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Natural Resources Committee
February 05, 2010

[LB1057 LB1076]

The Committee on Natural Resources met at 1:30 p.m. on Friday, February 5, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1057 and LB1076. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: none. []

SENATOR LANGEMEIER: Welcome to the Natural Resources Committee. My name is Chris Langemeier, I'm the Chairman of the committee. I'd like to...before we start, I'd like to start by introducing our committee members that are here with us today and we have one that will be joining us. We have Senator Beau McCoy, who will be here shortly, from Elkhorn, the Omaha area. We have Senator Ken Schilz...excuse me, jumping over, Senator Ken Haar from Malcolm, Nebraska. Then we have Senator Ken Schilz from Ogallala, Nebraska. Then we have the Vice Chair of the committee, Senator Annette Dubas from Fullerton, Nebraska. We have Laurie Lage as the legal counsel for the committee. To my right we have Senator Deb Fischer from Valentine, Nebraska. To her right, we have Senator Tom Carlson who is...brought us to one of these bills today, from Holdrege, Nebraska. And then we have Senator Tanya Cook from Omaha, Nebraska, and then we have Barb Koehlmoos that sits at the end of the table. We have two pages that are helping in the Natural Resources Committee throughout this year. We have Tony Pastrana from Colorado who is a freshman at Union College and we have Kiana Mathew who is from Omaha, Nebraska and is a sophomore at UNL. As come up today to testify, in the corners of the room you will find a couple different sheets. First one you'll find is a green one that looks like this. If you come up and plan to testify, we ask that you fill this out and as you come up, would you present it to the committee clerk so we can help with keeping an accurate record of today's hearings. You'll find in the corner of the room, it's kind of a spreadsheet looking form. If you'd like to have on record that you are here but you don't plan to testify, we ask that you put your name and information on here and the bill number that you're here for and whether you support or oppose and you'll go in the record as having expressed your opinion if you don't care to testify. When you come up to the table, we ask that you first state and spell your name for the record, no matter how simple it is, or complex, please state it and spell it. We appreciate it; it helps us with keeping of the record. At this time we'd ask that you turn your cell phones off so we don't disrupt those that care to have their testimony heard today. We also at this time, if you have copies of anything you want to hand out, we ask that you have 12 copies. If you know right now you don't have 12 copies, raise your hand and one of our pages will come assist you with that. If you hand something to the committee, we are going to keep it and it keep it of record. So if it's something you want back, don't hand it to us, because we will keep it and make it a part of the record. Just hold it at the counter and if a particular senator would like to see it in more detail afterwards, they'll make arrangements to do that. At this time the Natural Resources Committee is using the light system for our hearings. Each testifier will be given five

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minutes to testify. You'll have a green light when you start; it will remain green for four minutes. It will go yellow for a minute and then when the red light comes on, please conclude and allow yourself available for questions. With that, we will start the hearings on...with Senator Carlson's bill, LB1057. Welcome. []

SENATOR CARLSON: Thank you. Senator Langemeier and members of the Natural Resources Committee, I am Tom Carlson, C-a-r-l-s-o-n, here to introduce LB1057. This bill would create the Republican River Basin Water Sustainability Task Force. It's one of four bills related to water that I have introduced this session. My reference to the effectiveness of a task force is based on the work of the Vegetation Task Force through LB701 which was passed in 2007. The group has met for two years and a great deal has been accomplished towards restoring the river streambeds to what they used to be. Environmental and sportsman groups are happy with the results. The carrying capacity of the stream has greatly improved and the removal of vegetation has saved significant amounts of water. One of the positive outcomes of the task force was the movement of several members from negative attitudes about possible unwanted consequences of the work of the task force to total and complete support of the results accomplished. Opponents became vocal proponents. The results encouraged you to authorize continuation of the work for four more years through the passage of LB98 last session. LB1057 is designed to bring interested stakeholders to the table. The members to be appointed by the governor include: eight NRD members from the basin from the four NRDs, four representatives from the irrigation districts in the basin, two representatives each from the DNR, the University of Nebraska, two to represent all the school districts, two to represent all the cities, two to represent all the counties and two to represent associated agricultural businesses. In addition, there would be one representative each from Game and Parks, public power and the Department of Agriculture. Legislative representatives would include two members who reside in the basin, appointed by the chair of the Executive Board and the chair of the Natural Resources Committee. Any other members of the Legislature may serve at his or her option. With the exception of some senators, DNR, University of Nebraska, and the Department of Agriculture, all other members would be from the Republican Basin. The Department of Natural Resources shall house the administrative and budgetary function of the task force. I strongly believe the task force will positively supplement the work of the Nebraska Republican River Management District Association. It will educate the other stakeholders in the basin whose futures rely heavily on the availability of adequate irrigation water for increased production in future years. It will bring in expertise from the University of Nebraska, from the Department of Natural Resources and the Department of Agriculture. It will encourage open discussions on the challenges facing the NRDs and irrigation districts of the Republican Basin. The task force itself will hire a facilitator for the quarterly meetings. The task force will also elect a chair, vice chair and secretary to conduct business. It will also create and adopt procedural rules to aid in the orderly conduct of all meetings. The purposes of the task force are (1) define water sustainability for the Republican Basin; (2) develop a plan for water sustainability; and

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(3) develop a plan to avoid the water-short year. The task force shall submit two yearly reports to the Governor and the work will terminate on June 30, 2012, unless the Legislature chooses to authorize an extension. The bill also carries the emergency clause. That's my introduction to LB1057. I'd be happy to answer any questions. [LB1057]

SENATOR LANGEMEIER: Are there any questions for Senator Carlson? Senator Dubas. [LB1057]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Senator Carlson. You talked about your vegetative management task force and how successful it was. Why do you think that and I know that it was, why do you think it was so successful? [LB1057]

SENATOR CARLSON: I think for a couple of reasons. First of all, it also had the emergency clause and there was a sense of urgency and the task force was appointed. We had a meeting within 30 days and went to work. And then the meetings were conducted on a basis of positive input and discussion and moving forward and everyone that was a member committed themselves to serving and being there and all that worked together to make it very successful. [LB1057]

SENATOR DUBAS: What do you think would set this proposed task force that you're submitting to us today, what makes it different, maybe, than some of the past groups, working groups, task forces we've had to look at the issues in the Republican River? [LB1057]

SENATOR CARLSON: I can't really comment on past task forces, having not been a part of it. But, again, I can just recall on how we proceeded with the Vegetation Task Force. For whatever impact and influence that I can have, we're going to proceed the same way and we won't sit still; we will discuss and we will get things done. [LB1057]

SENATOR DUBAS: You're having representation from the schools, the cities, the counties, I think maybe there's a couple other in there that maybe haven't necessarily been involved in the past, I mean I know when we're talking about Republican River water issues, we're first and foremost thinking about the producers in that area and how the things are going to impact them and that's definitely going to have some detrimental affects on them, but the indirect impacts to the school districts, to the cities, to the communities, to the counties, that has to be part of the discussion too. Is that why you chose to include them to be members of the task force? [LB1057]

SENATOR CARLSON: Well they are, I'm going to say major stakeholders in what happens in the Republican Basin and if we end up in a water-short year, there are devastating affects that impact people even more than they can imagine. And I think

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bringing them into the discussion, they very likely will have some suggestions that are good suggestions as a part of the solution, but it's also going to educate them on what the problem is. And again, we turn...we may turn people that might be opponents into proponents in that they understand a little better there's a task that needs to be done; what can I do to help and let's get it done. [LB1057]

SENATOR DUBAS: Thank you. [LB1057]

SENATOR LANGEMEIER: Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Senator Carlson, for bringing the bill. Can you refresh my memory and tell me how large the Water Policy Task Force was? Do you remember that? [LB1057]

SENATOR CARLSON: I don't really know, but the number 49 sticks in my mind and I think that's... [LB1057]

SENATOR FISCHER: It was forty-something, I believe. One of the complaints I've heard about that group was that it was too big. You went through and listed all the members on this task force that you would like to create. Do you think it's too big? [LB1057]

SENATOR CARLSON: I'm open to an adjustment if necessary. I think that, by and large, we feel like the NRDs represent the groundwater irrigators, which they do, but they're not necessarily groundwater irrigators. They can be on an NRD and not be a groundwater irrigator. They can be a member of a board in an irrigation district and not be a surface water irrigator. So to give those two elements the numbers that I did, I just want them well represented. And if it would be helpful to adjust the number, I'm not opposed to that. The Vegetation Task Force had 25 people on it, I believe, and there's 27 people on this, not counting the senators. So it's a little bit different, but not a lot. [LB1057]

SENATOR FISCHER: Okay. When you went through the purposes for the task force, you had that it was to define the sustainability for the Republican Basin; did I hear that correctly? [LB1057]

SENATOR CARLSON: Water sustainability. [LB1057]

SENATOR FISCHER: Water sustainability. You and I always talk about that definition, don't we? [LB1057]

SENATOR CARLSON: Yes we do. [LB1057]

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SENATOR FISCHER: Yes, we do. Are we...it's not listed as such, though, in your bill to...that I'm reading it, that the task force would be offering a definition for sustainability. Is that your intent that that is a major purpose of the task force? Do we need to spell that out more in order to achieve that goal... [LB1057]

SENATOR CARLSON: Again... [LB1057]

SENATOR FISCHER: ..or do you like it the way it is written? [LB1057]

SENATOR CARLSON: Not necessarily; I'm open to suggestion. And, certainly, if we're going to develop a plan for water sustainability, first of all we have to know what water sustainability is. So it would make sense that that would be specifically mentioned in there. [LB1057]

SENATOR FISCHER: Okay. Thank you very much. And thank you again for bringing the bill. [LB1057]

SENATOR LANGEMEIER: Senator Haar. [LB1057]

SENATOR HAAR: Yeah, Senator Carlson, I'm always in favor of getting people together to generate ideas and so on, and that's really your purpose, right? To generate ideas that eventually could be turned into legislation. [LB1057]

SENATOR CARLSON: I'm going to say yes. And in saying yes, I don't want to give the impression that the NRDs and the irrigation districts don't have ideas. [LB1057]

SENATOR HAAR: Sure. [LB1057]

SENATOR CARLSON: But when we have challenges, and when we face the possibility of the dreaded water-short year, then I just think it's an important idea to get people together to discuss what solutions might be. And honestly, I'm more interested in long-term water sustainability than I am in compliance with Kansas on the compact. I think if we reach a point of long-term water sustainability, we will be in compliance. And then we, hopefully, we're in a position so that we're going to have adequate water for the irrigation purposes for years and years and years into the future for our kids and grandkids. [LB1057]

SENATOR HAAR: Thank you. [LB1057]

SENATOR CARLSON: So if we can't talk about something, I don't think we can make much progress. [LB1057]

SENATOR LANGEMEIER: Senator Carlson, I have a couple of questions. You know,

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as we've started into this session and we hear this death by fiscal note and we've heard a lot of terminology like that this year, how did you come up with the \$25,000 to be your maximum amount for this task force to spend? [LB1057]

SENATOR CARLSON: Twenty-five thousand a year. [LB1057]

SENATOR LANGEMEIER: Right. How did you come up with that number? [LB1057]

SENATOR CARLSON: Well part of the process is to hire a facilitator so that's an estimate of what that might be, as well as some expense money for the meetings to be conducted. [LB1057]

SENATOR LANGEMEIER: Okay. Because the Water Policy Task Force was spending about \$160,000 a year. So... [LB1057]

SENATOR CARLSON: I don't think we need to spend that kind of money. [LB1057]

SENATOR LANGEMEIER: Okay. Any other questions? Seeing none, thank you very much for your introduction. [LB1057]

SENATOR CARLSON: Thank you. [LB1057]

SENATOR LANGEMEIER: You have heard the opening on LB1057. We'll now take proponents of LB1057. Those in favor, come on up. Welcome. [LB1057]

MIKE CLEMENTS: (Exhibit 1) Thank you. Senator Langemeier and members of the Natural Resources Committee, my name is Mike Clements, M-i-k-e C-l-e-m-e-n-t-s, general manager of the Lower Republic NRD and I'm here today to testify on behalf of our board. First of all, I'd like to thank Senator Carlson for bringing this bill forward. I know that he referenced the Riparian Vegetarian Task Force and as a member of that task force, I can tell you that I've been involved with it for going on three years now and I've gotten to see firsthand the positive results that can happen when you get a bunch of interested stakeholders together that are working for a common goal. I know that...you'll talk to different people...you can talk to ten different people and get ten different ideas as far as whether or not a task force is a good idea. They all are not successful. I applaud the senator's efforts in trying to bring the interested stakeholders to one table. I think it's an excellent move in the right direction. I know that it's been mentioned that it might be some duplication. There's already an organization in the Republican Basin, the Nebraska Republican River Management District's Association; that's a mouthful. I believe it was started back in July of 2000. And essentially, that's made up of the irrigation districts and the four NRDs. And in addition to that, that organization, and we meet quarterly. In addition, we do have some advisory members. I think in most recent years, primarily, it's just come from the public power districts and the Bureau of

