking any larger step at this time. So I find it curious that he stands before us and suggests that it is not a very big solution or that it is not the best solution. If it is not the best solution one of the reasons why is because the political support for a more comprehensive solution is not yet there. Of the different propositions that were brought to us by the Natural Resources Commission as

a result of the water study, there were some that were well documented and some that were not so well documented. Some I think that the Public Works Committee was disappointed that they were not better documented. But this particular problem, the pollution problem, is one of the better documented problems in Nebraska. For that reason I think that this particular bill has probably more support than others. I would like to direct myself a little bit to Senator Kahle's question or a couple of the questions that Senator Kahle asked. He asked for example what dangerous. . . what was the dangerous level of nitrate concentration. I might say in that regard that the federal government has set up a standard of ten parts per million as being the level at which we should start becoming concerned. The research that was done on that, as far as best I can tell as to why that standard was set up, I think that it goes back to an old 1951 study that was done which draws a correlation between a disease that causes problems in babies, the blue baby disease, and I think that I may venture just once to pronounce the name of it "methemoglobinemia", but in this particular study that was done there were 214 documented cases. In none of those cases were the concentrations in the water of nitrates less than 10 parts per million. Ten parts per million they had no cases. There were five cases associated with concentrations between ten and twenty parts per million. All right, between ten and twenty parts per million there are 15-20 cities in Nebraska now where the nitrate levels have gotten up into that area. Some as high as 18%. So, it is slowly increasing. Then there were 36 cases with concentrations between 20-50 parts per million and the rest of them were in concentrations over 50 parts per million. So I think the standard, nobody can prove, or at least it has not been proved to my satisfaction that ten parts per million is any sort of inviolate standard. But there is at least one study that shows that after ten parts per million cases start showing up of this particular disease in babies. In 1979 there were 18 communities in Nebraska that had drinking water with nitrate levels greater than 10 parts per million. So that is the kind of situation that we are getting into. Another part of the problem is, and perhaps what is a little scary about this situation is that we have no economical method right now of getting the nitrate concentrations out of the water once it is in. So, at least as far as current technology is concerned if we let the problem go, if the nitrate concentrations continue to increase and increase to levels that are not acceptable, we do not know presently how to get them out. So I think that we should have some extra concerns about accumulating those levels in the first place. I might also mention that it takes some time to measure these things. So it may well be at this present point in time that the nitrate levels actually in the water and on their way down leaching through the soil would result in concentrations higher than what we are currently

measuring. So the measurements that we know now are conservative, I believe. The . . . I also wanted to mention that even though human health obviously is the most important concern that we have to keep in mind, that this same type of nitrate problem, nitrate poisoning is a problem in animal health that has been shown to result in poor growth rates and infertility and Vitam A deficiencies and a number of other symptoms which affect animal health and have a very direct relationship to animal health. So it is not just humans themselves but also animal health which strikes right at or the economy that supports us all. Again, this is a small step, I think, in the right direction. Nitrate problems are caused by a number of things. There is nitrate in the natural vegetation, there is nitrate in human waste and in animal waste which cause point pollution problems. We are starting to address those problems already through the Environmental Control Department and in a number of other ways. The nitrate problem is also caused by the application of fertilizer. At this particular point in time there are still a great number of people in the state who argue that the fertilizers are not polluting the groundwater and won't pollute the groundwater. To me, to say that, is somewhat akin to what happened in the state just a few years ago when the people were saying that there is no relationship between surface water and groundwater. The create these agrarian myths and then perpetrate them until the evidence is so strong, so strong, that nobody can deny it any longer.

SENATOR NICHOL: Your time is up.

SENATOR BEUTLER: That is what happened with the myth regarding the relationship of surface and groundwater. That is part of the reason we are so late in addressing the problem. Now there are those who would perpetrate the myth that there is no relationship between the application of fertilizers and the nitrate contents of the underground water.

SENATOR NICHOL: Your time is up.

SENATOR BEUTLER: I believe that that is a myth that we have to debunk as soon as possible and start working with the nitrate problem. It is a problem. I hope you see fit to advance the bill and get us moving in the right direction. Thank you.

SENATOR NICHOL: The question is shall LB 146 be advanced to E & R initial. All those in favor vote aye, opposed vote no.

CLERK: Senator Nichol voting aye.

SENATOR NICHOL: Record.

April 14, 1981

LB 146

CLERK: 30 ayes, 0 nays Mr. President, on the motion to advance the bill.

SENATOR NICHOL: The bill is advanced.

CLERK: Yes, sir.

April 16, 1981

LB 483, 146, 389

ASSISTANT CLERK: (Record vote read. See page 1506, Legislative Journal.) The vote is 41 ayes, 1 nay, 4 excused and not voting, 3 present and not voting, Mr. President.

PRESIDENT: LB 483 passes with the emergency clause attached. And that will conclude Final Reading for today.

CLERK: Mr. President, if I may, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 146 and recommend that same be placed on Select File; LB 389 placed on Select File with amendments; both signed by Senator Kilgarin as Chair.

PRESIDENT: The Chair would like to take this opportunity to introduce from Senator Carsten's District some 30 students, seniors and juniors from the Weeping Water Public School system, Larry Hammons, Instructor. They are in the North balcony. Would you welcome Weeping Water to the Unicameral? We are ready, Mr. Clerk, then for Select File, agenda item #6, LB 134.

April 29, 1981

LB 134, 11, 146, 466, 506

Senator Marsh to print amendments to LB 466; Senator Warner to LB 506; Senator Kremer to LB 146; Senator Schmit to LB 11.

Your committee on Appropriations reports LB 556 to General File with amendments.

SPEAKER MARVEL: Okay, call the roll.

CLERK: (Read roll call vote as found on page 1628 of the Legislative Journal.) 17 ayes, 22 nays, Mr. President.

SPEAKER MARVEL: Okay, Senator Warner has agreed to holding up on appropriation bills until we after we come back that we take up 134 and see if we can finish it rather than having to come back to it again. Senator Landis... unless there is objection to that procedure. Senator Landis, do you want to recess us until one-thirty?

SENATOR LANDIS: Mr. Speaker, I move to recess until one-thirty this afternoon.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. We are recessed until one-thirty.

Edited by:


Mary A. Turner

May 4, 1981

LB 11, 146, 248
LR 68, 69, 70, 71

vote aye, all those opposed vote nay.

SENATOR CLARK: Voting no.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Record the vote.

CLERK: 27 ayes, 4 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced.

CLERK Mr. President, Senator Kremer would like to print amendments to LB 146 in the Journal.

I have four study resolutions offered by the Revenue Committee. The first is LR 68 (read title), LR 69, LR 70, LR 71 (read titles). All will be referred to the Executive Board.

Mr. President, there are E & R amendments to LB 248.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to 248.

SENATOR CLARK: Those in favor of the E & R amendments to 248 say aye, opposed no. They are adopted.

CLERK: Mr. President, Senator Barrett has an amendment to the bill. That is found on page 1571 of the Journal.

SENATOR CLARK: Senator Barrett.

SENATOR BARRETT: Mr. President and members, I offer this amendment on 1571 with the blessing of the introducer of 248. It is to rectify a couple of isolated situations which came to my attention shortly after the bill was introduced. The amendment simply eliminates the six month waiting period for teacher retiree's to qualify for the formula annuity and adds the emergency clause to the bill so that those teachers who will be retiring this year, at the end of this year will be eligible for the increased benefits found in the provisions of 248. A teacher who plans to retire for example June 1st of this year would not be eligible as the bill is now written. The amendment is offered to take care of a very few people in the state, a very few people who might otherwise be falling through the cracks, teachers who have long served their communities in

May 6, 1981

LB 366, 146

is involved in all of these programs. I think it is important, I think it is absolutely mandatory that we do so. If we do not do that, we are going to find ourselves in the position one of these days of having been very badly embarrassed because we have told people we have provided them with a retirement program and there has not been the necessary funding to provide it. I think the local subdivisions need to be apprised of where they are at, what it will take to bring those programs up to where they belong, and they should be done so within the next six months. Thank you, Mr. President.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, Senator Schmit is usually very busy but I don't think he quite understands this comes from Lincoln. It is the only primary city. It only involves those individuals who for some reason have severed themselves from the department, and when they return, those individuals have to repay fully their investment plus the interest which has accrued in terms of again making it actuary sound so I don't think there is any danger on this particular bill.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Yes, Mr. President, members of the Legislature, Senator Schmit and I have talked about this. The problem is not one that Lincoln suffers under and presently the bill that is before you has really no problem whatsoever. It is going to be fully funded and everything has been agreed to, but what Senator Schmit is talking about is certainly a problem in other parts of this state where they do have a problem with unfunded liabilities and I think it is quite clear that we have seen through Senator Schmit's initiative that there is a problem that I hope will be addressed but, again, I think this bill is in good shape, has no problem and it is merely an opportunity to raise that issue that in the future we can deal with. So this bill has been agreed to. The city has agreed to it. The unions have agreed to it and it is going to be fully funded and so it is an example of a good retirement system and a good retirement bill.

SENATOR CLARK: The question is the advancement of LB 366 to E & R. All those in favor say aye, all opposed no. The bill is advanced. LB 146.

CLERK: Mr. President, LB 146. There are E & R amendments pending.

SENATOR CLARK: Senator Kilgarin.

May 6, 1981

LB 146

SENATOR KILGARIN: I move the E & R amendments to LB 146.

SENATOR CLARK: To move the amendments, the E & R amendments to 146, all those in favor say aye, all opposed. They are adopted.

CLERK: Mr. President, the next amendment I have is from Senator Kremer. It is found on page 1630 of the Legislative Journal.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Pat, would you read that one. I have two of them up there.

CLERK: Yes, sir, this is the long one, Senator. (Read.) (See page 1630, Legislative Journal.)

SENATOR KREMER: Thank you. What we are doing here would be to grant the authority to a Natural Resource District to if they are under control to not only assess an extra one-quarter of a mill but an extra one-half mill. The original desire of those that wanted it wanted to go to three-quarters. We limited it to just an extra quarter of a mill if it is a control area. However, if the NRD is involved in both a control area and a management area based on the bill we discussed this morning, they would be allowed because they have to carry out practices to manage the life of the aquifer, it would then allow them to go to an extra one-half mill. In other words now every NRD has the authority to levy one mill. If they go under control, they can levy an extra quarter, and under this amendment, they could levy a half extra, and if they are both under control and under management, they can go to a total of one and three-quarters. I move the amendment to LB 146. Now the reason I do this is because we have at least one NRD that is in deep trouble. There is no use setting up a management program or a control program if the money is not there to enforce regulations and rules and management practices that will sustain the life of the aquifer. Senator Haberman may wish to discuss the issue further. I think Senator Haberman introduced a bill last year that did the same thing and it really pertains to your area, Senator Haberman, and I would invite you to take the rest of my time and all yours if you want to.