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Reclamation has been involved as an advisory member. I think that the difference is that these advisory members in this association do not have voting representation, whereas the task force that Senator Carlson is recommending, there is voting representation from all the members, quite obviously. So that's, I guess that's my position on are we duplicating an existing organization. I really don't think so. In closing, I guess I would just like to say that our number one concern in the short term, as far as the Lower Republican NRD is concerned, is compliance with the compact. But long term, I think we need to take a look at long-term sustainability of the entire basin and I think that it's always helpful if you can get ideas from other key players, from other stakeholders; maybe we don't have all the answers, you know. And I don't think it would hurt that if this group could make recommendations. They're not going to be setting policy; they're going to make recommendations. And they've got a time frame in which to do that; and I think that's a good driving factor. It can be up to the Governor or the Legislature if they want those put into law or up to the NRDs if we just want to implement the recommendations in our rules and regulations or as part of our policy. So let's keep our options open. That's really all I have to say. I appreciate the time to speak and I'll be glad to answer any questions. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Dubas. [LB1057]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Clements. This Nebraska Republican River Management District Association, how did it come into being; where did it get its authority? [LB1057]

MIKE CLEMENTS: It was formed, I believe, back in July of 2000 and it kind of took off from where the...there was a group prior to that that was the Governor's, I believe it was the Republican River Governor's Council. And that group had kind of disband and at the time we felt that this would be a good opportunity to keep the interested parties together at a table, meeting quarterly, and so in essence we've got three irrigation districts and four NRDs that are a part of this organization. [LB1057]

SENATOR DUBAS: Do you have any statutory responsibilities with this group? [LB1057]

MIKE CLEMENTS: We've got...I don't believe so. We've got bylaws and that, but I don't believe there's any statutory responsibilities. [LB1057]

SENATOR DUBAS: So you aren't making any reports necessarily to the Legislature or the state in any way; DNR, anything like that? [LB1057]

MIKE CLEMENTS: No, DNR does, they do participate at the meetings. They come and we'll give reports and we exchange information, but no. [LB1057]

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SENATOR DUBAS: So what's the attendance like at these meetings? [LB1057]

MIKE CLEMENTS: Well, for the most part, it's usually just the four NRDs and the three irrigation districts. Once in a while there will be some other members there. Like I said, the bureau is pretty good about coming to the meetings, DNR comes to some of the meetings, Attorney General's Office occasionally. But it's usually...it's primarily the NRDs and the irrigation districts and we'll each give a brief report and then we'll talk about any pertinent issues that we might have. [LB1057]

SENATOR DUBAS: Okay. Thank you. [LB1057]

MIKE CLEMENTS: Sure. [LB1057]

SENATOR LANGEMEIER: Senator McCoy. [LB1057]

SENATOR McCOY: Thank you, Chairman Langemeier and thank you Mr. Clements. If I could follow up on kind of a further question to Senator Dubas, so what you just said, those Bureau of Reclamation, those under the NRRMDA, those would be advisory... [LB1057]

MIKE CLEMENTS: Right. [LB1057]

SENATOR McCOY: ...members then? Okay. [LB1057]

MIKE CLEMENTS: That's correct. [LB1057]

SENATOR McCOY: The folks you just mentioned, Bureau of Reclamation, all those other folks that show up are all considered advisory members? [LB1057]

MIKE CLEMENTS: Advisory members. [LB1057]

SENATOR McCOY: Okay. Thank you. [LB1057]

SENATOR LANGEMEIER: Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. There are four NRDs in the basin, is that correct? [LB1057]

MIKE CLEMENTS: That is correct. [LB1057]

SENATOR FISCHER: How many irrigation districts? Three, would you say? [LB1057]

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MIKE CLEMENTS: Yeah, as members of the association, we've got Frenchman-Cambridge, Frenchman Valley and then there's...let's see, excuse me, Frenchman-Cambridge, Bostwick and then there's Frenchman Valley and H&RW which are combined as one voting representative. [LB1057]

SENATOR FISCHER: Are there other irrigation districts in the basin that aren't in this group? [LB1057]

MIKE CLEMENTS: I believe there's a couple of other smaller ones that have like natural flow rights like Riverside comes to mind. [LB1057]

SENATOR FISCHER: Why aren't they included? [LB1057]

MIKE CLEMENTS: I...you know, to be honest with you, I can't tell you. [LB1057]

SENATOR FISCHER: Can you...it sounds to me that the group you were describing, the Nebraska Republican River Management Districts Association, that's...it sounds like it was just a group that formed on its own. Am I correct or incorrect on that? [LB1057]

MIKE CLEMENTS: Well, that was formed before I started, so I can't really...I wasn't a part of that process, but...so I probably should not comment on that. [LB1057]

SENATOR FISCHER: Do you do good work? [LB1057]

MIKE CLEMENTS: Oh I think they do, you know, I'm not here by any means to... [LB1057]

SENATOR FISCHER: Now wait a minute here, Mr. Clements, you said: I think they do. Are you involved with the group? [LB1057]

MIKE CLEMENTS: Absolutely. I think the group does. [LB1057]

SENATOR FISCHER: So we... [LB1057]

MIKE CLEMENTS: We do. [LB1057]

SENATOR FISCHER: What have you done? What...why do we need this new group if you have a group now in the basin that's doing good work? [LB1057]

MIKE CLEMENTS: Well, like I said, I think that our group does do good work. I guess our...my biggest concern would be the fact that it...our group has primarily just been the NRDs and the irrigation districts and that's why we're taking a look at the senator's bill because it's bringing in some more stakeholders. That's the main difference. [LB1057]

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SENATOR FISCHER: Could the group that currently exists bring in more stakeholders? Can you accomplish this with the current group you have by enlarging the people that are invited to participate without having to have this bill passed? [LB1057]

MIKE CLEMENTS: I think you probably could. I think the difference would be getting them to the table and also with a task force with a time line that you've got with getting the report out, that would be, maybe, some of my concerns. [LB1057]

SENATOR FISCHER: Okay. Thank you. [LB1057]

MIKE CLEMENTS: You're welcome. [LB1057]

SENATOR LANGEMEIER: Senator Haar. [LB1057]

SENATOR HAAR: I know there are a million different definitions for sustainability, but what are you looking for in this, just real briefly, in terms of sustainability? [LB1057]

MIKE CLEMENTS: I think, you know, real briefly, if you, like I said, you can talk to a hundred different people and probably get a hundred different definitions, but I look at it myself as just making sure that we've got a viable water supply that's going to be available for future generations to use. [LB1057]

SENATOR HAAR: Thank you. I appreciate that. [LB1057]

SENATOR LANGEMEIER: Mr. Clements, I have a couple of questions. You...and to follow up on Senator Fischer's question about you can...so you can add more people to your group, your group does good things, you probably could have a meeting and set your own deadline. You talked about voting and that's...you know, I've read this bill several times and you talked about your group doesn't...can't vote... [LB1057]

MIKE CLEMENTS: The advisory members don't have a voting. [LB1057]

SENATOR LANGEMEIER: ...and this could vote. [LB1057]

MIKE CLEMENTS: That's correct. [LB1057]

SENATOR LANGEMEIER: I'm not sure what you're voting on. Tell me what you think you're voting on. [LB1057]

MIKE CLEMENTS: I think you're voting on recommendations. My experience with task forces is you're going to have a thumbs up or thumbs down, some type of either support or opposition to what's being proposed. [LB1057]

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SENATOR LANGEMEIER: But couldn't you take a straw vote with the group you have? I mean, couldn't you sit around the table, I mean, this isn't coffee shop talk, I mean, you sit around the table, couldn't you say, you know, here's an idea, what do you all think about it? [LB1057]

MIKE CLEMENTS: Oh, absolutely, absolutely. [LB1057]

SENATOR LANGEMEIER: Okay, okay. Are there any other questions? Seeing none, thank you very much. Very good. [LB1057]

MIKE CLEMENTS: Thank you for the time. [LB1057]

SENATOR LANGEMEIER: Further testimony in support of LB1057? Come on up. Welcome. . [LB1057]

BRAD EDGERTON: Thank you. [LB1057]

SENATOR LANGEMEIER: You made it through the snow. [LB1057]

BRAD EDGERTON: I did. Mr. Chairman and members of the Natural Resources Committee, my name is Brad Edgerton, B-r-a-d E-d-g-e-r-t-o-n. I'm the manager of Frenchman-Cambridge Irrigation District which is located in the Republican River Basin. I serve on the board of directors for the Nebraska Water Resource Association and represent the Republican River Basin. I also serve on the Nebraska State Irrigation Association and on behalf of Nebraska Water Resources Association and the Nebraska State Irrigation Association I'm here to offer testimony in support of LB1057. We believe the task force assembled for the purposes outlined in LB1057 will be a great asset, not only for the Governor, but also for the legislative body. The membership list has been well thought out and will allow a diverse perspective on issues outlined in LB1057. So on behalf of the NWRA and the NSIA, I would ask that you advance LB1057. Thank you. [LB1057]

SENATOR LANGEMEIER: Very well done. Are there any questions? Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. Glad you made it down today; thank you. Do you feel left out in... [LB1057]

SENATOR COOK: (chuckle) [LB1057]

SENATOR FISHER: Now... [LB1057]

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SENATOR COOK: Sorry. [LB1057]

SENATOR FISCHER: ...just calm down a minute. [LB1057]

SENATOR COOK: I know, we talk about our feelings so rarely in this committee.
(Laughter) I'm sorry, it's Friday. [LB1057]

SENATOR FISCHER: Now just a minute...Senator Cook, I am a loving parent....come on. [LB1057]

SENATOR COOK: I know you are, Senator Fischer. I need some water. [LB1057]

SENATOR FISCHER: Thank you for putting up with us here...what I'm trying to get at is, do you feel that your input is being considered in groups that currently exist? That your view is being represented? [LB1057]

BRAD EDGERTON: Well we can express our views, but on this other group, you know, the surface water is outvoted 4 to 3 pretty much on every issue that we may have. [LB1057]

SENATOR FISCHER: Would the makeup of this task force change that? I mean, I just...I see this pitted groundwater against surface water and how are we going to truly ever fix that unless we can get you five votes and get them five votes and then you just duke it out? I mean, you know, really, what do you want us to do? [LB1057]

BRAD EDGERTON: I don't see this task force as voting one way or the other. It's more of just an assembly of ideas and basically trying to pursue those ideas in either direction that they take us, so. [LB1057]

SENATOR FISCHER: But you don't think you can do that currently? [LB1057]

BRAD EDGERTON: Um...we have been expressing our ideas for a long time in the Republican River Basin and pretty much go unheard, so. Yes. [LB1057]

SENATOR FISCHER: Okay. Thank you. [LB1057]

SENATOR LANGEMEIER: Are there other questions? Seeing none, thank you very much. You did a great job. Further testimony in support of LB1057. Welcome. [LB1057]

STEVE NELSON: Good afternoon, Senator Langemeier and members of the Natural Resources Committee. My name is Steve Nelson, S-t-e-v-e N-e-l-s-o-n, and I'm a farmer from Axtell. I currently serve as first vice president of Nebraska Farm Bureau Federation and I'm here today on behalf of Nebraska Farm Bureau. I would also note

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that I farm both in the Tri-Basin NRD and in the Lower Republican NRD. Farm Bureau policy concerning the Republican River Compact encourages the Department of Natural Resources and NRDs in the basin to work cooperatively and collaboratively on a plan to comply with the compact. The policy statement also speaks to seeking a full understanding by all parties of the technical issues regarding compact compliance as a must for sound management decisions. I mention these policy statements because it is our...in our conversations with Senator Carlson, we believe the intent of LB1057 fits within the spirit of these policy statements. As we understand it, Senator Carlson's intent in creating the task force is to collaboratively develop a plan for the purposes spelled out in the bill. Irrigators in the Republican Basin are frustrated and have been told repeatedly that everyone should sit down and figure out a long-term plan for compact compliance. LB1057, by creating a task force in the basin, attempts to do that. It represents an opportunity for the interests in the basin to sit down and work collectively towards a solution. We've shared our concerns with Senator Carlson related to the task force size and that it may be too large. In our minds, we would limit the task force to those entities directly responsible for water regulation or management in the basin such as the NRDs, DNR, irrigation districts, federal agencies, and the Attorney General's Office. These interests, who best understand the underlying hydrologic condition within the basin, could develop a plan that makes sense from a water management perspective. Such a plan could then be shared with other parties in the basin through public meetings or hearings which then could weigh in on the economic and social aspects of the plan. For these reasons, Nebraska Farm Bureau supports LB1057. Thank you for the opportunity to provide these comments on the bill and I'd like to answer any questions that you have. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Dubas. [LB1057]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Nelson. In your view, what differentiates this task force that we're looking at in the bill and then just like a group such as the Republican River Management District Association; what's the difference there? [LB1057]

STEVE NELSON: Well I think there...part of it is the...that there's a deadline in the bill that the report needs to happen at a certain time. I think the other factor is that...or a big factor is that...is that there is a facilitator there to help facilitate the discussion, for the lack of a better word. I think that, and this may be more my opinion than a scientific analysis of the situation, but I believe that the water issues in the basin can be resolved in an equitable and fair way. It's not going to be something that everybody likes. It may be...the solutions may be something that, essentially, no one likes, but it could still be equitable and fair and good for the economics of the basin and for the state. And I think that this group can do that with the help of the facilitator to...and I really think it's more than just sit down and talk about ideas. I think that's a great thing, and as we all know,

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that typically when you...when a group sits down to talk about anything that no one person may have the answer, but between the people in the group, parts of the solution are there and can come together. I think that that's what needs to happen; that we need to move past just talking about what I think the solution might be for my particular area or what I think might be a good solution for everybody, but for everybody to be in the room and lay out all the areas that need to be resolved and hash them out and get to a solution. That's really what we need in order to meet compact compliance, in order to avoid the worst case scenarios of severe regulation that we've talked about before and in order to maintain the economic viability of the basin. That's maybe more than you...I hope I answered your question. [LB1057]

SENATOR DUBAS: No, that's fine. No, that's fine. You know, our human nature, we're going to protect our turf, you know. [LB1057]

STEVE NELSON: Sure. [LB1057]

SENATOR DUBAS: So if something is coming after me as an irrigated farmer, I'm...you know, my back is going to get up about it. As a resident of this area that we're talking about, do you feel there's a general understanding across the board of all of the issues that are being...of all of the ways that this particular area of the state is being impacted by water issues? [LB1057]

STEVE NELSON: Well I think there is a general understanding of the potential negative impacts that are out there. We've already dealt with some of them with the regulation that we have now. And I think from a farmer and irrigator's perspective, we've done a good job at that. But where we are now and where we could end up, if we don't find the solutions, is a lot worse than what we have now and, you know, I think there's ample time for this committee to work and to find these solutions, but there isn't unlimited time. We have to have compliance with the compact and so it...this needs to happen. [LB1057]

SENATOR DUBAS: Thank you. [LB1057]

STEVE NELSON: Um-hum. [LB1057]

SENATOR LANGEMEIER: Senator Fischer. [LB1057]

SENATOR FISCHER: No. [LB1057]

SENATOR LANGEMEIER: Oh. Senator Haar. [LB1057]

SENATOR HAAR: To educate me again, what...who are the current members of the NRRMDA? [LB1057]

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STEVE NELSON: Well I'm not...I'm probably not the best one to answer that. [LB1057]

SENATOR HAAR: Okay. [LB1057]

STEVE NELSON: As it's been stated by others ahead of me, it's primarily the NRDs and the irrigation districts. [LB1057]

SENATOR HAAR: Okay. And this expands that membership? [LB1057]

STEVE NELSON: Well that's the proposal. And as I said in my comments, I'm not sure that it needs to be expanded to that complete extent, but I think that, again, what this proposal does is it puts a time line on it or a deadline, so to speak, and it has a facilitator there to coordinate the discussion. [LB1057]

SENATOR LANGEMEIER: Mr. Nelson. [LB1057]

STEVE NELSON: Yes. [LB1057]

SENATOR LANGEMEIER: I have a couple of questions. In your testimony you talked about the task force might be too large, and you also talked about that you might want to change the makeup of it to make it more membership from DNR, Attorney General's Office, the NRDs themselves; did I understand that right? [LB1057]

STEVE NELSON: Well, maybe not quite. I guess my thought is that we would have similar representation to what Senator Carlson talks about from each of the NRDs and from all of the irrigation districts and...but then to...and DNR, then include the Attorney General's Office and I think the federal agencies, Bureau of Reclamation, Corps of Engineers, all have roles and have power to make decisions and so my thought is that they need to be there at some level at least. [LB1057]

SENATOR LANGEMEIER: Okay. I'll stop now. I'll save some for other people. Thank you. [LB1057]

STEVE NELSON: Okay. Thank you. [LB1057]

SENATOR LANGEMEIER: Very good. Further testimony in support of LB1057? Welcome back. [LB1057]

TOM SCHWARZ: Thank you, Senator. My name is Tom Schwarz, S-c-h-w-a-r-z. I'm a farmer from Bertrand. I've been active in water issues across the state as a member of the Water Policy Task Force and I serve on the boards of a number of water organizations across the state and some national. I'm here to support LB1057. I guess

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in my opinion I like the makeup of the task force as proposed. Now, can it be changed? Obviously. We could sit and argue for hours over how big, how small, who should be on, who shouldn't be on. I think the senator has done a good job thinking this through and I guess at this point I'm fully supportive of the task force as in the bill. I like the idea of getting, you know, a broad base dialogue. You know, we could use some fresh ideas. There will be a pretty steep learning curve for some of these people probably, because the water issues are pretty complex, but I think some new ideas could be of real use in the basin. I do like the idea of working towards sustainable use. I've been a drum beater for that for a long time and I can tell you on the state Water Policy Task Force, we debated this at length and came up with nothing, unfortunately. I sincerely believe that the people of Nebraska, if asked, will tell you they want to have water supplies available for their children, their grandchildren, and on down the line. We want a long-term supply of water. And those are issues that we've got to get debated as some point. I really am not, I guess, in favor of groundwater mining and would like to see that not be the policy of the state of Nebraska or any NRD. The facilitator, I think, is also another very useful component of the task force. I've seen facilitators at work and a good facilitator can make all the difference in a meeting in keeping things on task. So I really do like that idea as well. The senator also has set the time period, you know, there's a sunset. This thing has to be done; it has to be done up fairly quickly and then it's over. So I think that will keep...that will help keep the task force moving along. I don't think really, I've got anything else new to add, so I guess I'll stop at that. [LB1057]

SENATOR LANGEMEIER: Are there any questions? Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. It's nice to see you again Mr. Schwarz. Who are you representing today? [LB1057]

TOM SCHWARZ: Just myself. [LB1057]

SENATOR FISCHER: Oh, okay. You mentioned... [LB1057]

TOM SCHWARZ: Oh, sorry. [LB1057]

SENATOR FISCHER: ...some groups and I was trying to keep track of it. Do you irrigate? [LB1057]

TOM SCHWARZ: Yes, I am a groundwater and a surface irrigator both. [LB1057]

SENATOR FISCHER: You made the comment that you're not in favor of groundwater mining. What did you mean by that? [LB1057]

TOM SCHWARZ: Well, in certain areas of the state, particularly in Chase and Dundy County, we've got some townships where we've got some real problems. Box Butte

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county, we've got some townships with some real serious problems where we're depleting the water supply and nothing we're doing at this point is going to stop that. You know, we're heading toward...at some point in the future, no groundwater. And I just don't think that's responsible water management. I don't believe that's the direction the state of Nebraska wants us to go and I think that's something we're going to have to deal with at some point. Now, there's some hard decisions and as you, I think, alluded to earlier with Senator Carlson, there's some...defining sustainability is tough. [LB1057]

SENATOR FISCHER: How's the groundwater in your area by Bertrand? Do you... [LB1057]

TOM SCHWARZ: Very...oh, go ahead, I'm sorry. [LB1057]

SENATOR FISCHER: Do you see groundwater levels static, rising, decreasing, what's happening there? [LB1057]

TOM SCHWARZ: We are very fortunate in the area where I farm to have rising groundwater levels, primarily due to the influence of the Central Nebraska Public Power and Irrigation District. In fact, the water that is brought into our area actually benefits the Republican Basin in terms of underground movement of water toward the Republican, so we actually are contributors to the waters of the Republican. [LB1057]

SENATOR FISCHER: Do you have meters on your wells? [LB1057]

TOM SCHWARZ: Yes. [LB1057]

SENATOR FISCHER: On your surface water irrigating practices, have you been able to receive all of your allotment on your water rights? [LB1057]

TOM SCHWARZ: No. [LB1057]

SENATOR FISCHER: Where do you irrigate out of on your surface water? [LB1057]

TOM SCHWARZ: My surface water is out of Central Public Power and Irrigation District. I actually operate right on the divide between the Republican and Platte. Most of my ground is in the Republican Basin, although I do have a little in the Platte. No, we've not received full supplies for a number of years, although this year, we are promised a full supply for the first time, so we're pretty excited about. [LB1057]

SENATOR FISCHER: Thank you very much. [LB1057]

SENATOR LANGEMEIER: Are there other questions? Senator Schilz. [LB1057]

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SENATOR SCHILZ: Thank you, Senator Langemeier. Tom, welcome to beautiful Lincoln, Nebraska on a Friday afternoon. You know, having served on the Water Policy Task Force with you and gone through that, do you...as you look at task forces and what their charges are, it would seem to me, and you can either agree with me or not, but it would seem to me that a big part of what a task force does is gets subject matter out in front of just more people than are on the task force. It becomes a tool for education, a tool for promotion and something that brings a little more light to the subject than would have if it's not something that's got any fanfare. Can you agree or disagree? [LB1057]

TOM SCHWARZ: Absolutely. Task force meeting tends to be magnets for the media so you generally see some newspaper writers, as well as occasionally television. I think it does help greatly to inform the public of what's going on. You know, today...it's really tough in our communities because if people don't see it on TV, a lot of times they don't even know that anything is going on. So it's really helpful to have an organization of this level that would draw some of that kind of attention to the problems of the basin. [LB1057]

SENATOR SCHILZ: Thank you. [LB1057]

SENATOR LANGEMEIER: Mr. Schwarz, thank you for your testimony. My question is, if Senator Carlson went out to the district, he's a gifted legislator and gifted communicator, as far as your ability to run a meeting, I think he has all those qualities. [LB1057]

TOM SCHWARZ: Um-hum. [LB1057]

SENATOR LANGEMEIER: If he had a meeting in the district and picked representatives from all these individuals...all these different groups, would they show up? [LB1057]

TOM SCHWARZ: Well, if he picked them, yes, I think they would. [LB1057]

SENATOR LANGEMEIER: Okay. [LB1057]

TOM SCHWARZ: I have a great amount of confidence in Senator Carlson and his abilities. [LB1057]

SENATOR LANGEMEIER: He's got good staff. If they sent out a press conference, press release, do you think the media would show up? [LB1057]

TOM SCHWARZ: Well now that starts to become more debatable. [LB1057]

SENATOR LANGEMEIER: So you're telling me that if Senator Carlson sends out a press release the media won't show up, yet this task force, obviously would have to

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send out a press release from somebody... [LB1057]

TOM SCHWARZ: Um-hum. [LB1057]

SENATOR LANGEMEIER: ...and I would assume that the Chair of the Natural Resources Committee, as I look through the membership, gets that responsibility. [LB1057]

TOM SCHWARZ: (laughter) Yes. [LB1057]

SENATOR LANGEMEIER: I also see in the fiscal note that everybody else is going to get reimbursed for expenses except me, but that's beside the point, again Senator Carlson, but that's a whole different issue. I guess my point is, is...and you kind of hit on it when you started, you said we're going to have a fight over who's going to be the membership of this committee. I'm...I find it very problematic to see a task force have any resolve when they can't...we're going to have a fight over who goes on the task force. [LB1057]

TOM SCHWARZ: Um-hum. [LB1057]

SENATOR LANGEMEIER: And so, as the Governor appoints some, I don't even know, it's got to be in 3,000 to 4,000 people of task force...of all the different task forces he has to appoint people to, I'm questioning...I'm questioning the...in this whole thing, you have the Governor appoint these people. I guess...here's my underlying question, I'm going to lay it to you, but everybody else can think about it and they might address it, is the idea of this whole idea of having the Governor appoint these people so when they make a decision he feels more inclined to go along with their decision. Are you trying to get governor buy-in on something in the Republican River Basin by having him appoint them versus me or Senator Carlson or Senator Fischer or whoever? [LB1057]

TOM SCHWARZ: Well I'm assuming the appointment process is done the way it is due to separation of powers issues. I'm not an expert in this arena, but I assume that is the case. I have absolutely no problem with this committee or any of its members being involved in the appointment of the membership. I think, in fact, I think this committee probably could do as good or better job than the Governor just because I think you guys are a little more intune with what's going on, you know, in water in the state. But my assumption is that's...because I know all task forces, that's the way they're set up, is the Governor does the appointments. [LB1057]

SENATOR LANGEMEIER: Sure, sure. Other questions? Seeing none, thank you very much; did a great job. Further testimony in support of LB1057? [LB1057]