SENATOR CLARK: Before I call on Senator Haberman, I would like to announce there is 16 eleventh and twelfth graders and one adult from District #1, Wymore, Nebraska. Miss Karen Foudree is the teacher and they are from Senator Burrows' District. Will you stand and be recognized please? Welcome to the Nebraska Unicameral. Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, this is something a little different for me to stand up here and to ask that you increase a mill levy or that you increase some taxes. However, I wouldn't be doing this if I didn't think that the need was there. Now I would like to give you some examples of the need. In my control area there are three counties. There are 350,000 acres of irrigated land. They have set a limit on the number of acre feet a farmer can use to 22 inches per year or 66 inches a total of three years. Now there are 2,775 wells in these three counties and they all have meters. There is a meter being passed around this floor now so you can see what they look like. Now all of these meters have to be checked each year to see if they are accurate. All of these meters have to be checked each year, they have to be read to see if the farmer is staying within his allotment. Now that is 2,775 meters over three counties and over 350,000 acres. We told these people, the people in the area said we want controls. They told this board they wanted meters, they wanted controls, they wanted people to follow the law that the board set up, and quite frankly they can't do it on the money that they have now. Another reason they can't do it is that at the present time there are two lawsuits going on, two lawsuits. One of the lawsuits is suing the board and each individual member. These have to be defended by the Upper Republican NRD. What is decided in these lawsuits will affect every NRD in the State of Nebraska. The other two NRDs that are in control areas are sitting back and they do not have any of these expenses because quite frankly they are not being sued. So how can these people do their job if they don't have the money. So they are asking for a quarter of a cent increase. What they going to spend the money for? They are going to spend \$42,000 for three technicians. Now that is seven...their legal fees are going to be \$15,000. Auto expense is \$6,000. Now remember we have got 350,000 acres to cover in three counties. Employees, Board of Directors expense per diem is \$4,500. Legal notices is \$2,000. Postage and office supplies is \$4,000, and being as they have so many meters, they are going to need a new pickup and this is \$8,000. So that comes to \$84,000 that they need. They are taking in \$44,000 so they are going in the hole \$44,000 and how can they do their job. The board voted eleven zip, eleven to nothing to support this increase. This board is elected by the people in the area, and if the people in the area want to raise Old Ned with me or with the board, that is fine but I am convinced they need the money. They can't operate without it. It is just for the three control areas that the increase goes on, not every NRD in the county. So if these people are to do the job that the Legislature has

May 6, 1981

LB 146

mandated that they do, if they are to do the job that the people in the district mandated that they do, they have to have the increase to do the job, because if you check some meters and don't check them all, then you are in deep trouble. Because if you don't check my neighbor and you check me, then you are not going to make me follow the rules either. Everybody has to be checked and you can't do it on 2,775 meters under the present conditions. I won't belabor you any further as you know that I wouldn't be standing up here asking for an increase in the taxes for anybody if it wasn't needed, and this is needed. It is just the three control areas. Senator Kremer, his control area is behind this and I ask you to adopt this amendment to allow them to increase a quarter of a mill just for the controls in the control area. Thank you, Mr. President.

SENATOR CLARK: Your time was up. Thank you. Senator Maresh.

SENATOR MARESH: Mr. President, I have a question of Senator Kremer. Senator Kremer, would you object to have these areas with the ground water conservancy districts to be excluded from this provision such as we have in our area?

SENATOR KREMER: Senator Maresh, would you repeat that question. Someone else was talking to me back here.

SENATOR MARESH: Would you support an amendment to exclude areas that have the ground water conservancy districts that are already taxed for monitoring ground water use such as we have in Fillmore, York, Hamilton and those counties?

SENATOR KREMER: In other words, you say now the area does have some extra money because they have a water conservancy district?

SENATOR MARESH: Yes.

SENATOR KREMER: Water conservation, that is.

SENATOR MARESH: Yes...I have an amendment (interruption) because that would be triple taxation now, wouldn't it?

SENATOR KREMER: Senator Maresh, you and I are both aware of these extra mill levies that are granted by the authority that is granted does not mean that they go to there. I think you and I have both experienced the fact they didn't in either case ever go to their limit in the conservation districts or in the NRD district in our area. So it does not mean they necessarily will go there. It just gives them authority if need be.

May 6, 1981

LB 146

SENATOR MARESH: So the need wouldn't be there so for the time being we could...

SENATOR KREMER: So why fool with it.

SENATOR MARESH: ...why allow the mill levy to be added if it isn't necessary, why not exclude these areas that have the ground water conservancy districts?

SENATOR KREMER: You are asking me how I will vote if you propose that amendment?

SENATOR MARESH: Yes.

SENATOR KREMER: I reserve that until the decision is to be made.

SENATOR MARESH: You wouldn't oppose it, would you?

SENATOR KREMER: I didn't say I would.

SENATOR MARESH: Well, then, Mr. Chairman, I have an amendment drafted here to exclude areas that are included in the ground water conservancy district. I would like to hand that in.

SENATOR CLARK: Are you finished, Senator Maresh? Do you have an amendment ahead of that one? There is an amendment on the desk but I would like to announce first that we have 22 eighth grade students and four adults from Holy Family School in Lindsay, Nebraska from Senator Dworak's District. Sister Mary Linders is the teacher. Would you hold up your hands and be recognized please? They are in the North balcony. Thank you for attending the Legislature. Amendment on the desk.

CLERK: Mr. President, Senator Maresh would move to amend the Kremer amendment. In line 5 after the word "destruct" insert "except areas included in ground water conservancy districts".

SENATOR CLARK: Senator Maresh.

SENATOR MARESH: What we are doing here, we are allowing triple taxation. We have the Natural Resource District, then we have the ground water conservancy district. Now we are adding another one for control areas so I would like to amend the bill to or I should say amend the amendment to state that these areas that are included in the ground water conservancy districts would not have this increase in the mill levy.

SENATOR CLARK: Senator Cullan.

May 6, 1981

LB 146

SENATOR CULLAN: Mr. President, members of the Legislature, I am a little surprised at this sleeper of an amendment that Senator Maresh is trying to put up here. We had a bill earlier I believe in this legislative session dealing with the ground water conservancy districts which overlapped...had functions which overlapped those of the Natural Resource Districts. I doubt that these ground water conservancy districts should exist at all, much less have the authority for the additional property taxation that they have now, and I think if we are going to start to dismantle the ground water management act and its ability to function by giving exemptions for these ground water conservancy districts, then let's get rid of the ground water conservancy districts. Senator Maresh, I think maybe if your amendment is successful I will put one on the desk to eliminate those districts and we can get done with it, but what you are doing seriously undermines the ability of the Natural Resource Districts to carry out the functions which this Legislature has given them and I would very strenuously oppose Senator Maresh's amendment which gives special consideration to those farmers who live in the ground water conservancy district. Bad news.

SENATOR CLARK: Senator Koch, did you want to talk on the Maresh amendment?

SENATOR KOCH: No, on the Haberman amendment.

SENATOR CLARK: Senator Schmit. Senator Schmit, did you want to talk on the Maresh amendment? Senator Sieck, did you want to talk on the Maresh amendment?

SENATOR SIECK: Yes, Mr. President, members of the body, I think I need to explain this a little bit. The ground water conservation district levies one quarter mill now. The Natural Resource District can levy one mill and you can recall when we passed the ground water conservation district extension that we lowered the mill levy for that conservancy district because they did not need it and was not using it. I accepted this even though with some regret. I was told on the floor here that if the Natural Resource District needed the money it would come forward. Well, this is for the Natural Resource District. It is not for the conservation ground water district. It is for the Natural Resource District for the management of their control area and I do feel that it is needed in the Republican Valley or Republican District. I don't think we do need it in the Upper Blue at the present time and I don't think we are going to be taxed for it. I am assured of this that we are not going to increase the taxes in the Upper Blue until the regulations come into play and that is going to be one more year and that is coming to play if the ground water continues to drop. So I am going

May 6, 1981

LB 146

to oppose Senator Maresh's amendment because I don't feel that this really comes into play in this particular area.

SENATOR CLARK: Senator Hoagland, did you want to talk on the Maresh amendment? All right, the question before the House is the Maresh amendment. Senator Maresh, do you wish to close?

SENATOR MARESH: Yes, Mr. President. Senator Sieck says that we have a limit on the ground water conservancy districts. I think we could increase that if they are doing their proper function. They are watching the use of ground water. They are educating the people to use water meters and devices to measure moisture, moisture testers and that. I think that we should allow them to continue to have an increase. I would go along with that, but to have taxation from three different sides, I don't go along with that so I hope that the body adopts my amendment to not allow this additional levy to be made in those areas that have the ground water conservancy district levy.

SENATOR CLARK: The question before the House...he was closing. A point of order. What is your point?

SENATOR HABERMAN: My point is that his amendment has nothing to do with ground control water areas and the mill levy.

SENATOR CLARK: Are you saying that it is not germane?

SENATOR HABERMAN: It is not germane. That is correct. The amendment that Senator Kremer offered is strictly to ground control areas and a quarter increase in the mill levy and Senator Maresh is out talking about something else that doesn't even have anything to do with it.

SENATOR CLARK: All right, Senator Kremer, would you agree that this is not germane?

SENATOR KREMER: Senator Maresh knows we have already cut down on the mill levy allowed to the ground water conservation districts when we passed Senator Sieck's bill so we have already got them down to the bottom. If they are going to carry out their responsibility, why it's best to leave them alone. I am going to vote against his amendment if that is what you want to know.

SENATOR CLARK: All right, I will rule it is not germane. Rule it out of order. We are back to the Kremer amendment. Do you want to challenge the Chair? Then sit down. We are back to the Kremer amendment. Senator Koch, did you want to

May 6, 1981

LB 146

talk on the Kremer amendment?

SENATOR KOCH: Are we still on the Haberman amendment?

SENATOR CLARK: No, we are on the Kremer amendment.

SENATOR KOCH: What was Senator Haberman bringing around on the floor? Was that his motorboat engine? I have a question of Senator Haberman, seriously.

SENATOR CLARK: Senator Haberman.