MIKE INGRAM: (Exhibit 2) Good afternoon, Senators. My name is Mike Ingram,

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I-n-g-r-a-m. I'm a county supervisor in Franklin County, which is in the Lower Republican NRD. I'm here to support Senator Carlson and LB1057. I see it as an effort to organize a task force comprised of persons with varied interests, but with a common goal. All would be pooling their imagination and ingenuity to solve the ongoing challenge of our water issues in the Republican Basin. The issues in our basin have been kicked around for years now and it's obvious that there's no easy fixes to be had. I am not only a county official, I'm also a farmer who have irrigated land and it would be affected by the decisions in solving these water issues, no matter which plan is implemented by the NRDs. I'd like to know that every effort was made, every avenue explored, and every idea heard in the solution of the ongoing struggle to achieve compliance with the compact. I also want the least amount of collateral damage to result by implementing a ruling that would have inadvertent adverse affects. As is in the case of any complicated issues, the solution for one interested party often leads to a problem for another group or individual and this may be because possibly viewpoints and interests are different from each other or that the effects of the action are far more reaching than anticipated. I believe that if each group has...of interests were heard in one discussion group, some conflicts may be avoided and a better understanding by each involved entity would result. I researched a little bit, went to NRD's Web site and I found that their mission statement is to "assist NRDs in coordinated efforts to accomplish collectively what may be...may not be accomplished individually to conserve, sustain, and improve our natural resources and our environment." And in another area I read about challenges and solutions for the Nebraska NRDs and found that their aim is to respond to natural resource challenges with local control and local solutions. And of course, the site also underlined the fact that our most precious water...resource is our water. It appears to me that LB1057 proposed by Senator Carlson is about...it's all about trying to help to achieve each of these missions, challenges, and goals by gaining input from all those involved. Some of these parties would be affected directly, some of them indirectly, but they all have a vital interest in the outcome. Attorney General Bruning stated after the February last year when LB701 was found unconstitutional that "compact compliance will always require a partnership between the local managers, users, and the state." I think Senator Carlson's task force would simply add a few more interested parties to that partnership. Finding a long-term solution to the compact compliances is our ultimate goal. Doing so will take many ideas and long hours of brainstorming. I think getting new ideas from well-informed and innovative people such as those that the senator has suggested is always a good thing. I'm not certain the task force will be able to satisfy all these interests involved, but I think it would help to get everyone's views and inputs more united in our common goal of reaching a solution to resolution of our water issues, not only today, but in the distant future as well. Thank you for your time and hope you'll favorably advance LB1057. [LB1057]

SENATOR LANGEMEIER: Very good, Mr. Ingram. Are there any questions? Senator Haar. [LB1057]

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SENATOR HAAR: I think Senator Fischer's question was a good one; do you feel sort of left out in the process right now as things are going on? [LB1057]

MIKE INGRAM: The thing that I see, I've heard that the surface water and groundwater have a challenge going on. I have both surface water irrigation and groundwater irrigation; have been affected by allocations from all the years when there was no water in the Republi...in the dam to put into the Bostwick Irrigation District, you know, when we had nothing. And it does eat at your craw when you have to pay the maintenance costs and you still don't get any water. But you know, that's where we live and we have our good years and bad years and I don't think that we felt left out, you know. I think that Senator Carlson, I got to applaud him, he's done so much for our area down there in vegetation and all this stuff. You know, there's...who would have thought five years ago or ten years ago that this was going to be this big of an issue. I mean this has just taken over, I mean, it's the conversation at every coffee shop. It's the conversation at every one of our county meetings because we don't know. You know, you don't know what it's going to do. You know it's going to do something, and I think that's what's important about getting people like the school and things like that where, you know, I might have sort of an idea that it's going to affect our schools and it might affect our city, but they would be the ones that could tell me, hey, if you take away this many...I know what it has done. From the county's point of view, when people are looking at purchasing ground it's a question in their mind whether they're going to be able to pump the...you know, and that...and eventually affects our valuations which I'm in, you know, part of that, being a county supervisor, the money that we have available to spend on our roads and everything else. It has affected them. We're, you know, everybody else says the land is going up, up, up, and in our area, it's not all going up and up. Pasture ground is going up; sometimes irrigated ground isn't. [LB1057]

SENATOR HAAR: Thank you. [LB1057]

MIKE INGRAM: Um-hum. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much for your testimony. You did a great job. [LB1057]

MIKE INGRAM: Thank you for your time. [LB1057]

SENATOR LANGEMEIER: Further testimony in support of LB1057? Good afternoon. [LB1057]

CHUCK LAMBERT: Good afternoon. My name is Chuck Lambert, C-h-u-c-k L-a-m-b-e-r-t; I'm the superintendent of Southern Valley Schools. First, Senator Fischer, I'd like to thank you for all the work you did for the Class VI and the Class I's. When I was at West Holt, that was appreciated very much. And, Senator Cook, I apologize, I

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may talk about feelings a little more yet here. [LB1057]

SENATOR COOK: Good. [LB1057]

CHUCK LAMBERT: So look out, I hope there are some Kleenex around. I grew up on a family farm on the "Sappy" Creek. I'm from the south side, so we call it "Sappy" not "Sappa"; but our house was 100 yards from the creek and I remember getting up before school and checking the set lines or running from the bus to check them after school. In case you didn't know, the "Sappy" Creek is a tributary of the Republican River. I remember getting off the bus to check them after school. I think my best was 15 pounds, but that was always a fun thing for us. I also remember every May my dad taking me for one fishing trip of the year to the Republican River to fish for white bass and to pick mushrooms. Since that time I've gone on to be a school superintendent. I moved to the northern part of the state for 13 years; moved back to the area where I grew up and the past five years have served as superintendent of Southern Valley Schools. I live in Beaver City and still have the family farm which includes irrigated property. I believe LB1057 will bring a group of stakeholders together that will have members who have always depended on, or currently depend on the Republican River Basin for some form of their livelihood or leisure. It's important for the Governor and Legislature to be advised by a group of individuals who have a vast interest in the basin. I have an interest in there being such a group because I'm a landlord of irrigated ground, fish and hunt the ground constantly, and the school I represent depends on property tax of the river basin. There are many other individuals in the basin that depend on the river ground. Five members of my board of education are farmers who have ground in the basin and the sixth member works for Ag Valley. Obviously, we all have interests in the basin and have many ideas about how the river basin can be sustained. I'm not sure if I know anyone that lives in the Republican Basin that does not depend on the basin in some way. This ranges from grocery store owners, gas station owners, motel owners, real estate agents, insurance companies, etcetera. At our school of over 103 employees, at least 75 of them or their spouses have a second job or a primary job that is somehow directly related to the irrigated property in the district. Southern Valley is not the exception, but is the norm when it comes to communities in the basin. Everyone depends on it and has an interest. That is why I believe a task force, the diverse group of people can only be a plus and can assist the Governor and the Legislature when it comes to making tough decisions. A long term sustainability of our water supply needs to be addressed. If it got to the point where water was shut down completely, it would be devastating to our school district. Every million dollars of valuated property brings \$10,000 to our school district. In a worst case scenario where irrigated ground was valuated as dryland, the financial loss would be well over \$1 million a year to our district. With the financial crunch that the state is currently in, I do not see how that money could be recovered in state aid. As a district, we've already made huge cuts. In fact, our budget of expenditures is actually lower than it was a year ago. Also, in an attempt to save money, we have combined the 7-12 principal and superintendent

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position to save around \$100,000. Try to name other big Class C schools that are doing that. This shows that we're money conscious...are a money conscious district that is financially responsible. We just want to make sure the voice of the basin is heard and LB1057 will make sure that happens. In conclusion, I have a deep concern the severity of this issue is not completely understood by the majority of the Legislature or the Governor. Part of the reason for my feeling is that I recently wrote every state senator a letter addressing my concerns. I did not hear back from one senator. I did not expect to hear back from the local senators or members of the DNR committee because I feel like they are aware of the situation, but I was hopeful for a response from the senators across the state. But it did not happen. This makes me wonder if the majority of the Legislature truly understands the severity of this situation and how eventually it will affect their own districts because most likely, sooner or later, they will also deal with their own type of water shortage. It's my belief that if a task force was formed to answer to the Legislature and the Governor about water issues in the Republican Basin, it could only help all senators and the Governor to best understand the severity of this situation. Thank you. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. Nice to see you again, Mr. Lambert. [LB1057]

CHUCK LAMBERT: Thanks. [LB1057]

SENATOR FISCHER: What town is Southern Valley Schools located in? [LB1057]

CHUCK LAMBERT: We are Beaver City, Oxford, and Orleans. Our school is eight miles south of Oxford, in the middle of the three towns. We also have students from Stamford, from Hendley, and from Edison. [LB1057]

SENATOR FISCHER: What's the total valuation of your district? [LB1057]

CHUCK LAMBERT: Around the \$300 million mark, a little more than that. [LB1057]

SENATOR FISCHER: And if you would have no irrigation, did I hear you say you would see a million dollars in loss? [LB1057]

CHUCK LAMBERT: A million dollars as far as what we would receive in property revenue tax. What...my guess, if it took the property, and you could argue back and forth, it would take it down 40 percent, my estimate was it possibly take it down 40 percent. I think you could argue with the assessor what that's actually going to happen if they do do that, but if a 40 percent drop in property valuation happened, that would cost

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us around a million dollars a year. [LB1057]

SENATOR FISCHER: Okay. I would imagine...how many students do you have?
[LB1057]

CHUCK LAMBERT: We have 460. [LB1057]

SENATOR FISCHER: Okay, K-12. [LB1057]

CHUCK LAMBERT: K-12. [LB1057]

SENATOR FISCHER: And you said you had over 100 employees. [LB1057]

CHUCK LAMBERT: Yes, we have 101. [LB1057]

SENATOR FISCHER: Okay. And one building? [LB1057]

CHUCK LAMBERT: Yes, we are now to one building in the middle of the K-12 facility.
We recently shut down the three other elementaries to save money. [LB1057]

SENATOR FISCHER: How many administrators do you have? Do you have any
assistant superintendents? [LB1057]

CHUCK LAMBERT: No, we have a superintendent... [LB1057]

SENATOR FISCHER: I smile when I say that... [LB1057]

CHUCK LAMBERT: Thanks. [LB1057]

SENATOR FISCHER: ...because I know none of us do out there. [LB1057]

CHUCK LAMBERT: But we have a superintendent, a principal, and an elementary
principal. Next year we will not have an elementary principal; we've taken...we decided
to make that move to save money also because we're not sure what's going to happen
with state aid or what would happen with this water issue. It's a concern. [LB1057]

SENATOR FISCHER: How much of your general fund budget currently comes from
state aid? [LB1057]

CHUCK LAMBERT: About 45 percent. [LB1057]

SENATOR FISCHER: That's not... [LB1057]

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CHUCK LAMBERT: Right around there...from state aid we get...I think this year I'm getting \$2,163,000, and from property tax I'm getting around \$3 million, and then federal, so I might be off a little bit on the 45 percent, but around 40. [LB1057]

SENATOR FISCHER: That's pretty good for a rural district, don't you think? [LB1057]

CHUCK LAMBERT: Oh, we're very pleased with the state aid we get, but we are very dependent on it. [LB1057]

SENATOR FISCHER: So when, I shouldn't say when, if, if the Legislature does not step forward and address the challenges that the residents in the basin are seeing fast approach or they already have because you've made cuts, what do you anticipate your percentage of your general fund budget will be from state aid? [LB1057]

CHUCK LAMBERT: Well... [LB1057]

SENATOR FISCHER: How much is it going to grow because you'll become a poorer district? [LB1057]

CHUCK LAMBERT: When...am I...am I expecting that? No. I'm not expecting any change...I hope it...if that does happen, I hope it does. [LB1057]

SENATOR FISCHER: But your district will be poorer because your valuation... [LB1057]

CHUCK LAMBERT: Right. [LB1057]

SENATOR FISCHER: ...will decrease so you won't have the resources and your needs, most likely, will remain the same,... [LB1057]

CHUCK LAMBERT: Correct. [LB1057]

SENATOR FISCHER: ...so wouldn't you anticipate that your state aid needs would increase? [LB1057]

CHUCK LAMBERT: I'm sure. I've learned to never anticipate anything when it comes to state aid; it changes every year. Ideally... [LB1057]

SENATOR FISCHER: If... [LB1057]

CHUCK LAMBERT: ...the way it's set up now, you're right. [LB1057]

SENATOR FISCHER: The way it's set up now with the current formula... [LB1057]

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CHUCK LAMBERT: We would hope so. Right. [LB1057]

SENATOR FISCHER: ...your needs increase. [LB1057]

CHUCK LAMBERT: But the past three years we've come down \$300,000. So I have no reason to assume that it won't keep doing that. [LB1057]

SENATOR FISCHER: Right. But if state aid would work the way it's supposed to work, most likely you would see an increase in revenue from the state in support of your district. [LB1057]

CHUCK LAMBERT: If it worked like it's supposed to, you're correct. [LB1057]

SENATOR FISCHER: Right. Do you anticipate that the Legislature is going to put more money into state aid to schools? [LB1057]

CHUCK LAMBERT: To us? No. [LB1057]

SENATOR FISCHER: No, just in the entire pot. Do you think we're going to put any more money in? [LB1057]

CHUCK LAMBERT: I think you guys are...from what I'm hearing, are stretched a long ways to start with and that's what concerns me is even if we have that need, can you guys address that? Because I think you've made some cuts that have to be made, but there might be more coming. [LB1057]

SENATOR FISCHER: So if the pot for state aid doesn't increase and the needs of your school district and other school districts in the basin continue to increase, wouldn't you anticipate that the total amount of revenue to all school districts across the state and state aid to schools will be less? [LB1057]

CHUCK LAMBERT: Yes. [LB1057]

SENATOR FISCHER: Thank you. [LB1057]