SENATOR KOCH: Senator Haberman, isn't it true that a year and a half ago that Senator Wagner and Senator Vickers were on this same subject that you are on now of increasing the mill levy and you vehemently opposed it?

SENATOR HABERMAN: That is true, very true.

SENATOR KOCH: At that time you could see that they should never impose upon the people another increase in their tax levy?

SENATOR HABERMAN: A year and a half ago when I opposed it they did not need the increase, that is right?

SENATOR KOCH: But, Senator Haberman, I am glad you seen the light. It takes you a long time sometimes but you are coming around.

SENATOR CLARK: Senator Sieck, do you want to talk on the Kremer amendment?

SENATOR SIECK: I will call for the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those who wish to cease debate vote aye, against nay.

CLERK: Senator clark voting aye.

SENATOR CLARK: Senator Maresh, for what purpose do you arise?

SENATOR MARESH: Mr. President, was there any debate against the amendment? I didn't hear it. Did anybody oppose the amendment as proposed now?

SENATOR CLARK: I wouldn't know. It is so hard to hear up here it is hard to tell what they are doing.

May 6, 1981

LR 101, 102
LB 146, 227, 286, 289,
356, 489, 516

SENATOR MARESH: I think that both sides should be allowed to talk on this amendment.

SENATOR CLARK: The question before the House at the present time is ceasing debate. Voting aye.

CLERK: Senator Clark voting yes again.

SENATOR CLARK: The vote is to cease debate on the Kremer amendment. Record the vote.

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Kremer, do you wish to close on your amendment?

SENATOR KREMER: Our time is short. I think we have said enough. I have explained what it did. That is very simple. That is my closing and I ask for your vote to adopt the amendment.

SENATOR CLARK: Senator Kremer was closing. The question before the House is the adoption of the Kremer amendment. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: I am going to ask one more time. Have you all voted? Record the vote.

CLERK: 26 ayes, 1 nay, Mr. President, on the adoption of the Kremer amendment.

SENATOR CLARK: The Kremer amendment is adopted. What is the next amendment.

CLERK: Mr. President, may I read some things in?

SENATOR CLARK: Read some things in.

CLERK: Thank you, sir.

SENATOR CLARK: It may be your only chance.

CLERK: Mr. President, I have some reports from the Judiciary Committee reporting LBs 227, 286, 289, 356, 489, and 516 all indefinitely postponed. Those are signed by Senator Nichol as Chairman.

Mr. President, new study resolutions, LR 101 calling for a study to examine the basic purposes, policies, and goals of corrections, sentencing and parole in Nebraska. LR 102

May 6, 1981

LR 103 - 108
LB 146, 252

by the Judiciary calling for a study of the victims of crime, their needs, and whether they are fully compensated for their losses. LR 103, purpose of the study being a study regarding the feasibility of realignment of Nebraska Judicial Districts. LR 104 by the Judiciary Committee regarding the funding sources of the Grand Island Law Enforcement Training Center. LR 105 by Judiciary, recodification of the Juvenile Code. LR 106 by Senator Higgins calling for a study by the Banking, Commerce and Insurance Committee pursuant to medicaid supplement. LR 107 by Senator Lamb, purpose of the study being to continue interstate cooperative effort to gather, coordinate, share and evaluate information regarding the proposed MANDAN project. LR 108 offered by Senator Koch regarding a study of the appropriate role of the state in the regulation and supervision of private and denominational schools.

And, Mr. President, Senator Wagner and Lamb would like to print amendments to LB 252 in the Journal.

Mr. President, the next amendment I have to LB 146 is by Senator Kremer and that is found on page 1710 of the Journal.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Mr. Chairman and members of the Legislature, I will try to explain to the best of my ability what we are doing here. Under a section in the bill we have this language that "It may require water users to implement irrigation scheduling programs to schedule, to the extent possible,"... then this language here we are striking from now on out, "taking into account the type of irrigation system being used." There is a certain part of the industry, namely, the center pivot people, felt that it was unfair to them to have this language in and that we are singling them out. Now it is actually under this kind of a system only that you can schedule. In other words, scheduling gets controlled by a central area of control, such as, the headquarters of the supplier which could be a rural, generally is, and if you are using irrigation under a center pivot system or under a sprinkler system, they will push a button and it will stop the system, and it will not go on until you start it up again. That is scheduling. Now under gravity irrigation it is almost impossible because in order to get the water down to a far end you have to supply water at the source until it gets there. Well if the service goes off when you are halfway down, then you have got to start all over again. Then you are defeating your own purpose. So scheduling is practical only under a sprinkler system, either movable or overhead. So since they thought we were unfair, I

May 6, 1981

LB 146

am personally willing to take out the language. Here it is, here is what we are striking, "taking into account the type of irrigation system being used." It does leave in the language, "to the extent reasonably possible". I move that we amend by striking the language that I just now quoted. Thank you.

SENATOR CLARK: Is there any discussion on the Kremer amendment? If not, the question before the House is the adoption of the Kremer amendment. All those in favor vote aye, all those opposed vote nay. Have you all voted on the Kremer amendment to 146? Record the vote. I voted aye.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Kremer's amendment.

SENATOR CLARK: Mr. Kremer's worried look there, he has still adopted the amendment.

CLERK: Mr. President, the next amendment I have is from Senator Vickers. Senator Vickers would move to amend the bill: (Read Vickers amendment found on page 1791, Legislative Journal.)

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, this amendment is also printed on page 1466 of the Journal. This is an amendment that I offered on General File to this bill and we discussed it a little bit then. There was several people excused and it wasn't adopted and, therefore, I feel incumbent on myself to attempt one more time to get this amendment adopted. I would like very briefly to discuss a little bit about water legislation and then the various philosophies in that regard. I think many people in the State of Nebraska are looking at us to give them the tools to address their concerns about water use in their area in the State of Nebraska. I think many members of this body have specific ideas as to how to address those concerns, and we discussed at length this morning some of the philosophy about how to address that concern and I certainly don't want to take away from anybody their concern in this area even though their philosophy may not agree with mine. I think it is our right and our privilege but what I am attempting to do here is to put some language in the statutes that local people can use through the Natural Resources Districts, if they so desire, to address the concern that I think is real in certain areas of this state and that area of the state is the Nebraska sandhills. Let me outline for you just a little bit about the situation as I view it at least in the Nebraska sandhills at the present

time. There are places in the Nebraska sandhills where the aquifer is very, very thick. They have a tremendous amount of water but that aquifer, the top of it, comes clear to the surface of the ground. That's what causes the various lakes, the wet hay meadows and several small streams in the Nebraska sandhills. Now under the present situation and under the situation in LB 146, and as a matter of fact under the situation of any bill that we have got in this Legislature, either out on the floor or the ones that have been introduced, to my knowledge there is nothing that would address the concern of those people about those lakes, those wet hay meadows in their area. If in fact ground water development develops in an area of the sandhills that has a tremendous amount of thickness of aquifer, the decline would have to be of a considerable amount to be enough to upset anybody when you consider that you might have seven, eight hundred foot of thickness. On the other hand, pollution as 146 is attempting to include, a tremendous amount of pollution would have to be put into this amount of water before there was any detrimental effect. I think the concern of those people or the concern in that area is that even though a small amount of underground water might be used, their lakes might dry up, the wet meadows might disappear, therefore, it seems to me that we put in the language, the language in the statutes, that would allow them to address that concern. Now my philosophy is very simple. My philosophy is that I don't believe that it is possible for us to put anything in the statutes and put it in in a section that is permissive only and can be used by local people, instigated by local people through their Natural Resources District directors that would cause them to overregulate themselves. Now that is my philosophy, pure and simple. I think there are people that do not agree with that philosophy and I understand that but I believe that there are people out there that really and truly are concerned in this area and I think it is incumbent upon us to put the language in the statute that will allow them to address that concern. I suggest that this language would do that. It would allow those people, if they are concerned about the use of surface water in their area as it relates to the underground development, to approach to their Natural Resources District and their Natural Resources District to then ask for a control area and the director could have this criteria to look at. I don't think that is too much to expect and, again, I repeat that I don't believe it is possible for us to put anything in the statutes that would cause those local people to overregulate themselves. So I cannot see this being abused in any way, shape or form although I am sure there are some people that think that it would be. Therefore, I urge this body's adoption of this amendment, Mr. Chairman.

May 6, 1981

LB 146

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, and members of the Legislature, this is an amendment similar to one which Senator Vickers attempted once before and was unsuccessful with. This is a very important amendment and it is a drastic change. It represents a total change from the concept of surface water versus underground water. I am not very enthusiastic about LB 146 to begin with. We just raised the tax for the control areas and I gave you a vote on that and I think in some cases, as Senator Haberman has pointed out, money may be needed and the NRD is not going to waste the money if they don't have to use it. I am willing to go along with that but this is an amendment which if it were added to the bill I believe would mandate a rather vigorous approach to trying to kill the bill. I don't think that we can buy this. I don't think that we are ready for it. I certainly am not ready for it. When you have...if you accept the Vickers amendment, you have said in effect ground water and the surface water are one and the same. The surface water has been dedicated to the state and, therefore, the underground water follows along. It is a new approach. It is one which we have not accepted in the past. It is one which some of you have very vigorously supported and you are within your rights to do so as is Senator Vickers but it represents a radical departure from accepted procedure and from accepted philosophy. I think that you should be well aware of what you are doing here. We rejected this amendment once. We should reject it again today for reasons I have given you. If the amendment is added, I would do everything I can to slow down the bill and to kill the bill. There will be no other course open to me. I ask you to reject the Vickers amendment.

SENATOR CLARK: Senator Beutler and then Senator Lamb.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I just wanted to encourage the body briefly to adopt the Vickers amendment. It is a reasonable amendment. I guess I was surprised this morning at the strength of the feeling on the floor for doing something about the water problem and stepping ahead on the water problem. The support was overwhelming for doing that and the criticism of LB 146 was that it was doing nothing. I underestimated the strength of the support for water legislation, but if you want to do something, if you want to move ahead, then Senator Vickers' amendment is a good step forward. It is a reasonable step forward. We all know now that there is a very definite relationship between ground water and surface water. The amendment doesn't require anything. It simply says that the Natural Resource Districts can consider that and they should because they are, in fact,

May 6, 1981

LB 146

related. The amendment also talks about losses of sub-irrigation. This is another problem that we have not addressed that Senator Vickers is addressing himself to headon. These are important amendments. They do something about water. So I hope you will give them serious consideration. I think that this amendment is a test of the genuine interest in doing something about water. Thank you.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. Chairman and members, am I correct in thinking is this the amendment on page 1466 of the Journal? Is that what we are talking about?