SENATOR FISCHER: So this isn't just your problem. [LB1057]

CHUCK LAMBERT: No, it's not. [LB1057]

SENATOR FISHER: Thank you. [LB1057]

SENATOR LANGEMEIER: Senator Dubas. [LB1057]

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SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Lambert, and I do have your letter. [LB1057]

CHUCK LAMBERT: Thanks. [LB1057]

SENATOR DUBAS: I have a file of all the correspondence that I've received on this issue and so even if I haven't responded, I...even as a farmer, I've learned a lot about what's going on in the Republican River Basin and the water issues. It's been a real learning experience for me, so I have appreciated your input from that perspective. I guess that's what leads to my question. Do you feel you've had opportunities or within your community or at the state level to really share all of the information that you've just brought to us today? [LB1057]

CHUCK LAMBERT: No I don't. And that's one of my biggest concerns is that it's not getting out there what the true effect will be. I know the effect it's going to have on the farmers and the water issue with Kansas, but as far as how it affects our community, I don't think people really understand how much we depend on that. I mean it is the number one source. I mean, that was like, when I came to Southern Valley we didn't have FFA. I didn't understand that, because we are an ag community. And when you have five farmers for board members and one that works in ag, it affects everybody. And no, I don't think our voice is getting heard. I think if it was, I think we'd be getting some more help there as far as ideas or hopefully some funding. [LB1057]

SENATOR DUBAS: So you think by the makeup of this task force and bringing all of these varied perspectives together into the mix to sit down and hopefully have some open-minded dialogue, that there would be that opportunity to share information and really hopefully get everybody understanding what their neighbor is going through? [LB1057]

CHUCK LAMBERT: I also hope it would open some minds of some businessmen. I think most of them...and business people, realize that if the water is shut down, it will affect them. It's important for everybody to know we all depend on it; just not the farmer. It's everybody in that area and I think a task force would help get people involved. And as Senator Carlson said, if there are some people against it, I think once they saw what's actually going on, they wouldn't be against the task force or trying to come up with water sustainability. [LB1057]

SENATOR DUBAS: Well I mean we know at the state level the uncertainty of the times and I think you're feeling it in your area even more so with just the things that are going on with your water issues, and so that tends to make people feel a little more anxious and apprehensive, so if we could have an opportunity for dialogues, such as this task force outlines, you'd probably feel that it would serve the greater good? [LB1057]

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CHUCK LAMBERT: Yes. And what I have heard from past examples, that the task force have worked really well for the Legislature and the Governor to listen to. As far as one question you asked, Senator Langemeier, I wouldn't have any problem if it's likely set up with the DNR choosing the committee. I think they know people throughout and might be even better off, but however that works. [LB1057]

SENATOR LANGEMEIER: We're not going there. [LB1057]

CHUCK LAMBERT: Okay. That's just my opinion while I have that...have a chance. [LB1057]

SENATOR LANGEMEIER: Yeah, yeah. [LB1057]

SENATOR DUBAS: Thank you very much, Mr. Lambert. Thank you. [LB1057]

CHUCK LAMBERT: Thank you. [LB1057]

SENATOR LANGEMEIER: Are there other questions? I do have a couple questions. Mr. Lambert, appreciate you coming. When I saw the purple jacket and the purple folder when you came in, I thought maybe Kansas... [LB1057]

CHUCK LAMBERT: I sold out. [LB1057]

SENATOR LANGEMEIER: ...I thought maybe Kansas was coming to tell us they liked this plan. [LB1057]

CHUCK LAMBERT: Don't bring that up. [LB1057]

SENATOR LANGEMEIER: I was really optimistic. So I'm glad you cleared that up for me. First of all, how did you hear about today? How did you hear about this hearing; how did you hear about this bill? [LB1057]

CHUCK LAMBERT: Okay. Mike Clements told me about the bill, what was going on. I have been to several natural resource meetings and heard through there, I've been...whenever they've had public things, I was at the one at Holdrege back in the fall and heard from that part of it and I've tried to watch anything they've put on in the papers. [LB1057]

SENATOR LANGEMEIER: I was hoping that it would have been one of Senator Carlson's press releases so we could tell Mr. Schwarz that his press releases will get response, but... [LB1057]

CHUCK LAMBERT: Sorry. [LB1057]

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SENATOR LANGEMEIER: So with that...and my next question was if you've attended some of the NRD meetings, but you've already addressed that, so. With that, I appreciate your testimony very much and I did too get your letter as well. [LB1057]

CHUCK LAMBERT: Okay. Thank you. [LB1057]

SENATOR LANGEMEIER: I get to sign for a lot of registered letters every day on water from the Republican River Basin as well, so... [LB1057]

CHUCK LAMBERT: Thanks. [LB1057]

SENATOR LANGEMEIER: ...with that, thank you very much for your testimony. [LB1057]

CHUCK LAMBERT: Thank you. [LB1057]

SENATOR LANGEMEIER: Further testimony in support of LB1057? Go ahead. [LB1057]

RHN JACOBSEN: (Exhibit 3) My name is Rhn Jacobsen, R-h-n J-a-c-o-b-s-e-n, I'm a city councilman for the city of Franklin in the Lower Republican NRD and I'm here to support Senator Carlson and LB1057. In addition to being a city councilman, I'm also a farmer with irrigated land in the Lower Republican NRD. Without long-term sustainable water the farmers, cities, schools and hospitals will not survive. In rural communities such as this, each livelihood depends on one another. Without the one, others cannot exist. Our family is a third generation to work the family farm. My son and son-in-law have just started farming with us as well. Our grandchildren should have the choice to have the same opportunity, but without irrigation, these possibilities may not exist. I believe that having Senator Carlson's bill, LB1057, creating a task force would be beneficial in maintaining compliance with the interstate compacts and having input from a diverse group of people will be helpful in arriving at favorable recommendations for the long-term sustainable water uses. I hope you'll consider advancing LB1057. Thank you. [LB1057]

SENATOR LANGEMEIER: Well done. Are there any questions? Seeing none, thank you very much. [LB1057]

RHN JACOBSEN: Thank you. [LB1057]

SENATOR LANGEMEIER: Great job. Further testimony in support of LB1057? Don't be shy. Good afternoon. [LB1057]

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JAMES UERLING: Good afternoon. Thank you, Senator Langemeier, members of the Natural Resources Committee. My name is James Uerling; Uerling is spelled U-e-r-l-i-n-g. And I'm here in support of Senator Carlson's LB1057 and the word that is important here is sustainability and that's what I think the board should be put together to do is study the sustainability. There are...there are a couple, I mean, a couple of NRDs, their goal is to make the aquifer last a hundred years and I just don't think that's adequate to be sustainable. You know, we need to make it last forever, if we can. That's the way I feel. I live a mile from the Republican River and fished in it and canoed in it and cross over it every day. I'm a surface water irrigator and a well irrigator and I'm not sure sustainability can be achieved, but I think it's something we ought to try to achieve. So I'm here in support of his bill. Any questions? [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much. [LB1057]

JAMES UERLING: Thank you. [LB1057]

SENATOR LANGEMEIER: Did a great job. Next proponent of LB1057. Mr. Adams, welcome. [LB1057]

DON ADAMS: Thank you, Senator Langemeier and members of the committee. My name is Don Adams. I'm executive director of Nebraskans First, a statewide groundwater irrigators group here to support LB1057. For the first two minutes of my testimony it won't sound like I'm supporting it, but it will change. Just a little bit of history, because none of you were here when we had some other big task forces on water and Senator Schilz was part of them, so he will know about this. But these are my views, how they worked out for us. First we had Governor Nelson's Water Council, 26 members in 1994. That was chaired by then DNR Director, Mike Jess and chairman of this committee at the time who is now our mayor in Lincoln, Chris Beutler. And that council, after a lot of haggling and fighting, created LB108, known as the conjunctive use water bill. During one of the last meetings of that water council, Bob Kutz, who was the Bureau of Reclamation project manager of Nebraska-Kansas projects was on the council said this on July 15, 1994; when LB108 passes, the Republican River Basin will be, and I'm quoting, whacked, whacked first. He was right. But a little less than a year before that in Fairbury at a meeting with Kansas lawmakers and the Kansas top water official, David Pope, Mr. Jess publicly stated that the policy in Nebraska was to pump the groundwater "until it was gone". At about the same time a Nebraska state senator, not Senator Schrock, I want to make that clear, another Nebraska state senator from the basin told the media that irrigators in his district were just like alcoholics in their use of water. Kansas was loving this. LB108 got out of this committee by one vote. When it hit the floor, Senator Beutler argued that if we didn't pass LB108, Kansas would definitely sue. We, along with Cap Dierks, who led the opposition against LB108 argued the precise opposite, that if you do pass it, Kansas will certainly sue. Well LB108

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ultimately was passed after one of the most fierce battles that I've ever seen. And what it did was it effectively turned our groundwater legally by statute into surface water which then was clearly subject to the Republican River Compact allocation requirements. LB108 and Mr. Jess' comments gave Kansas the green light to sue and away Kansas went. Next, 2003 we have Governor Johanns' Water Policy Task Force, 49 members appointed by the Governor. This task force operated using consensus only. And former British Prime Minister Margaret Thatcher said this about consensus, that "it seems to be the process of abandoning all beliefs, principles, values and policies, so it is something in which no one believes into which no objects." The Water Policy Task Force produced LB962 which greatly increased state control and weakened the NRDs' control over groundwater. LB962 has been used to shut down groundwater irrigation in most of the state. Also, it facilitated and created the regulatory tools and structure for the Fish and Wildlife Service to move in and gain control of the Platte River in Nebraska. As I said earlier, our experience with task force has not been too positive. However, we do have high regard and respect for Senator Carlson. We believe his leadership, tact, strong communication skills and command of the Socratic method could prevent a new task force from getting off track and producing some bad legislation such as LB108 and LB962. His excellent work as Chair of the Riparian Vegetation Management Group validates his ability and inspires our trust. If LB1055 does advance out of this committee, we would strongly recommend that the task force members be selected perhaps by the Natural Resources Commission and not the Governor, because, frankly, it appears that his patience on this issue is spent and perhaps his selections of the task force might reflect his frustrations. That concludes my testimony and I'd answer any questions you may have. [LB1057]

SENATOR LANGEMEIER: Just for the record, you said you hope LB1055 advances. [LB1057]

DON ADAMS: LB1057. [LB1057]

SENATOR LANGEMEIER: There we go. [LB1057]

DON ADAMS: Sorry. [LB1057]

SENATOR LANGEMEIER: Are there any questions? Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Mr. Adams, for being here. I totally agree with you on your assessment of Senator Carlson, and the force of his personality is the reason that I have signed on as a cosponsor to this bill because I have faith in him personally. One change, and you kind of alluded to it, I was sitting here listening to some of Senator Langemeier's comments and then you made a comment at the conclusion of your testimony, would you be open...do you think it would be a good idea for the Natural Resources Committee, this committee to appoint the

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members of the task force? [LB1057]

DON ADAMS: That would be fine. And I mentioned the Natural Resources Commission... [LB1057]

SENATOR FISCHER: Um-hum. [LB1057]

DON ADAMS: ...but this committee would be fine. DNR, no. And again, as I said about the Governor, I mean I think he's pretty much had it with this and that worries me when it comes to appointing people to the task force. [LB1057]

SENATOR FISCHER: But I know in the past, legislative committees have...have formed their own task forces and working groups. Thank you. [LB1057]

DON ADAMS: That would be fine. [LB1057]

SENATOR LANGEMEIER: Senator Dubas. [LB1057]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Adams. In my short amount of time down here I know that sometimes task force can be a dirty couple of words, I mean, we've had some task forces that maybe haven't been as productive as we'd like them to see, but I think I've been a part of some successful ones. The one Senator Carlson formed with the Riparian Vegetation Management was definitely a successful one and I think success breeds success. He knows, you know, he knows how to make it work and I think he would use that same system and style to make this work. Are you in pretty much agreement with the makeup of the task force that he has recommended in this bill? [LB1057]

DON ADAMS: Sure, pretty much. I think it's critical that you...that the schools definitely need strong representation, I mean, they really stand to lose, I mean, their tax base could go away. Small banks, they need to be on this. Pivot, well drillers business, they, you know, their future existence really depends on how this all shakes out. I don't know if you need a Game and Parks rep, frankly. They don't have a dog in this fight and, you know, if you put them on a task force they're just not going to sit there like a potted plant, I mean, they're going to want to get off on something, maybe species related, I don't know. That would make me nervous. But yeah, generally, I think it's right and the key to this whole thing and with most things is leadership and the NRD managers we have are excellent. They're smart, they're committed to finding a solution. Senator Carlson's skills would be terrific as heading this up. Facilitator, and I've talked to Senator Carlson, the one that the Water Task Force used was very well compensated. I don't know if...maybe we could dial that down a little bit; I think 125, 150 bucks an hour plus expenses is a little steep for a facilitator. But again, I trust Senator Carlson and his ability to keep this thing on track. I really do. [LB1057]

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SENATOR DUBAS: Well thank you for your input and I really appreciate that little bit of a history lesson helped me as... [LB1057]