SENATOR CLARK: Mr. Clerk, is this the amendment on 1466?

SENATOR LAMB: Senator Vickers, is this the very same amendment? The one that was defeated previously. Well, I guess I have a point of order, Mr. Chairman, in that this should be reconsideration.

SENATOR CLARK: Wait a minute. They don't have a reference to the amendment. What is your point of order.

SENATOR LAMB: My point is that Senator Vickers tells me this is the same amendment as on page 1466, and if I am correct that the amendment was unsuccessful previously, so this would have to be reconsideration and Senator Vickers was not on the prevailing side. Is that correct, Mr. Chairman?

SENATOR CLERK: It is the same amendment. But this is on a different stage of the bill, and being it is on a different stage of the bill, it is not a reconsideration. That is the way I will rule it. Senator Haberman, for what purpose do you arise?

SENATOR HABERMAN: A point of order, Mr. President.

SENATOR CLARK: What is your point?

SENATOR HABERMAN: I ask for a division of the question.

SENATOR CLARK: How do you want it divided?

SENATOR HABERMAN: The first part says, "Interference with present or reasonably foreseeable uses of surface water in the district;". I would like to have that one. And the second one, "Reduction or loss of subirrigation within the district;". They are two different complete subjects and

May 6, 1981

LB 146

ideas and I would like to have a division of the amendment please.

SENATOR CLARK: I will rule it is divisible. Senator Vickers.

SENATOR VICKERS: Would you repeat that again, Mr. President, what you said?

SENATOR CLARK: What he is doing is taking the "Interference with present or reasonably foreseeable uses of surface water in the district;" as the first part of the amendment.

SENATOR VICKERS: And you ruled that it was divisible.

SENATOR CLARK: Yes.

SENATOR CLARK: And the second part is the "Reduction or loss of subirrigation within the district;"

SENATOR VICKERS: I guess I am not going to challenge the Chair but I would just simply point out to the Chair that they are both the same water. They both talk about the same area. I don't know exactly what basis you used to divide that question but I just want to point that out to you.

SENATOR CLARK: Well, I have ruled that it is divisible and we can go on both parts of it and the first part we will take is the "Interference with present or reasonably foreseeable use of surface water in the district;". Senator Cullan, did you want to talk on the first part of the division?

SENATOR CULLAN: I guess I am not sure which part of the division we are speaking to. Could the Clerk help me there?

SENATOR CLARK: (Interruption) the first part of it. Go ahead, Mr. Clerk.

CLERK: Senator, we are dealing with the first part of the amendment. "On page 5, line 7...Interference with present or reasonably foreseeable uses of surface water in the district;"

SENATOR CULLAN: Okay, thank you very much. Mr. President, members of the Legislature, I rise to support the Vickers amendment. I think that if the ground water management act is going to be the basis of our control mechanism in the State of Nebraska in the future it is appropriate for us to expand the scope of the ground water management act to the Natural Resource Districts those tools which they need.

protect water resources throughout the State of Nebraska. There is simply no denying the relationship between surface and ground water in the state and we may deny it legally but there is certainly no denying the physical connection between surface and ground water in many parts of the state, and to give the Natural Resource District this additional tool will be a benefit to the state in the long run, granted that it may be a difficult tool for them to use but I think now is the time for us to recognize this and I urge you to support this section of the amendment as well as the other section dealing with subirrigation. So I think Senator Vickers is moving in the right direction and what we have to do in the future is continue to expand the authority and power granted to the Natural Resource Districts under the ground water management act.

SENATOR CLARK: Senator Schmit, did you want to talk on the first division of the question?

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise again in vigorous opposition to the first division and I would also extend that opposition to the second. I want to point out to you several days ago here we discussed long and loud and vociferously whether or not we could add two million dollars to the water development fund. That was two million dollars of state general fund tax money. Some of the very proponents of this amendment were most outspoken in opposition to that addition of money but today, ladies and gentlemen, if you adopt this amendment, if you adopt this amendment you are giving away to the state, you are giving away to the state billions of dollars worth of value of the underground water. Now it is fine for those of you who don't have any interest in that, those who live in the city and do not use that water or have a right to have reasonable access to it in your operation or your livelihood. But any person who is an overlying land owner who votes for this amendment is being absolutely ridiculously foolish. You are giving away billions of dollars worth of assets to the state and you are placing the control of that asset in the hands of the Natural Resource Districts. Now I have expressed my confidence in them many times but, ladies and gentlemen, I will tell you this very frankly, if this amendment is adopted, LB 146 will not be passed into law because you may on a sleepy afternoon adopt an amendment which a great many people don't understand, but when the word gets back to the country and the word comes back to the Legislature, well, you are not going to change Senator Beutler or a few of the others because they don't really have any particular interest, financial interest. But when the word comes back from McCook and from Valentine and Scottsbluff

and Hemingford, there is going to be a very determined interest and you are going to have it explained to you in language you can understand and you are going to have to go back and explain why you gave away that right. Now I think that I have the right to take exception to the amendment and the manner in which it is being offered. It has been defeated before on a different stage of consideration. I recognize that and we can consider it again and again and again but I want you to understand what you are doing. Now if you want to vote for it, that is your prerogative but don't go back home and say, "I didn't understand what I was doing" and don't come out to my territory or anywhere else and say, "Well, they are all the same". They are not the same, ladies and gentlemen. There are distinct differences. In some areas of the state there is an interrelationship. In some areas there is no interrelationship. It needs to be determined on an individual basis and at the present time it can be handled as such. If you follow this line of thinking...

SENATOR CLARK: You have thirty seconds left.

SENATOR SCHMIT: ...then I think you should take a look at the Hoagland amendment which was just laid upon your desks. Ladies and gentlemen, step by step, inch by inch, yard by yard, you are stepping into a trap from which you can't escape and for which there will be no apology. I ask you to oppose the amendment.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, fellow legislators, I feel this is too serious of an amendment for us to decide on this afternoon. If you just look at what it says, it says, "Interference with present or reasonably foreseeable use of surface water in the district". Now what are the guidelines? Show me some guidelines so I can go home and tell my people on my radio program or when I meet them on the street what this does. Show me some input in a public hearing on this surface water issue. We have ground water control issues. Public hearings were held within the ground water control areas, they were held within the state just on that issue. This issue has not been discussed statewide. This is a dangerous issue for us in a few minutes here to adopt to a bill and I will tell you this. There is some special interest to this surface water right in a district. In my district we have ground water control. We have metered wells. We are doing everything we can to control the water but there are some people south of us in another area who are saying, "You are taking our water. It is our water. You are using our water." This has not been proved. This has not been proved. They haven't gone to court to prove this. They

May 6, 1981

LB 146

haven't come up with any evidence to prove this but this is what this amendment does. This amendment is a dangerous amendment without a full-blown investigation, hearing and what it will do to the entire state, not just my district or Senator Vickers' District. That is why I asked for a division because the first part of this nobody can go home and explain it the same way because everybody is going to see it different and I ask you not to vote to support the first part of this amendment and I ask you to vote no because we are just getting into something we will not be able to get out of. It is in too big of a hurry and listen to the people that are in the water areas and that have the problem and vote no on the first part of this amendment. Thank you, Mr. President.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I would just like to make a couple of short remarks in support of Senator Vickers' amendment. Now we are really seeing a lot of malarkey, you know, that is being coughed up here on the floor the last ten or fifteen minutes. One of the earlier speakers said if this amendment passes we are going to be conceding billions of dollars in surface water to the state. Another speaker just conceded or just argued that this is a very dangerous amendment. I mean that really is a lot of nonsense. All this amendment does is just give the NRDs a little bit more authority and the way the question has been divided here what this particular amendment does is it gives the locally elected Natural Resource Districts that we have charged with the responsibility of conserving our water resources the authority to set up a control area for one additional reason and that is interference with present or reasonably foreseeable uses of surface water in the district. That is all it does. It is very simple. It is very short. It expands the NRD authorities a little bit. It gives them a little bit more authority to deal with these crucial water problems we have got. The house is not going to come tumbling down. If we are really serious about doing something with water on the floor of this Legislature, which evidently we are according to the vote on 375 this morning, why let's adopt this amendment and get onto another subject. Thank you.

SENATOR CLARK: Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, when I first came upon this amendment again, I started kind of marking my bill down and I got to looking and this is when I found out we have the same amendment that we tried to adopt the other day and I opposed that amendment at that time and I very vigorously oppose that amendment at this time. I think we are mixing

May 6, 1981

LB 146

apples and oranges together. The bill basically talks about pollution and so forth and here we are dallying in completely a new and different area and I think it would be very dangerous. I would oppose the Vickers amendment as I did before and I would encourage those to oppose it, too. Thank you.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Well, Mr. Chairman, members, I rise to oppose the bill. What it really means is pump irrigators will be discriminated against. It means that irrigation wells will be shut off in order to protect downstream interest. Very bluntly, very briefly, that is the intent of the amendment. I think I've told many of you my experience in...well, not my experience but about a speaker I heard a long time ago who told about the situation in Colorado where a rancher was denied permission to put a well on his land because the courts ruled that it would interfere with somebody's surface appropriation fifty miles downstream sometime in the future, maybe as many as twenty-five or thirty or forty years. Theoretically it would interfere with that downstream appropriator and his water rights, of course, went back to about 1865 when the area was first settled and the water rights were taken out. So we would have the same situation in this state. If this amendment were adopted, you would in effect disenfranchise many pump irrigators if this was carried out because the surface irrigators have had water rights for many, many years but the rights of the pump irrigators are not similarly protected. This is an amendment that is very important. It deserves a bill of its own, not to be hooked on to a bill such as this. I ask that this amendment be defeated again. This really is a reconsideration although the way we have been operating under our rules, and this was news to me, if it is at a different stage of consideration, it is not considered reconsideration but that is really what it is. It was defeated before and I ask you to defeat it again.

SENATOR CLARK: Senator DeCamp. Senator DeCamp.

SENATOR DeCAMP: I was going to call the question but I am afraid I am going to get somebody owly at me if I do. I call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Have you all voted on ceasing debate? Record

May 6, 1981

LB 146

the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to cease debate.

SENATOR CLARK: Senator Vickers, do you wish to close?