DON ADAMS: Oh, any time, I'm happy to give that history. [LB1057]

SENATOR DUBAS: I really appreciated that background information. Thank you. [LB1057]

DON ADAMS: Thank you. And Senator Dierks lived through it in the front lines and got bloodied and was quite a warrior in that and he'd be happy to get you up to speed on that too, as Senator Schilz knows quite a bit about it as well. [LB1057]

SENATOR DUBAS: Thank you. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you. Other testimony in support of LB1057? [LB1057]

MATT HARRISON: (Exhibit 4) Good afternoon, Senators. My name is Matt Harrison, M-a-t-t H-a-r-r-i-s-o-n, from Naponee N-a-p-o-n-e-e, Nebraska. I am a farmer, rancher, a certified groundwater well irrigator and a surface water irrigator with the Bostwick Irrigation District in Nebraska located just below the Harlan County Dam. I'm here to testify in support of LB1057 that will create a task force to give a preliminary report to the Governor and Legislature for recommendations to each of the Republican River Basin NRDs to ensure sustainable water use within the basin. Sustainability, meeting the needs of the present without compromising the ability of future generations to meet their own needs. The recommendations from a diverse composition of task force members will assist each of the Republican River Basin NRDs in making their water policy decisions more efficient for compact compliance. Since the state of Nebraska does not have an augmentation pipeline in place, I believe that the passage of LB1057 is an essential component to aid in complying with the compact. Thank you for the opportunity to testify in support of LB1057 and I would be glad to answer any questions at this time. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Harrison? Senator Haar. [LB1057]

SENATOR HAAR: Yes, I like your definition of sustainability and is that...are those your own words or...I'm just wondering where that...because that's a great quote. [LB1057]

MATT HARRISON: No, actually I looked that up. [LB1057]

SENATOR HAAR: Okay. But I would like to follow up on that source, I guess that's what

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I'm saying. [LB1057]

MATT HARRISON: Okay. [LB1057]

SENATOR HAAR: Okay. [LB1057]

SENATOR LANGEMEIER: Are there other questions? Are you saying the task force is done? They've defined it? No. (laughter) Just kidding, just kidding. [LB1057]

SENATOR HAAR: No, but I would...maybe I can get that source from you so I can follow up and see what else they say about it. Thank you. [LB1057]

MATT HARRISON: Okay. [LB1057]

SENATOR LANGEMEIER: Can you...do you know right off hand where you got that definition? [LB1057]

MATT HARRISON: Oh I...I researched it on the Internet, looked it up actually. [LB1057]

SENATOR HAAR: Okay. [LB1057]

MATT HARRISON: And there were a lot of definitions and I picked this one. [LB1057]

SENATOR HAAR: That's a good one. Thank you, I appreciate that. [LB1057]

MATT HARRISON: Yeah. [LB1057]

SENATOR LANGEMEIER: Very good. Thank you very much for your testimony. Great job. [LB1057]

MATT HARRISON: Thank you very much. [LB1057]

SENATOR LANGEMEIER: Further testimony in support of LB1057? How many more do we have in support? Okay. Welcome. [LB1057]

RON HUNTER: My name is Ron Hunter. [LB1057]

SENATOR LANGEMEIER: Oh, I need you to...I need you to...there you go...I need the mike. Okay. [LB1057]

RON HUNTER: My name is Ron Hunter, R-o-n H-u-n-t-e-r. I live in Arapahoe, Nebraska and I'm the manager of Ag Valley Co-op headquartered in Edison, Nebraska. Senator Langemeier and committee members, Ag Valley Co-op with headquarters in Edison,

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Nebraska representing 2,665 members and 16 communities in southwest Nebraska will be directly affected when irrigation wells in the Republican River Basin are shut down during water short years. Ag Valley Co-op business units employ from 275 to 300 employees depending on the season and the requirements for extra employees to meet the needs of our customers and agriculture. Loss of irrigation on water short years will greatly impair our local economy and agriculture is a major contributor to our local economy. Republican River flows set the trend for our local economy's financial health. LB1057 creates a Republican River Basin task force that will bring member diversity with input coming from a multitude of backgrounds whose goal is to seek a sustainable water supply solution. The life-blood of southwest Nebraska rests in the streamflow of the Republican River and its tributaries for quality of life. The members of this task force will have a vested interest to find answers that will allow the Republican River Basin to flow, meet the demands of the compact and allow its users to prosper. Again, we support LB1057 and its ability to create a task force whose purpose is to work together to resolve the issues facing the Republican River Basin. Thank you. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Hunter? And just for clarification, you're representing Ag Valley Co-op in your testimony? [LB1057]

RON HUNTER: Ag Valley Co-op, yes. [LB1057]

SENATOR LANGEMEIER: Just want to make sure that's clear. Seeing no questions, thank you very much for your testimony. You did a great job. [LB1057]

RON HUNTER: Thank you. [LB1057]

SENATOR LANGEMEIER: Further testimony in support of LB1057? Mr. Dix. Welcome. [LB1057]

LARRY DIX: Good afternoon, Senator Langemeier and members of the committee, for the record my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials appearing today in support of LB1057. A couple of things that I want to talk a little bit, specifically, about the bill and then why we are in support. I think it's been pretty well documented, counties do have a vested interest in this. Certainly, unlike schools, if our tax base erodes, we have nowhere else. We do not have state aid that is going to come in and make up any budget shortfall that we have. So there's a lot of discussion at our county meetings about what does happen in the event that these irrigated acres turn to dryland acres and what would happen to the valuation up and down the Republican River Basin. So we certainly have a vested interest. We appreciate Senator Carlson recognizing that and asking us to be on...have representation on the committee. I would ask you to look at the bill a little bit from a technical point of view. On page 2, when I read on line 6, it will say: two representatives each from...and then when I go down...from counties in the basin. When we first read that we could read that two

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ways. We could read that that there are two representatives from those counties, meaning those would not be county officials; or we could read that they would be county officials. So I would ask the committee, just as a point of clarification, because my belief is that Senator Carlson wanted these to be county officials. When we talk about county officials, and when we look at that we always caution everybody when you talk about...in our mind, there's a different category, there are county officials and there are elected county officials. That may be a differing determination and let me tell you where those lie. County officials would include weed superintendents, but...and weed superintendents, I think could possibly play a very vital role on this task force. Elected county officials would eliminate weed superintendent, so I caution you to be sort of, you know, caution with how you select those words. When I look at this, I could see that county board members, county weed superintendents or county assessors all could provide some valuable information to the task force in their participation. Senator Langemeier, I would like to explain the process that we go through when we are asked to place someone on a task force. Annually, if statutorily counties are referenced in the makeup of a task force, we will survey our members to indicate who has an interest in serving on the task force. We will also try to determine their ability to be active in that task force. And then whoever is the appointing agency, we will always be happy to submit names to you that we know have an interest in serving on the task force, so, be that the Governor or this committee or whoever. To us, that doesn't make any difference. We just want you to know we'll be very active in, you know, letting you know who has shown an interest in serving on the committee. With that, I believe that summarizes everything I had to say. I'd be happy to answer any questions that you would have. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Dix? Seeing none, thank you very much. [LB1057]

LARRY DIX: Thank you. [LB1057]

SENATOR LANGEMEIER: Mr. Gangwish. [LB1057]

DUANE GANGWISH: Larry and I were arguing on who was going to go last. My name is Duane Gangwish, D-u-a-n-e G-a-n-g-w-i-s-h, here representing the Nebraska Cattlemen. I'll be very brief. Our board of directors reviewed this bill and the concept behind it. We appreciate Senator Carlson's desire to find solutions and they asked us to acknowledge our support to you. So thank you. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much. [LB1057]

DUANE GANGWISH: Thank you. [LB1057]

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SENATOR LANGEMEIER: (Exhibit 5 through 9) Is there any other testifiers in support? At this time I have a letter from Gary Krumland, from the League of Nebraska Municipalities. I have a letter from Tim Anderson from Central Nebraska Public Power and Irrigation District. I have Mike Delka from Bostwick Irrigation District. I have a letter from Claude Cappel from McCook and Ray Winz, I don't know that I say that right, but we'll have it right in the record, from Holdrege, Nebraska, all in support of LB1057. We move on now to those in opposition to LB1057. Welcome. [LB1057]

JASPER FANNING: Thank you, Chairman Langemeier and committee members, my name is Jasper Fanning, J-a-s-p-e-r F-a-n-n-i-n-g. I'm the general manager of the Upper Republican Natural Resources District, but also the chairman of the managers of the Nebraska Association of Resources District Committee and I'm here today to testify on behalf of the directors of the Nebraska Association of Resources Districts. They took...they chose to take a position in opposition to this bill. I think there was a lot of concern from the members of the association over the size of the task force, particularly what its role was and is this something that would be done then in other river basins and it could go on and on, because we've had one water policy task force. We have countless groups that meet frequently. In fact, we could have had a good meeting today with the folks that were here to testify on this bill. We have the Management District Association in the Republican River Basin that's already been discussed quite a bit and our bylaws essentially allow for advisory members and stakeholders from any industry or any representation from the public and we can allow them to participate in our meetings. The public power districts are probably the most active advisory members that we have and they're probably the ones that are the most directly impacted. You know, I want to thank Senator Carlson for all of his efforts in the basin and trying to find a solution. We want to continue working with Senator Carlson and all others that have an interest to find the right solutions. There are some issues with this proposed legislation. I think, first of all, groundwater users are not represented. And you might say, but NRDs are represented and you represent groundwater. We don't represent groundwater; we regulate them. And that needs to be a distinction in my mind there. We set allocations, we put controls on, we do that. Now, yes, some of our board members are irrigators; many are not. But when you're elected to a natural resources district board, while you may think of what the consequences of your regulation might be on the overall economy and those types of things, your role is still a regulator; it's not a representative of a groundwater user. Schools, unfortunately, are the only political subdivision protected from devaluation by our regulations out there through their equalization formula. It's all the other political subdivisions that are at even more risk than the schools are in this and certainly all of these people need to have a role. I think one other thing in the way that this bill was drafted, it's not clear that the members of the task force should be spread throughout the basin. It just says eight members representing natural resources districts. Could those all be from the same natural resources district? Same thing with the other entities represented; how do we deal with that? Senator Carlson is correct in that his Vegetation Task Force was quite successful

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and task forces have their place. But I think that the task force, while it was successful for many reasons, was primarily successful for one. It had funding to do its job. And I think while we sit here and talk about the issues, in not having a plan, I think, you know, we have a lot of ideas and we don't restrict the ideas that we listen to from those that come from within the basin. We hire an awful lot of consultants; work closely with the state, and most of those come from without...from outside the basin. But the reality, I think, is that we have plans. We've done...gathered a lot of ideas. We haven't been able to implement plans. I see the issue is not that we don't have a plan, but that we don't like the plan that we have before us. And we don't like the plan. Not because it's not a good plan, but because we can't implement many of the components of that plan which are all the things other than regulation. Our plans without funding are strict regulation. That's what the folks that are talking, I think, don't like; and that's...to me, that's the real issue. And while the task force could be helpful maybe in getting funding in a year or two or something like that, unfortunately, we don't have a year or two to wait. Funding is our issue. That's what we need to have, and it seems like if we had funding available we could implement many of the things that would deal with the issues that others have raised today. And so I ask the committee, don't divert your focus from the real issue which is funding and providing us a viable, useful funding mechanism that we can use. It seems that if we have that available we could make the other issues raised non-issues. With that, I'll conclude my comments and take any questions. [LB1057]

SENATOR LANGEMEIER: Very good. Are there questions? We'll start out on the end; Senator McCoy. We'll work our way around. [LB1057]

SENATOR McCOY: Thank you, Chairman Langemeier and thank you Mr. Fanning, for being here. We have had some discussion today on the Nebraska Republican River Management District Association. Can you tell me who the voting members are? [LB1057]

JASPER FANNING: The voting members are board members, with the exception of, I believe there's one irrigation district that appointed their manager to act as their voting delegate. But each natural resources district and the other irrigations districts that have chosen to be members appoint or elect, annually, their representative to the association. So it's an elected official in most cases, or an elected member of an irrigation district that represent their entity at the association. [LB1057]

SENATOR McCOY: So the voting members are the natural resource districts or their representatives and the irrigation districts and their representatives, not the advisory members? [LB1057]

JASPER FANNING: That's correct. You know, I think, you know, Governor Nelson set up a task force and then this group kind of started when that was coming to an end to carry on the mission of that, if you will; education and those kinds of things. It's not like,

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at this task force, or excuse me, at this Management District Association that we're necessarily setting policy; it's more of a format to come together and put ideas together and talk and make sure that we're communicating amongst the parties that are directly affected. [LB1057]

SENATOR MCCOY: And what would you say the association's accomplished since its inception in...is it 2000 again? [LB1057]

JASPER FANNING: Yes, and that is correct on the date, I believe. I think Dan Smith will be providing more information on some that in a bit, but I think the association, one of the biggest things it has accomplished is education to those who have attended. I think we understand each others issues a little bit better. We've done, and Dan will have to correct me on this, but I think they've done a grant or two. We did play a role; the Attorney General's Office had provided us some funding and we used that for some vegetation work. [LB1057]

SENATOR McCOY: I guess my last question would be, as we've had this discussion and talking about your association, does the existence, I guess, of the association make the task force authorized in this legislation unnecessary? [LB1057]

JASPER FANNING: That is, I think, our position is that if we need legislation in this state to force people to come together and talk and solve problems, we're in bad shape. I can't tell you how many hundreds of meetings I went to in the last six years. It takes a phone call to set one up, you can sit down and talk about these things, that's what the Management District Association is for, that's what we try and use it for. Even outside the Management District Association, the NRDs have formed coalitions to, you know, get work done to provide a mechanism for doing things. You know, we have meetings with the Department of Natural Resources and with the consultants working on augmentation all the time. It's, you know, the Management District Association is simply a public entity so that people are aware, you know, meeting advertisements go out so that the public has an opportunity also to show up and participate in one. [LB1057]

SENATOR McCOY: Thank you, Mr. Fanning. [LB1057]

SENATOR LANGEMEIER: Senator Haar. [LB1057]

SENATOR HAAR: Well, one of the things I've found about being in the Legislature with being term limited and so on is you really have to focus to get anything done and one of the things that has impressed me about Senator Carlson is he is really focused. This is one of the issues we've talked about a lot and just about every time you are in a group and Senator Carlson gets up and talks, he's focused on this issue of, I think, of sustainability and how to keep, you know, the water there, not just for a little bit of time, but not just to get through the hard times, but really the whole concept of sustainability.

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And in a case like this where we don't have any nice, neat answers, I always come down on the side of get more voices, listen to more people and then...do you...do you sort of...it almost...and I appreciate the NRDs and what you do, but do you feel kind of threatened by this, or you just think, it's more, we don't need it, or... [LB1057]

JASPER FANNING: I think it's duplicative in its role for what we can accomplish with our existing organizations. It certainly is not a threat; more discussion is not bad. It's not bad in that sense. I just think that having to create a task force through legislation to accomplish these things seems unnecessary; that we can accomplish all these things without a task force. [LB1057]

SENATOR HAAR: But I think maybe we've heard that...we just keep needing some more input and I just don't see how that can hurt and...anyway, that's my opinion and you can tell where I'm falling down on this issue. Thanks. [LB1057]

SENATOR LANGEMEIER: Senator Dubas. [LB1057]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Doctor Fanning. You've brought up more than once about the makeup of the task force. If the makeup of the task force was changed a little bit, would that take away some of your opposition? [LB1057]

JASPER FANNING: Well, I think if this committee is going to move this legislation forward, certainly the makeup needs to be nailed down a little bit, so to speak. I think that there needs to be a broad mix of people from across the entire basin and that needs to be explicit in the legislation. All water users need to be represented, not just their regulating agency or in our case the NRDs. [LB1057]

SENATOR DUBAS: Kind of following up on a question that Senator McCoy asked about what has that one particular group that you guys are a part of, I can't remember the name, Republican River Management District Association, and you have been meeting on a regular basis for some time and I guess my question was very similar, you know, what types of things have you come forward with and you said that you've had an opportunity to educate each other about your particular issues which I think that's a good thing. But have you really...has there been anything as far as addressing any one particular problem that has come out of your group? [LB1057]

JASPER FANNING: You know, I don't know that there's one thing that I can point to that that group, it was their idea that they put together and we moved forward with that. But in terms of what we've accomplished through education, a lot of that has to do with...it's another format that we can bring the department in at a basin meeting and use some of their expertise in groundwater modeling, because when this thing all started, you have to understand how many people really know groundwater, the complexities, how it is

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interrelated with streamflow; it's a very few. And to get all the people that are kind of involved in the basin up to speed on...you know, there's some really simple ideas out there for how we can deal with this problem that we hear all the time. Unfortunately, a lot of times those aren't real good solutions or they don't even accomplish what people think they will because of the interrelationship between groundwater and surface water. So from a technical perspective, I think this was just a format where the department and others could come in and talk to us, you know, as we're working on basin...you know what I mean, we're working on integrated management plans in each natural resources district seems like all the time on the next one, which is good; that's what we're suppose to do. And...but there has to be some coordination within the basin on, you know, those plans all have to work together in a similar fashion to accomplish a common goal. And just having a meeting where we talk about what we're doing and what we're trying to accomplish, what our different ideas might be, you know, gives us an ability to kind of coordinate those. [LB1057]

SENATOR DUBAS: You also mentioned...you thought it was kind of a sad commentary that we would require legislation to bring people together to talk about this. But yet, we've had many examples...we have many examples of the Legislature saying let's bring this specific group of people together, focus in on the problem and come forward with some solutions. So, while I might agree with you to an extent that it is maybe a sad commentary, I think the...having legislation kind of puts that...that extra little impetus on this is what we want you to do, we're going to give you a time line. I agree with you, if we're going to ask you to do it we need to make sure you have the resources to do the work. So I think there's a time and a purpose for the Legislature to set up these types of committees. [LB1057]

JASPER FANNING: Absolutely, and certainly big policy decisions that are a statewide issue, like the Water Policy Task Force, that was absolutely necessary. To some extent, what we're talking about here are what are we going to do for ideas and programs and things that we're going to put into our integrated management plans. I mean, the integrated management plan for each district is how we manage water for compact compliance and for groundwater management, if you will. And there's already a process there where we take stakeholder input at the local level and coordinate just through the planning process with the department up and down the basin between all districts. And I'm not sure that the task force is necessarily going to assist in that part of it anyway. [LB1057]

SENATOR DUBAS: I think what's going on in the Republic River area is something the entire state should be paying very close attention to, because it can happen to any of us, anywhere, at any time, and what happens to the economy in any one particular area of the state is going to impact the entire area. So I think that's why it is important that we have statewide involvement and a willingness to understand and know what's going on down there. But we've heard from those who came forward and testifying in support of

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this legislation who felt that they just haven't had an opportunity, or even if they've had an opportunity, that they really felt like they were listened to as far as how the issue is impacting them. Do you give that concern any validity? [LB1057]

JASPER FANNING: Qualified no. I think often, you know, I mean, in...everyone is listened to that...from my experience. Sometimes, as I said earlier, people come forward with ideas without understanding, necessarily, what the issue is. And so sometimes, while a body may not take that person's idea or comment and enact it, it's not that they weren't listened to. [LB1057]

SENATOR DUBAS: Okay. Thank you. [LB1057]

SENATOR LANGEMEIER: Senator Fischer. [LB1057]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Doctor Fanning, for being here today. I am not a huge fan of task forces or of committees being established and one reason is, you can't include everybody. You can't include every viewpoint on a group and I think your last response to Senator Dubas agreed with me on that. It's hard, no matter what position you're in, to have people...to have everyone feel that you've listened to them. In your integrated management planning process, how many stakeholders do you have involved in that? [LB1057]

JASPER FANNING: Well, we basically denied no one. When we were...first of all, we had the original Governor's Council in the LB108 process and the Management District Association for kind of basin-wide input and we viewed everyone of those members and individuals that participated as stakeholders. Before adopting our very first integrated management plan, we went through a more elaborate process where we made sure that we sat down with the municipalities and some other entities like that to make sure that they had direct input and didn't have any issues and we worked, you know what I mean, worked essentially with them to make sure that they were protected. And, you know, the Republican is a little bit different maybe than the rest of the state, on the stakeholder part that the Platte went through, a much more elaborate stakeholder process, mostly because they didn't already have, prior to LB962, the stakeholder thing that's going on like we did in the Republican Basin. But, by and large, the natural resources districts, just through the process of developing an integrated management plan and taking it through public hearings, you get all the input from everyone and I don't see how anyone is denied from being listened to. [LB1057]

SENATOR FISCHER: Okay. I have a couple more short questions. Hopefully we'll get short answers too. I thought your comment that NRDs regulate groundwater, they don't represent groundwater. That was very enlightening for me and I would hope for the public as well because what I usually hear is that the NRDs represent groundwater and DNR represents surface water. If the statement I just made there is not true, who is

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going to represent groundwater? [LB1057]

JASPER FANNING: Groundwater irrigators themselves. [LB1057]

SENATOR FISCHER: Do they have a formal association? [LB1057]

JASPER FANNING: There are several associations that I know of, of groundwater irrigators. There are a couple within my district. One of them is newer and one of them has been around since they lobbied for the Groundwater Management Protection Act. [LB1057]

SENATOR FISCHER: Would you say that's true for surface water irrigators too? I should have asked that of a previous testifier, but I would assume they have associations. I know they have associations that represent their interests; would you agree with that? [LB1057]

JASPER FANNING: Yes. [LB1057]

SENATOR FISCHER: What plans, you've talked about this group and we've asked questions about this group, the association. Has that group ever come up with any specific plans or you just educate? [LB1057]

JASPER FANNING: It...to date our mission has been mostly to educate and to communicate; it really has. [LB1057]

SENATOR FISCHER: How do you get your funding? You mentioned a grant from the AG's Office. [LB1057]

JASPER FANNING: We charge dues when needed to the member districts. [LB1057]

SENATOR FISCHER: Who pays the dues? Who are the member districts? The four NRDs... [LB1057]

JASPER FANNING: The four NRDs and three different irrigation districts. [LB1057]

SENATOR FISCHER: Would you be willing to open up that association to allow more people in as voting members if they paid the dues? [LB1057]

JASPER FANNING: Absolutely; I think, you know, well that's just my opinion, that group would have to...the bylaws...I'm trying to think how the bylaws are written, but originally it was open to additional members because there were some irrigation districts that chose not to participate for whatever reason. But, you know, I mean, depending on what the task of the group is, so to speak, if the Legislature were to give us a task as an

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association, however that would work, you know, I see no reason that other members couldn't be included. Our current bylaws allow us to add advisory members as we wish or as they wish. [LB1057]

SENATOR FISCHER: A couple of different times I've introduced legislation since I've been here to reestablish the School Finance Review Committee and I did so again last year. And Senator Adams, as Chair of the committee, while he thought that was a very good suggestion, of course, he also felt that it could be done more informally and not have an official task force set up with designated members and he has chosen to set up his own task force without knowing who would be in charge of setting up such a task force or what the membership would be. Would you rather see an informal task force set up or one through legislation such this, if you had to chose? [LB1057]

JASPER FANNING: If there were going to be a task force, I think we could do one informally, but I would be indifferent because you're going to have a task force either way. I think more important than that is who selects the members? And I'm representing the Natural Resources District Association and we're big advocates of local control. I think more than anything, the local people need to decide who set policy matters on local issues. [LB1057]

SENATOR FISCHER: Do you think this bill recognizes that? I do. I think this bill recognizes the need to have local input and local representation when you look at the makeup that Senator Carlson has included in it. [LB1057]

JASPER FANNING: I agree that local representation is there because you're appointing members from the local area, but the decision on who the representatives are from the local area is not made by the local people or local elected officials. [LB1057]

SENATOR FISCHER: Is the decision with your association, would you say that's made by the local people? The NRDs that are on this board with the association, I assume they are the representation as chosen by the elected members of the NRD? [LB1057]

JASPER FANNING: Locally elected NRD directors decide who will represent their natural resources district within the association. [LB1057]

SENATOR FISCHER: Wouldn't you think though, on the makeup of this task force, that the representation from the school districts would be decided by the local boards of education that are elected, the representation, if we clear it up from the counties, would be possibly from their local county boards. I mean, there are ways around this where you could have locally elected boards decide who will then... [LB1057]

JASPER FANNING: Absolutely. [LB1057]

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SENATOR FISCHER: ...at least put names forward to either this committee, the Governor, whoever, to make the final decision. [LB1057]

JASPER FANNING: I could assume that that would happen, but we're talking about it not being specifically in the legislation. [LB1057]

SENATOR FISCHER: Would you be more receptive to the legislation if that was included? [LB1057]

JASPER FANNING: I would be. [LB1057]

SENATOR FISCHER: Thank you. [LB1057]

SENATOR LANGEMEIER: Are there any other...Senator Haar. [LB1057]

SENATOR HAAR: Just briefly, I was on the Lincoln City Council for eight years and there were times I just got tired of hearing the same damn stuff again and again and again and again, but I always listened and went to more meetings because, number one, the thing that Senator Dubas brought up, people don't feel, and I don't care how much you listen there's...people feel they're not being heard. But then the thing of, sometimes new ideas pop up. Do you really think we've identified all the solutions for this issue? Doesn't it pay to try to seek new thoughts in this? Or do you really think that if we gave you the money, that this could be solved? [LB1057]

JASPER FANNING: I think new ideas will always come forward regardless of whether you set up a special task force or not; that's how the ideas that we currently have came up. So I think we can do a lot if we have funding initially. New ideas will always come forward. If you establish a task force, it may provide new ideas. Those may or may not be different than ideas that would come from any other group. [LB1057]