SENATOR VICKERS: Mr. Chairman and members, well, once again it would appear that not all of my rural friends agree with me but I would like to point out that this is not a case of an individual as it might have been indicated that doesn't have anything to gain, nothing to lose, no interest in this matter at all, bringing this before this body. I would point out to you that I do own a place, or me and the Federal Land Bank together does, in southwestern Nebraska that depends on a little bit of that water we are talking about. I think I do have an interest in it. I don't live in Omaha. I don't live in Lincoln even though I might be here during the session and my livelihood does come from that area. There is no...and I would also point out to you that I live about as far as you can get in this State of Nebraska from a river. Everybody in my immediate area depends upon underground development for irrigation.

SENATOR CLARK: Senator Vickers, I think you are going to have to take your hands off of the mike. You are distorting your voice.

SENATOR VICKERS: Well, that might not be all bad either, Senator Clark.

SENATOR CLARK: You said that, I didn't.

SENATOR VICKERS: The fact of the matter is the people in my area or the people in rural Nebraska did not send me letters after I offered this amendment on General File telling me how wrong I was. Now if anybody buys that that if we put this on this bill it is going to upset all of rural Nebraska, then I think you are mistaken. You weren't with us in Hastings, you weren't with us in Ogallala, you weren't with us in Bassett, us being the Public Works Committee last year listening to the concerns of the people that are out there, and I don't mean the concerns of these people behind these glass doors, I mean the people that are out there with dirt under their fingernails, mud on their boots, the people that really have to live with it, and what I am doing is putting something or what I am attempting to do is putting something in the statutes to give them the authority if they so choose to use it. I think it is wrong for us to stand in this body and tell people in rural Nebraska, "No, you can't address

the situation you are concerned with. We are not going to let you because we are not going to put anything in the statutes that you can, to allow you to." It has been said that this is a dangerous piece of legislation and that it is an important piece of legislation. I will agree to the last part, it is important. I will not agree to the first part that it is dangerous. This is not going to put cement in any irrigation well in the entire State of Nebraska. That is not the intention. It was also mentioned that the intent is to shut down wells downstream, shut down the wells so that somebody can irrigate downstream, that is not the intention either and I don't believe that is the way it will work. This says within the area. It doesn't say fifty miles somewhere else. It says within the area. I will agree, as I said, that this is important and I can understand the concern, I can understand the reason that people are standing up and opposing it. No place in the statutes of the State of Nebraska do we recognize that there is any correlation between underground water and surface water. We don't believe that there even is any such thing as a correlation in the statutes and yet those people that stand out there with the mud on their boots and the dirt under their fingernails in places in the State of Nebraska know darn well there is a correlation. They know that when the aquifer goes down in drier years (interruption)...

SENATOR CLARK: You have one minute left.

SENATOR VICKERS: ...dry up or their lakes dry up and they are concerned, and for us to not put anything in the statutes to give them the ability to handle that concern I think is dangerous on our part and I don't think we are addressing the situation as we should be. It is true that this is a new step but it certainly has been discussed in the Public Works Committee many, many times and people have discussed it with us at the various hearings we have had throughout the State of Nebraska. So I don't consider this to be so radical and so new that it is going to upset everybody. I think the people want it and again I would point out this is permissive only. It is not mandatory in any way, shape or form. If the people want to use it they can but it has to be administered and brought up on the local level by locally elected Natural Resource District officials. Again I would just simply point out I think it is impossible for us to put anything in the statutes to cause local people to overregulate themselves. I would urge the body's adoption of this amendment.

SENATOR CLARK: The question before the House is the adoption

May 6, 1981

LB 146

of the first part of the Vickers amendment to 146. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? I am going to call the vote. Senator Vickers. Record the vote.

CLERK: 13 ayes, 15 nays, Mr. President.

SENATOR CLARK: The amendment failed. Second part of the amendment. Senator Vickers, the second part of the amendment.

SENATOR VICKERS: Well, I think the general idea has been discussed. I think that everybody understands the second part is very similar to the first except that it discusses as it affects subirrigation. I suppose what we are talking about now strictly is the wet meadows in the sandhills, those types of situations. It would strictly be ground water in this case so I guess nobody can raise the issue that we are looking at a correlation between ground water and surface water. If the aquifer comes clear to the top of the surface, then it is surface water once the water gets to the top. In this case, it is going to be under the ground in the root zone. It will still be ground water so I guess that the difference and division of the question is now we are not talking about any correlation between underground and surface water so, therefore, it should do away with some of the concerns that some of the people had and I think the other arguments are the same.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Well, Mr. President, members of the Legislature, we are back again with some of the same problems we talked about before. We talked about reduction or loss of subirrigation within the district. Now I defy any member of this body to determine the extent or for what reason so-called subirrigation, first of all that has never been identified, might be dependent upon irrigation, drouth, drainage and any other source of the problem and I think that when we talk about this issue it is one which engenders a lot of emotion throughout the certain areas of the state, and very frankly if you fly across that part of the state, you would see hundreds of thousands of acres of lakes. They are lakes one day, they are wet meadows another day and they are dry the next and then there are a lot of natural phenomenon to determine what occurs there. If you

are looking for an excuse to come out and impose a control or a limitation upon someone, it makes an excellent reason for doing so. There has been a reference several times about the fact that people want to do something about water by virtue of the fact that they voted 375 to the floor this morning. I think there is a basic difference in philosophy. Some of the people who have been talking about this kind of an approach believe that when you do something about water you take away the overlying landowner's right to use the water and the right to access to the water. If you don't do anything about water, you let the landowner use it. Now I think it is significant that a major portion of the persons who support doing something about water want to take away rights. The same people are not nearly as anxious when they talk about our water and doing something about water to put general fund money into the pot in order to do something but they have no hesitancy about doing something about water by taking away that right which has been there for a long period of time. Now I know that there is some very definite concerns in this area but I have had experience with so-called subirrigated wet meadows and you can't mow a wet meadow when you have got water six inches over the top of the grass and that water no matter how much it is subirrigated has got to go up and down, and some of the people who have talked to me most about their subirrigated meadows find they are of no value in a wet year. You can find many times as many acres of so-called subirrigated meadows in a wet year that are not there in a dry year. They are really not subirrigated. It is what is called parched or perched water. It is trapped on top of the soil. There is an underlying level of clay and the water doesn't get away very rapidly. It is a particular type of soil. It is nothing unique or unusual about it. It is a phenomenon that occurs in a certain part of the state. We call them mudholes in our part of the state because we farm that land and in that part of the state you call them subirrigated meadows. They are not subirrigated meadows. They are meadows which have trapped water and which then allows the water to evaporate or seep away very slowly and so forth. You will find very little water movement from the bottom up if any. I have not found anyone yet who has been able to explain it to me. The so-called subirrigated meadows is water which has fallen on the land from the air, percolates down into the soil or in many cases evaporates.

SENATOR CLARK: You have one minute.

SENATOR SCHMIT: I think you are asking for again a definition which is not a valid one. I think you ought to reject the amendment, proceed along in the manner 146 was intentioned,

in the manner which the committee agreed upon. I want to point out again one of the reasons why 375 stayed in committee was because of the very tactic that is being prevailed upon here this afternoon, an attempt to load up a bill. If you try to jump across a creek, you had better to be able to jump the entire way because if you don't you are going to fall into the creek and that is what is going to happen to 146. It is going to fall in the creek and drown unless you are reasonable about the approach. Little by little you draft legislation and forge laws. You do not do it by huge jumps. I ask you to reject the amendment.

SENATOR CLARK: Your time is up. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I very honestly and very strongly feel that there is nothing whatsoever unusual or radical or unreasonable about this particular amendment. Subirrigation has a very definite meaning in the literature. Subirrigation refers to a ground water level that is so high that plants are able to take moisture from that ground water through their root system without sprinkling water on the surface. Now it is true that there are many reasons why the ground water level can go up or it can go down but this amendment takes that into account. It is fitting into a section of the statutes that requires that you prove that the cause of the loss of sub-irrigation had to do with particular problems. Now this is no different than what we are doing with ground water quantity. There are a lots of things that can cause the general level of ground water to go up or down but what we are doing with ground water quality, there are a number of things that affect the quality of the ground water. The point is not that we are seizing individual rights. The point is that we are trying to regulate and protect rights as between individuals. I have had on a number of occasions, when we have taken the western tours in the last two years, had ranchers come up and complain that center pivot people were drawing down the water levels and causing their sub-irrigated meadows to dry up. Now if you are a person in that situation with a subirrigated meadow, I believe you'd probably feel that the state should do something to regulate the interest of you and your neighbors and that is what this amendment is intended to do. It doesn't force anybody to do anything. It says to a local control entity, the Natural Resource District, "You look at the situation. You listen to the people who have meadows drying up. You listen to the people who have center pivots and are pumping the water out. You regulate in a reasonable manner." This is what we have already approved with regard to ground water quality and with regard to ground water quantity and all we are asking is

May 6, 1981

LB 146

that you give consideration to the subirrigation...to the subirrigated meadow situation which is very near and dear to the hearts of many ranchers out there. Thank you.

SENATOR CLARK: Senator DeCamp. Senator DeCamp. The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: The question is to cease debate. Once more, have you all voted on ceasing debate? Record the vote.

CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Vickers, do you wish to close?

SENATOR VICKERS: Mr. President, members, I think it is pretty obvious that we are not going to do a whole lot with water legislation, at least with this piece of water legislation. When one member of this body stands up and says if you put on these amendments we are going to kill the bill I guess I understand where the power is in this body. That doesn't mean that I am going to bow down and give up, however. I think there are some legitimate differences of opinion. One of the things that was mentioned is that we are taking away landowner's rights. Well, I am a landowner and I don't think we are taking away anybody's rights. I think those people want to be able to control and look after their own destiny. That is what we are doing is giving it to them to do. We are not doing it from the state. We are allowing them to do it on the local level. There was also mentioned that the proponents of this amendment were those that opposed the water development fund increase. I think maybe somebody should check the vote record on that water development fund increase. I have always supported increased amounts of dollars for the water development fund. Now those that might support or vote for this amendment I have no control over what they support but I believe we should store more water in the State of Nebraska. I suppose if I wanted to be selfish about it I wouldn't do that because I come from a part of the state where we can't get the lakes or the dams that we have got full but I think we need to build more dams elsewhere in the State of Nebraska also. I take my title as "the State" seriously. I think we should look at the entire state. I will also point out that we don't have any wet meadows in my area right where I live but I do understand a little bit about

mudholes and it was referred to about mudholes and how there is a difference between those and aquifers. Well, the bill deals with aquifers. The bill deals with ground water and what we are talking about here would not affect in any way, shape or form that water that is trapped that is not part of the aquifer. Now if we assume that the Director of the Department of Water Resources of this state who has as part of his staff the State Hydrologists who are the ones that overlook this section of the statutes before it is implemented on the local level can't tell the difference between a mudhole and an aquifer, then I think we had better take a look at that department. This is not an attempt on my part to load up a bill either, I would like people to know. I simply am trying to address a concern that I think is legitimate, and I understand the concern on the other side of the issue, and as I indicated earlier, I think there is a difference in philosophy as to how we address the situation. I think there is areas in the State of Nebraska where there is a tremendous amount of ground water but I am not sure that we should be in a position to tell those local people that that ground water is there for you to use up. If you don't want to use it up, if you want to keep it so you can have water on the surface or close to the surface, I think we should allow them to do so. I don't think we should tell them, "No, you can't do that. You have to continue to allow people to develop so that you can, in fact, use up a tremendous amount of it." Now I don't think that is my decision to make. I don't think it is anybody in this body's decision to make, to tell those local people what they can or cannot do with their water under their land or in their area. Once again I will point out it is my philosophy that the language we are putting into the statute is permissive only, permissive on the local level by locally elected officials. I happen to have trust in those local people. I happen to know that they are in most cases farmers, ranchers that do go down to the coffee shop and do visit with their peers, and if they put something or attempt to regulate in a manner that the local people by and large do not agree with, I don't think they are going to be there very long. So I do urge the body's adoption of this amendment realizing that I probably don't stand much of a chance but I think the issue needs to be raised at least. So, Mr. President, with that I will close.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is the second part of the Vickers amendment to LB 146. All those in favor vote aye, opposed vote no. Have you all voted? I think while you are waiting to determine how you are going to vote I would like to make

May 6, 1981

LB 146

an announcement and that is that we have about three and a half hours of Final Reading tomorrow. If you look at the calendar, you see how far you have got to go and, therefore, we will need to adjourn at a reasonable time today so that we can meet here at eight o'clock tomorrow morning. Now this is what we are facing and I guess the only thing I would say is that we have got to tighten up or we are not going to get through. But when you start at eight, it means that the presiding officer is easier to get along with than ordinary, Senator Koch. Have you all voted? Have you all voted? Senator Vickers.

SENATOR VICKERS: Mr. Chairman, I realize the hour is late and I hate to take up the time but I think I will ask for a Call of the House and a roll call vote please.

SPEAKER MARVEL: Okay, the question before the House is shall the House go under Call? All those in favor vote aye, opposed vote no. Record.

CLERK: 15 ayes, 8 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats, record your presence. Unauthorized personnel please leave the floor. Senator Pirsch, Mr. Sergeant at Arms, Senator Pirsch and Senator Cullan. Senator Newell, will you please record your presence? Senator Burrows, will you please record your presence? Senator Cullan, Senator Warner, Senator Higgins, Senator Von Minden, Senator Nichol, Senator Chambers, Senator Wagner, Senator Fitzgerald. Senator Chambers, Senator Nichol, Senator Warner. Senator Chambers and Senator Warner. Senator Vickers, do you want a roll call vote or what? There are two absent. Shall we proceed? There is Senator Warner and Senator Chambers.

SENATOR VICKERS: Are the Sergeant at Arms out getting Senator Chambers and Senator Warner?

SPEAKER MARVEL: They are out trying. Do you want to hold it up for a few minutes?

SENATOR VICKERS: Let's go ahead.

SPEAKER MARVEL: What?

SENATOR VICKERS: Go ahead.

SPEAKER MARVEL: Okay, call the roll.

May 6, 1981

LR 109 - 111
LB 146, 190, 334, 334A,
463

CLERK: (Roll call vote taken. See pages 1792 and 1793, Legislative Journal.) 19 ayes, 13 nays, Mr. President.

SPEAKER MARVEL: Motion lost.

CLERK: Mr. President, while we are waiting, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 190 and find the same correctly engrossed; LB 334 correctly engrossed; LB 334A correctly engrossed; and LB 463 correctly engrossed. All signed by Senator Kilgarin.

Mr. President, LR 109 calls for a study by the Administrative Rules Committee to study the processes followed by state government in securing federal funding for various projects. LR 110 by the Administrative Rules calls for a study of the administrative practices of agencies, boards and commissions. LR 111 by the Administrative Rules Committee calls for a study to investigate two statutory procedures under which to litigate a claim against the State of Nebraska.

SPEAKER MARVEL: We have seven amendments to this bill. The Clerk will read the first amendment.

CLERK: Mr. President, the first amendment is offered by Senators Beutler and Hoagland. Would you like me to read it, Senator?

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I will try to be brief. This amendment does not have broad implications but I think it is although small an important amendment and I think it can be best explained by giving an example. Remember now that our Natural Resource Districts are divided into twenty-four districts and that geographically they are divided based on surface water divisions. Now when one NRD establishes a control area, it may very well be that the boundaries of that control area will be adjacent to and contingent to the boundaries of some other NRDs and it is also very likely that the aquifer underlying that control area will also underlie those adjoining NRDs and the result that you can have is that one NRD can establish a control area and control the taking out of water in its particular part of the aquifer but right across the jurisdictional boundary in the same aquifer there may be no control area and the result is that you are punishing and giving a disincentive for the establishment of a control area because they will say, "Well,

May 6, 1981

LB 146

what about those people right across the boundary who will not have a control area? Our use for water will be cut down by your laws but the other people using the same water will be unrestricted and that is not fair." All right, so what this amendment does, it says that an NRD that establishes a control area also has the power to request the Director of Water Resources to hold a hearing on the establishment of a control area in an area adjacent to the control area which is in another NRD, so that we have a mechanism whereby we can make some adjustments as between NRDs. If we do not do this, then we are bound in the future to have numerous, numberless instances of discrepancies and unfair situations because of these jurisdictional lines which I repeat do not correspond with the aquifer boundaries underlying the jurisdictional lines. So this is to provide a mechanism for adjusting those rights. Thank you.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Okay, he is going to...I am not calling the question.

SPEAKER MARVEL: Senator Schmit, do you wish to speak?

SENATOR SCHMIT: Mr. President, members of the Legislature, as I said earlier, one of the most certain ways to kill a bill is to hang enough on it, and if you want to keep doing it, it is going to probably happen and I am not threatening anyone. I just know that when you bring out an amendment such as the one you are talking about here today, we talked about the rights of the Natural Resource Districts to regulate the problems that lie within their own districts, and now we very casually discuss the necessity of allowing one district to infringe upon the rights of another district in so far as controlling underground water or any other possible foreseeable future, et cetera, et cetera, problem that might develop. If you were to carry this to the extreme, and I guess you just as well do that because that is the way government usually goes until the people finally get a bellyful and throw the rascals out, you can establish one Natural Resource District in the State of Nebraska and you can hopscotch and leapfrog all the way across the state. I think you need to recognize what you are doing. The Natural Resource Districts have not to my knowledge requested this kind of authority. I have visited with many of the managers. They do not see the need for such authority. They did not request it. I do not think that it was ever suggested in the hearing. I think that Senator Beutler is anxious to place some controls, and as he says, give another tool. Well, ladies and gentlemen, I think just the reverse

will happen. The Natural Resource Districts managers have told me time and again they have perhaps more tools than they can use but we have given them some additional tools in this bill, some of which I do not agree with, but I am willing to go along with them. Senator Kremer and I have proposed some additional management methods under 375 which are considerable compromises for many of us but I do not believe that you should enact this amendment. I think that we are going to, if we continue to attempt to do to this bill what is being done this afternoon, that it is only a matter of time until the bill dies. That would not be fair to the Public Works Committee, to the introducers, to anyone who has worked long and hard on the bill. I really guess I can't understand why the members of the Public Works Committee, if they really felt deeply about these amendments, did not add them to the bill. I have a hunch they tried to add them to the bill in committee and the committee rejected them and, therefore, they have brought them to the floor but it seems to me, and they were just talking this morning about having to draft legislation on the floor. This is exactly what they are doing under this condition. It is not going to be good legislation. It is not going to be effective. It is not going to give the Natural Resource Districts any other tool. It is going to hang a millstone around their necks until one of these days you have made them ineffective. They will be nothing but a bureaucracy. They understand their responsibilities now. They are working diligently in most areas to pursue them and a dedicated group of people. Again, I don't always agree with them and I don't think that any of you always agree with them but I do not believe that you need to add this additional piece of, well, legislation to the bill. I ask that the amendment be rejected.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: I move the previous question.

SPEAKER MARVEL: The previous question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Have you all voted? Have you all voted? I would once more call the attention to the legislators, obviously what I say reaches deaf ears. We are working now on the third bill for the day. We don't have 115 days left, we have got 15. Why is it that I can't reach you and that you are standing out there or sitting out there somehow or other continuing to bottle up legislation. Now either we are going to be able to proceed or you are going to simply lose the legislation you have. Now I, for the life of me, do not understand

day after day after day where certain groups of people continue filibustering in one way or the other. Maybe I don't understand what the word "filibuster" means but somehow or other all I can do, I can't force you to do a thing, all I can do is attempt to appeal to you somehow through some avenue so that for crying out loud we get something done. Three bills today and all the work that we have done, three bills, take a look at the calendar. Record the vote.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPFAKER MARVEL: Debate is ceased. The Chair recognizes... Senator Beutler, do you wish to close?

SENATOR BEUTLER: Yes, Mr. Speaker.

SPEAKER MARVEL: Okay, the Chair recognizes you.

SENATOR BEUTLER: I think maybe the best thing I can do to point out the relevancy in the words in this particular amendment is to ask you to consider the property equalization problem that we have been dealing with here in Nebraska for the last number of years. As you know, we have had tremendous problems equalizing assessments as between counties because each county does its own assessing, has its own county assessor, so eventually we saw the need to set up a State Board of Equalization to equalize those assessments between counties so that everyone was treated fairly. Well, in water law, we don't have a Board of Equalization as between NRDs. We don't have a supreme authority. Maybe we should have but we don't which says if you set up a control area in the aquifer then this other NRD has to do it, too, so that everybody using water in that aquifer is treated equally. We don't have that overall mechanism and all I am asking you to do is to put this amendment into place which would provide a mechanism for jumping across those jurisdictional lines so that everyone is treated fairly or at least so there is a method so some determination can be made if everyone is being treated fairly. There is no doubt in my mind that the time will come when this amendment will be sorely needed and we should anticipate it so that it is there when it is needed and we don't have a situation where we have people breathing down our back to get something done that should have been done long ago. The situation exists. Nothing can correct it except providing a mechanism for adjusting rights or doing away with NRDs altogether and having one central authority which none of us, I think, want to do. So I hope you will adopt the amendment. Thank you.

May 6, 1981

LB 146

SPEAKER MARVEL: The motion is the adoption of the Beutler amendment to LB 146. All those in favor vote aye, opposed vote no. Have you all voted? Senator Beutler.

SENATOR BEUTLER: How many are excused, Mr. Speaker?

SPEAKER MARVEL: Three excused.

SENATOR BEUTLER: A record vote, please.

SPEAKER MARVEL: Go ahead, Mr. Clerk.

CLERK: (Record vote read. See page 1794, Legislative Journal.) 17 ayes, 21 nays, Mr. President.

SPEAKER MARVEL: Ready for the next amendment.

CLERK: Mr. President, the next amendment, and as I understand it, the last amendment, is offered by Senator Hoagland. Would you like me to read the amendment, Senator? Okay.

SENATOR HOAGLAND: Mr. speaker and colleagues, this is the only amendment that I have had the opportunity to offer to this bill and I ask your indulgence and your patience, and my understanding is this is the last amendment we are going to have on this bill and then we can vote it up or down on Select File. Now this has been distributed to you about an hour ago and it has my initials on it and it states the purpose of this particular amendment, and I think if you look at that one sentence statement of the purpose and scan the amendment, it is fairly clear what it does. Let me be very brief. As I have indicated previously in speeches about the water issue, it seems to me the most important thing we need to do is to get more discretion down to the local Natural Resource Districts to be able to do what they think is right in terms of conserving our water for future generations. Now this bill, this amendment does a very simple thing. It shifts the presumption in favor of designating a ground water control area and it means essentially that if the Board of Directors in a particular area decide to request a control area and designate a certain area for a control area and make that request of the Director of the Department of Water Resources, why then the decision of that Natural Resource District shall be upheld unless there is strong reason not to grant the control area. Now I think it makes a great deal of sense. A number of the NRDs are in favor of this. This is really a local control amendment. It merely attempts to effectuate what we started out with

in 1969 when we created the Natural Resource Districts, which we continued with in the mid-1970s when we passed the Ground Water Management Act, strengthens the authority of the Natural Resource Districts. It gives them a little bit more authority, gives them some more of the tools they need to effectively deal with the water problems because I think we know the NRDs don't have the tools they ought to have now. I think we know from the water problems around the state they simply can't...they simply can't exercise the statutory authorities that they need to have if they are going to effectively do it. This would give us those statutory authorities and I think anybody who truly believes in local control, who truly believes in people closest to the decisions making the decisions can't object to giving them the power, delegating to them the statutory authority to make those decisions. That is all it does. It is very simple. Anybody who is in favor of that it seems to me has to be in favor of this amendment. That is all I will say on the subject so we can get on to other issues. I would urge you to support this amendment. If you have any questions, I would be pleased to try and answer them. Thank you.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, Senator Warner's father one time said "Politics is like a war. If you stop fighting the other side wins." I feel a little bit that way now and I don't like to get up on everyone of these amendments, but to tell you very frankly, Senator Hoagland says some of the Natural Resource Districts want this. I can tell you also some of them do not want it. If you were to poll them, I believe that those who do not want it would be greater than those who do. There are one or two who have expressed an interest in it but the vast majority have not asked for it. If we debate and advance LB 375, 375 provides for this type of activity as a sort of halfway proposal. It is a tremendous difference than what you are doing here. You are going into a control area. You are reversing the burden of proof. In the past it has always been necessary to provide proof, overwhelming proof, before you get people into a trap, not the other way around. I am not going to talk a long time. I am saying that it is not the consistent method whereby we have always assured people that they would be able to secure a control area. We are saying now that if at some point in time someone says we are going to have a control area the burden of proof is on the other people, who and upon whom. It is surely not the Director. Why would he have to go out and dig up the evidence? It is not in his interest to dig up

May 6, 1981

LB 146

the evidence. There is no other organized opposition in most cases so the necessity for providing for a control area has been that the district which wants it shall provide proof to the director, and upon the provision of that proof, it shall be granted. It is that simple. But you are saying here unless someone comes in from somewhere else. Who? There is not going to be any other organization come forward. The director is not going to develop the evidence against it. It is not his responsibility to do that. He is to listen to the evidence and Senator Hoagland knows that. This is not a courtroom procedure, Senator Hoagland. You are full aware of that. You, as an attorney, are taking advantage of those of us who are not attorneys. You are making it sound very simple. It is not simple at all. You are sucking some people into a trap it is not going to be easy to get out of. Once again I ask you to oppose the amendment.

SPEAKER MARVEL: The question before the House is the adoption of the Hoagland amendment to 146. Senator Hoagland, do you wish to close?

SENATOR HOAGLAND: Yes, I would like to close just very briefly, Mr. Speaker. Now you know all session and last session and the session before we have been hearing over and over again water is the issue we have got to face. Water is the issue we have got to take some action on in the coming session of the Legislature, and now that we are here trying to face the issue, we are told, number one, we don't have enough time to do it, and number two, we don't vote on it. The last roll call vote we had on Senator Vickers' first amendment, which I thought was a good amendment, there were eleven or twelve people that simply didn't vote on the issue at all. Now I am going to ask for a roll call vote on this and I really hope we will vote on the issue, and let me tell you again what it does. It is very simple. It simply shifts the presumption so that a control area will be granted if requested by a Natural Resource District unless there is strong reasons not to request it. If you believe in local control, it seems to me you surely believe in this argument, in this motion. If you believe in doing something about water effectively this session, here is your opportunity because this would be an important favorable amendment to the Ground Water Management Act that would make it work better, that would give the Natural Resource Districts more authority in a realistic way. Now let's back up our promises with some action. Here is an opportunity to do something about water and I say let's do it. Thank you, Mr. Speaker.

May 6, 1981

LR 112, 113
LB 146, 95

SPEAKER MARVEL: The motion is the adoption of the Hoagland amendment to 146. All in favor of that motion vote aye, opposed vote no. Have you all voted? Senator Hoagland.

SENATOR HOAGLAND: In order to save time, why don't I just ask for a Call of the House and a roll call vote now because I think we are going to need one eventually in any event.

SPEAKER MARVEL: Okay, the first issue, shall the House go under Call? All those in favor vote aye, opposed vote no. Record.

CLERK: 18 ayes, 4 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators return to your seats, record your presence. Senator Sieck, will you record your presence please? Senator Newell, will you record your presence please? Senator Barrett, Senator Lowell Johnson, Senator Maresh, please record your presence. Senator Richard Peterson. Senator Hoagland, Senator Cullan and Senator Haberman are excused. Senator Barrett, Senator Lowell Johnson and Senator Warner.

SENATOR HOAGLAND: Why don't we go ahead, Mr. Speaker. It is fine with me.

SPEAKER MARVEL: Okay.

CLERK: (Roll call vote taken. See page 1795, Legislative Journal.) 17 ayes, 25 nays, Mr. President.

SPEAKER MARVEL: Motion lost.

CLERK: Mr. President, I don't believe I have anything further on the bill.

SPEAKER MARVEL: Senator Kilgarin. Senator Wesely, do you want to advance the bill? The motion is the advancement of the bill. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 36 ayes, 0 nays, Mr. President, on the motion to advance the bill.

Mr. President, Senator Cullan would like to print amendments to LB 95 in the Journal.

New study proposals, LR 112 by Senator Haberman calls for a study of the statutory offense of driving while intoxicated and the penalties for first, second and subsequent offenses. LR 113, a study, by Senators Fenger and R. Peterson. The purpose of the study is to examine the administra-

May 11, 1981

LB 548, 11A, 146, 179, 316,
318, 322, 361, 366, 478A
545

vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Have you all voted on the advancement of 548? It takes 25 votes. Record the vote.

CLERK: 27 ayes, 11 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. The Legislature having completed all its work that it is going to complete for today, we are now going to have a little reading in by the Clerk and then we will adjourn.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 11A and find the same correctly engrossed; 146 correctly engrossed; 316, 322, 361, 366, 545, all correctly engrossed, and those are signed by Senator Kilgarin as Chair.

A new A bill, 487A by Senator Wesely. (Title read.)

And finally, Mr. President, Senator Koch would like to print amendments to LB 318; and Senator Dworak would like to print amendments to LB 179.

SENATOR CLARK: Senator Stoney, would you adjourn us until nine o'clock tomorrow morning?

SENATOR STONEY: Mr. President, I would be pleased to. I move that we be in adjournment until May 12th at 9:00 a.m.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. We are adjourned until nine o'clock tomorrow morning.

Edited by:


Mary A. Turner

May 14, 1981

LB 12, 70, 99, 146E

CLERK: (Read the record vote as found on page 2024 of the Legislative Journal.) 9 ayes, 38 nays, Mr. President, on the motion to return the bill.

SPEAKER MARVEL: Motion lost. What's the next item? Okay, read the bill, Mr. Clerk.

CLERK: (Read LB 12 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 12 on Final Reading. Record the vote.

CLERK: (Read the record vote as found on page 2025 of the Legislative Journal.) 44 ayes, 3 nays, 1 present and not voting and 1 excused and not voting, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Next on Final Reading is LB 99. I am sorry, LB 70.

CLERK: Mr. President, LB 70. (Read LB 70 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. LB 70 on Final Reading. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 2025 and 2026 of the Legislative Journal.) 38 ayes....Senator Wiitala changing from yes to no. 39 ayes, 9 nays...10 nays, 2 excused and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next bill is LB 146E....I'm sorry. Okay, the next bill, LB 99.

CLERK: (Read LB 99 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading? Those in favor vote aye, opposed vote no. Record the vote.

CLERK: (Read the record vote as found on pages 2026 and 2027 of the Legislative Journal.) 44 ayes, 1 nay, 2 excused and not voting, 2 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next bill on Final Reading, LB 146E.

CLERK: Mr. President, I have a motion on the desk.

May 14, 1981

LB 146E

SPEAKER MARVEL: Read the motion.

CLERK: Mr. President, Senator Schmit moves to return LB 146 to Select File for a specific amendment. The amendment is Request #2402.

SPEAKER MARVEL: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I apologize for offering to bring this bill back, but I want to offer once more an opportunity for this body to vote on the provisions of LB 243 and I have attempted to remove from the amendment the objections which were expressed on several occasions by persons on this floor. One of the principal objections was that it would be difficult to assess the percentage of the damage or the recreational benefits that would be attributable to recreation. Therefore, I have provided in this amendment that the Natural Resource District Board of Directors would determine that amount of benefit and that it would be considered prima facie evidence in any litigation that would occur as to the amount of benefits that would be developed from recreation. The other point I have added is that in the event...in an area, for example, the urban areas where they need to have additional recreational projects, that the benefits that exceeded 75 percent that the Natural Resource District Board could go to the...come to the Legislature and get approval for the projects which is exactly what the Game and Parks Commission must do if they want to condemn for recreational purposes. I think that this removes the two principal objections and I recognize that there were some validity to those objections and therefore I have tried to meet them and I think that it should perhaps meet all the requirements. I hope that you would accept the amendment and return the bill.

SPEAKER MARVEL: The Chair recognizes Senator Koch.

SENATOR KOCH: A question of Senator Schmit.

SPEAKER MARVEL: Senator Schmit, do you yield?

SENATOR SCHMIT: Yes, I do.

SENATOR KOCH: Senator Schmit, I didn't quite understand your explanation, you ran through it in a hurry, and I still have some reservations. First of all, is this germane in terms of 146 in terms of chapters? And, secondly, would you please explain again how you have brought about an amendment which might be accepted by this body when we have on several...on two other occasions, as you know, not allowed

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

May 14, 1981

LB 146E

don't feel that they are germane and I would ask the Chair to rule.

SPEAKER MARVEL: Senator Schmit, before I make any comments, do you have any comments to Senator Sieck's question? If you do, I would appreciate hearing them.

SENATOR SCHMIT: Mr. President and members of the Legislature, we have researched the bill. The bill deals with Natural Resource District responsibilities. It deals with the problems that they have with reference to their carrying out those duties. A part of the responsibility includes, of course, in this instance an acquisition of property. Therefore, I feel it is germane.

SPEAKER MARVEL: You've got two bills....you have two bills that deal with water which some then would declare to make the combination germane, but you have in LB 146, those of you who are interested in following this and want to make comments later, you turn to the first page of LB 146 and we are talking about sections 46-146, 46-609, 46-656, 46-674. In LB 243 you are talking about section 2-3234. If you will check the discussion that we have had in this area of germaneness over the last at least three years you will find that this particular Chair has gone by the section numbers as one method of measurement, and, therefore, the Chair will rule that the two bills are not germane. Okay, that Schmit's amendment is not germane. Now, Senator Schmit, do you wish the floor?

SENATOR SCHMIT: Yes, Mr. President, I would respectfully challenge the decision of the Chair and hope that we would not take a lot of time on it.

SPEAKER MARVEL: Okay, the motion that you would be speaking to and finally voting on is posed by the question, shall the Chair be overruled? In this case it takes a majority of those present which is 24 to overrule the Chair. The motion is debatable. It is debatable. Okay, the first name is Senator DeCamp. Senator Haberman, do you wish to be recognized?

SENATOR HABERMAN: Mr. President and members of the Legislature, I ask that you think real seriously at this late date and with time running out as it is, to vote to overrule the Chair. We have been sustaining the Chair, and in this case this is obviously a ploy to a bill that has been twice... has not advanced. There is no emergency that it can't come up next year. I do not like tactics like this. I think the Chair has made a good ruling. And once we start overriding

May 14, 1981

LB 146E

the Chair on issues such as this, we will have more problems and more of our time will be eroded away. If the Chair is overridden, it is my intention and I have never done this before and I don't want to do it, to add amendments. I know other Senators will add amendments and we will use up hours and hours and hours on this one issue. So I feel and I ask you to not support the issue to override the Chair. Thank you, Mr. President.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would like to just briefly concur with Senator Haberman's remarks. As Senator Haberman indicated, we have extensively debated this bill twice on General File and it has failed to advance. Now with respect to the correctness of the Speaker's ruling, Chapter 2 of LB 243 that Senator Schmit is attempting to add by way of an amendment deals with the eminent domain powers of Natural Resource Districts, while LB 146 which is up on Final Reading today contains three or four desirable and important amendments to the Groundwater Management Act. The subjects are very different. I think there is constitutional problem of having duplicate...dealing with two separate subjects as well as the germaneness problem pointed out by the Speaker. I think if we allow this to happen on this particular bill, we are going to see a lot of other attempts to bump bills from General File up to Final Reading in the remaining ten days of this session, and it indeed would set a very bad precedent for our remaining deliberations. So I would encourage that the Chair be supported on this particular vote. Thank you.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, we could debate the issue a long while. I do not wish to do that. For a long while we have always known the facts that Natural Resource District legislation dealt with two chapters, Chapter 2, Chapter 46, but I have told you when I started this, I did not want to engage in lengthy debate. I do not necessarily appreciate but I do I suppose have to somewhat back away from the threat of the powerful Senator from Imperial, Nebraska, who has threatened to tie up the Legislature for the balance of nine days, and I think that in view of that intimidation this farmer from Butler County will ask, Mr. President, to withdraw the motion to override the Chair. I hope that in the future that other Senators will also understand, because if we are going to do this, you know, we are all done for the rest of the session. I did not want to engage in lengthy debate. There used to be

May 14, 1981

LB 146E

a little courtesy in this body and we used to consider those things on their merits and not use that type of threat, Senator Haberman, but since you choose to do it, I am not going to penalize this entire body. Thank you.

SPEAKER MARVEL: Senator Chambers, for what purpose do you rise?

SENATOR CHAMBERS: Mr. Chairman, I think in the same way that Senator DeCamp attempted to withdraw when the issue of germaneness came up and he was not allowed to do so, I want this issue resolved because I see a point that bears directly on the issue and I wish Senator Schmit would withdraw his attempt to withdraw. I think the issue is a very real one. I think it is alive and there might be a point on this issue that is somewhat different than the others. And I am against this bill.

SPEAKER MARVEL: Senator Chambers, Senator Schmit has a right or a privilege, if you want to put it that way, to withdraw his own bill....his own motion.

SENATOR CHAMBERS: (Microphone not on)....okay, go ahead.

SPEAKER MARVEL: All right. Okay, the Clerk will read on Final Reading 146E.

ASSISTANT CLERK: (Read LB 146E on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading with the emergency clause attached? LB 146E. Those in favor vote aye, opposed vote no. Have you all voted? Clerk, record the vote.

ASSISTANT CLERK: (Read the record vote as found on pages 2029 and 2030 of the Legislative Journal.) The vote is 44 ayes, 0 nays, 2 excused and not voting....Senator Newell voting aye. The vote is 45 ayes, 0 nays, 2 excused and not voting, 2 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading.

CLERK: Mr. President, I have some material to read in. First of all, Mr. President, Senator Warner would like to have the meeting of the Appropriations Committee at 1:00 p.m. in Room 1003 to consider the report required pursuant to the Governor's vetoes and pursuant to Rule 6, Section 14.

May 14, 1981

LB 3, 11, 11A, 12, 70, 99, 146,
184, 228, 250, 266, 266A, 296,
296A, 310, 328, 328A, 361,
366, 369, 376, 561

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 184 and recommend that same be placed on Select File with amendments; LB 376 placed on Select File with amendments. Those are both signed by Senator Kilgarin as Chair.

Mr. President, LBs. 3, 11, 11A, 12, 70, 99, 146, 228, 250, 266, 266A, 296, 296A, 310, 328, 328A, 361, 366, and 369 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 3, LB 11, LB 11A, LB 12, LB 70, LB 99, LB 146, LB 288, LB 250, LB 266, LB 266A, LB 296, LB 296A, LB 310, LB 328, LB 328A, LB 361, LB 366, LB 369. Okay, if we may have your attention, the first item will be from the Clerk's desk and the second item will be Senator Warner's. So, Mr. Clerk.

CLERK: Mr. President, I have a letter addressed to the membership from Senator Warner who is Chairman of the Appropriations Committee. (Read. See pages 2052 and 2053, Legislative Journal. Re: Line item vetoes of LB 561.)

SPEAKER MARVEL: Senator Warner, you are recognized to comment on the letter just read.

SENATOR WARNER: All right, Mr. President, again under the provision of the rule, the Appropriations Committee is to make such report, and as the report indicates, there was one item which the majority of the committee did support to offer a motion for override which at the time which will be designated by the Senator representing the majority of the committee's position on that issue. The other portion I might just go through briefly with you is the second and third page which is to give you for your information. Page two that is an analysis of the Governor's line item vetoes points out those vetoes that occurred relative to committee recommendations and it shows what the collective floor amendments were, and the last group indicates the vetoes that were relative to the floor amendments and shows the total dollar amount then of \$728 million to \$74,747 that would remain under the Governor's veto as the legislation now stands. If you look at page 3, headed Financial Status Summary, it is similar to what is on the back of the agenda but in a slightly different form. Above the line at the top it shows again the original committee level of recommendation in those bills. The next shows the allocation for A bills that was originally recommended, that subtotal, and then it shows the amount that was

May 18, 1981

LR 185
LB 70, 99, 134, 146, 250,
404, 466, 497, 543.

SENATOR SCHMIT: Mr. President, I move the bill be readvanced to Final Reading.

PRESIDENT: Motion to readvance to Final Reading. All those in favor signify by saying aye. Opposed nay. The bill is advanced to Final Reading and we are on Final Reading on LB 543, Mr. Clerk.

CLERK: (Read LB 543 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 543 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 2071 of the Legislative Journal.) 40 ayes, 4 nays, 5 present and not voting, Mr. President.

PRESIDENT: LB 543 passes with the emergency clause attached. The Chair recognizes Speaker Marvel since it's noon, high noon.

SPEAKER MARVEL: Well, I have got some figures here but I will wait until after lunch and I move that we recess until about 1:20.

PRESIDENT: All right. The Clerk has some matters to read in real quickly and then I will call that motion.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 466 and find the same correctly engrossed. (See page 2072 of the Legislative Journal.)

Communication from the Governor addressed to the Clerk regarding LB 70, 99, 146 and 250. (See page 2072 of the Legislative Journal.)

Mr. President, I have a Reference Report referring a gubernatorial appointment to the Public Health and Welfare Committee for confirmation hearing. (See page 2071 of the Legislative Journal.)

Mr. President, new resolution, LR 185, offered by the Speaker. (Read LR 185 as found on page 2073 of the Legislative Journal.)

Mr. President, Senator DeCamp would like to print amendments to LB 497; Senator DeCamp to 134; and Senator Warner to 404. (See pages 2073 and 2074 of the Journal.) That is all that I have.