SENATOR HAAR: Well I see the value of this from my standpoint as maybe some new ideas will come forth and especially some new acceptance. One of the things we've talked about a lot is this...are these issues along the Republican River just belong to the people who live along the Republican River, or do they belong to the state as a whole. And I've heard some pretty strong testimony saying people in...that live along the Republican River would like to take up and solve their own problems. So I...that's just sort of an education within the communities to maybe get acceptance of things that, you know, the way they are. [LB1057]

JASPER FANNING: Yeah, absolutely. Within the Republican Basin, I think, we've wanted to solve our own problem for at least six years and we're still trying to find a way to fund those solutions ourselves. [LB1057]

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SENATOR HAAR: Okay. Thanks. [LB1057]

SENATOR LANGEMEIER: Senator Fischer. [LB1057]

SENATOR FISCHER: Just a short follow-up comment please. Doctor Fanning, I do support your efforts to get a funding mechanism and I don't think I'm so obtuse that I don't realize that funding is the biggest challenge that you face in the basin. But I think some kind of task force wouldn't necessarily hurt the process for the next year. Would you agree with that? [LB1057]

JASPER FANNING: I could agree with that. [LB1057]

SENATOR FISCHER: Thank you. [LB1057]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much. [LB1057]

JASPER FANNING: Thank you. [LB1057]

SENATOR LANGEMEIER: (Exhibit 10) We're seeing a trend here. The first one gets most the questions. Further testimony in opposition to LB1057. Seeing none, I...seeing none, I do have a letter from Steve Smith with WaterClaim in opposition to LB1057. Moving on to testimony in a neutral capacity. Do we have anyone wising to testify in a neutral capacity? Mr. Smith, welcome. [LB1057]

DAN SMITH: Thank you. Senator Langemeier, members of the commission, my name is Dan Smith, D-a-n S-m-i-t-h. I'm the manager of the Middle Republican Natural Resources District and I'm here to offer testimony in a neutral position today. I have discussed many of our concerns, if not all of our concerns with Senator Carlson and while we're supportive of any effort that's going to increase awareness, to make people in the basin more knowledgeable of our issues and where we're trying to go with integrated management in the basins, we had enough concerns with this bill that we didn't feel we could support it. The membership, the purposes that are charged to the task force, sustainability is a scary word until we have common understanding of what we're talking about. There were some issues with the representation that's been touched on, but we too were concerned about the lack of representation for irrigators, groundwater irrigators. I feel strongly that we are the regulator. We are by no means the advocate for groundwater irrigators. The distribution, many of those things have been discussed. We had concerns over where the membership would come from. We had a superintendent from Southern Valley, I believe. Should he be appointed to the board; who does he represent? Does he represent Southern Valley School or does he represent the probably 50 school districts that would be in the basin? The same way with the counties; the same way with the communities. Until there's a collective that appoints those people, it gave us some concerns. So, once again, we can support that

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concept; we can support improving the knowledge base of basins, but we struggled a little bit with the makeup, the charge. And what's the final result? Two years down the road, will a decision on something be made? My district can't wait two years. I've got to have some answers; we've got to take some actions this year. We've got to move forward with the things that are going to keep Nebraska in compliance with the Republican River Compact now. We don't have two years to wait for input from a task force. Now, once again, that task force can be a valuable benefit to the basin. And I'd like to try and answer some questions about the Nebraska Republican River Management Districts Association. Apparently, I'm the only one in the room that ever knew what we did. But I could discuss that a little bit. That group started in about 1994 as an informal group wanting to share ideas, your natural resources districts and irrigations districts. DNR representatives sit on in that routinely; we...it was to just increase our knowledge of what each other did. We actually worked quite close with DWR then in an effort to come up with a negotiated settlement to threats of a lawsuit from Kansas back in 1997, if you will. When Kansas filed the lawsuit in 2000, we formed, under the interlocal agreement, with four NRDs and four irrigations districts to do an amicus filing before the Supreme Court on Kansas' claims. That filing was turned down, but we continued on then to operate under that interlocal agreement. We administered a NET grant for around \$800,000 that, with USGS, that developed a model on the Republican River Basin. It was hoped that model could serve for compact accounting and it didn't meet those expectations, but I think components of that were used by Nebraska. We had an information and education effort with a water from the west grant once again, up and down the basin. We've already mentioned the money from the Attorney General's Office that we were able to share with the Weed Management District. So it's been a strong organization. The reason we're down to three irrigation districts is two of the districts out our way had a common management manager, secretarial staff, and they asked to be combined into one. We had...it's minimal dues, I don't...it's probably been a couple of years since we've even charged those, but we charge roughly \$200 a year and that's to meet the advertising costs, because we do have to comply with the open meetings laws. That's all I have to say. I would certainly try to answer any more questions if there are some. [LB1057]

SENATOR HAAR: Senator Haar. [LB1057]

SENATOR HAAR: In terms of outcome, it's like all other resolutions and studies, it's as much as the Legislature makes of them, so I think this is...it will come out while Senator Carlson is still in the Legislature, I believe, and so the extent to which he pushes it I think will make the difference. But do you see anything in this bill that would say the only thing that can come out of this are consensus items or is it really an idea generator? [LB1057]

DAN SMITH: Well, there are three purposes identified there: compact compliance, avoiding water short years, and sustainability, ensuring sustainability. And once again,

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to me that's a very scary word until we have a common definition for it. So before that could be considered by this group, we would have to come up with a definition. And I can see that taking a long time. I served on the Water Policy Task Force and the first year almost on that task force was an effort to bring up...bring everybody to a common level, common understanding of what the issues were before us and it's a difficult process. It could be done, but it's a difficult process. And once again, the expectation will...what scares me is the expectation. This task force will give us the solutions, everything we need to know. I can't wait two years. [LB1057]

SENATOR HAAR: Yeah. [LB1057]

DAN SMITH: We can't wait. We need to have movement. Now, like I said, I can still see the benefits from a task force; I can see that increased awareness that can be served. But I can't rely on that process to give me the answers that we need to move forward in the Middle Republican NRD. [LB1057]

SENATOR HAAR: Yeah, and as somebody sitting on this committee, I don't see that my expectation is that this task force will give us the answers. I mean, this is going to be another source of input. [LB1057]

DAN SMITH: Um-hum. [LB1057]

SENATOR HAAR: As far as I'm concerned and hopefully we're going to see coming out of this task force a multitude of ideas, not just a consensus. Now in this group that you've been talking about now, and I can't quote the whole name, but do you have public input at these meetings as well? [LB1057]

DAN SMITH: Absolutely, we operate under the open meetings law. We do have an open forum session. If I can back up a little bit, that group actually started out, when we put that together the first time we included the power districts, public power districts across the basin. And it was interesting as we got closer to putting that together, the group of eight, the four irrigation districts and the four NRDs decided we didn't want the power districts involved because they had enough votes, they could have dominated the decisions. Now recently, recently, and probably in the last six months because we do meet quarterly, the public power districts have approached us about becoming a participating member and we are looking at what we need to do within our bylaws to do that. But like I said, the original concept included, and I want to say it was seven power districts that have some service in the basin. [LB1057]

SENATOR HAAR: Again, just to let you know, from...and I too would have a concern about domination by a certain group, but the other side of the coin is that you get new perspectives and so on and having Senator Carlson involved and some of the other people I think...that's what I would expect of the outcome. [LB1057]

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DAN SMITH: Yes. This group started out with the advisors that mirrored what was set up originally by Governor Nelson in a river basin council. It was continued with, mostly new membership under Governor Johanns. But we had named advisors that covered recreation, public power, counties, cities, I don't believe school districts were addressed in that original group, but we solicit input from those folks. [LB1057]

SENATOR HAAR: And do we as a committee get...I'm embarrassed to ask this question, but do we get the reports of your organization? [LB1057]

DAN SMITH: I'm going to say we probably don't file our minutes with anybody. I don't know if anybody has ever asked for our minutes, sir. [LB1057]

SENATOR HAAR: I'm not asking for more paper, but it might be good if there was some time set up where you could share some of the output of your organization. I'd be interest in that. [LB1057]

DAN SMITH: Certainly. [LB1057]

SENATOR LANGEMEIER: Any other questions? I'm going...I'm not sure I have a question as much as I want to hit on a point that you made. You talked about Mr. Lambert and I see he's left, I wish he were still here, but I've been doing this long enough now with water in my six years in the Legislature, I wrote under, as he testified, I wrote who does he represent? Does he represent Southern Valley Schools? Does he run all the districts? Or he said he's a landowner with groundwater irrigation. [LB1057]

DAN SMITH: Um-hum. [LB1057]

SENATOR LANGEMEIER: That was the number one thing I heard about the Water Policy Task Force is it was stacked, even though we had people that represented municipalities, they were groundwater users and so what trumps what? And so as you try and pick these people, how do you pick them so you know what they really are representing or what they will be perceived to represent? [LB1057]

DAN SMITH: Right. Senator Carlson and I talked about that yesterday. I would assume that should this task force be implemented that I would look for willing people in my district, in those particular...in the counties, in the schools, ag business and suggest, if it's still going to be an application, if it is still going to be an appointment by the Governor, encourage them to make application. Now, no, I don't think you could call that hand-picking because I think we need to involve some of those people whose interests always aren't the same as ours. [LB1057]

SENATOR LANGEMEIER: Sure. Okay. Any other questions? Seeing none, thank you

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very much. [LB1057]

DAN SMITH: Thank you, committee. [LB1057]

SENATOR LANGEMEIER: Further neutral testimony? And I'm not sure if I say this as Senator Schrock or Director Schrock; what's your newest title. Welcome back to your committee. [LB1057]

ED SCHROCK: Thank you, Senator Langemeier. For the record, my name is Ed Schrock, E-d capital S-c-h-r-o-c-k I'm from Elm Creek, Nebraska. Senator Langemeier, member of the committee, and staff, you know I'm a little tired of hearing all this praise about Senator Carlson. When I was a sophomore in high school he was a senior and he used to knock me down in football practice everyday and it wasn't a lot of fun. So maybe you have fond memories of him, but I know the other side. (Laughter) For the record I am a director on the NPPD board. I do not represent them today, but I will tell you NPPD does have an interest in the economic viability of the Republican River Basin because most of those people are our customers. I was the co-chair of the Nebraska Water Policy Task Force along with Roger Patterson. And I'm testifying in a neutral capacity because I'm kind of chicken. I represent, in my district, on the NPPD board, all the way from Hastings and Franklin to Benkelman and Imperial and I don't want to irritate anybody today because I may want to run for reelection some day. You're all in that position also. But we have a wonderful blessing in this state and it's an abundance of water. The Ogallala aquifer is what, under 10 or 11 states, but we have three-fourths the water. I think Kansas is a little jealous and that's probably the reason they sued us. I would agree with Jasper Fanning that probably technology may solve a lot of these water shortage problem in the future, because we are using less and less water all the time thanks to technology. Now the issue of whether we should have a task force for this. I don't have the answer; I do know that the task force worked for the state of Nebraska on LB962. The 49 members all agreed we should move forward with legislation. Now some people interpreted it wrong. I've been in a room with 100 angry farmers and I'm just glad they didn't have a rope. But most of them, we have reconciled our differences since then. So it's not fun, necessarily, being involved with irrigators if you're perceived as being the bad guy. And you know, when you're the Chair of this committee, Senator Langemeier, the buck stops here, like they say. I think a task force can work. It's going to take a strong facilitator. And that might be what's lacking now is they don't have a strong facilitator. Maybe the Department of Natural Resources is filling that role. I don't know that. But that would be very helpful. I do know if there are people all negative about the task force, it probably won't work because you can lead a horse to water; you can't make them drink. So if you're going to move forward with this, I think you ought to have a talk to the parties and make sure they're all going to be all willing participants. I think for the purposes of this task force, you should refer from using the word sustainability. I think it's controversial. I think it's a lightning rod. I think the purpose of the task force should be compliance with the state of Kansas. Maybe that

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will be a by-product at a later date and there's nothing wrong with that. I'm just not sure sustainability should be used now. One of the problems with the task force, and Dan Smith said it, is can it be effective soon enough? There is an urgency here. Now, life is easy in the cheap seats. I've been away from this issue for three years and it's kind of nice. I could probably agree due to the urgency of the situation that the task force is too big. The Nebraska Water Policy Task Force operated on consensus; we never took a vote. And we had one of the better historians of that sitting right over here and she's the only person I'm familiar with in these seats. She's like the Energizer Bunny; she just keeps on going. I think probably the \$25,000 is not enough money, but I would guess there's enough resources in the basin that they could maybe supplement that if necessary. A good facilitator will take all of that. I would hope that most of the people on the task force will be willing to donate their time. I don't like lights, Barb, but whatever you...if Senator Langemeier tells me to stop, I will. (Laughter) So the task force is...now you've distracted me. Anyway, I don't have a problem with the Governor doing the appointments, because I think he will listen to everybody back here and choose good people. And I don't think you have the statutory authority to let the Department of Natural Resources or this committee or the Legislature to make the appointments to that task force. Your counsel can look that up. But we ran into that in the past and I think the most efficient way would be to have the Governor do it. But I have confidence that he will listen to the input of the basin and appoint the right people and that it will be balanced among the basin. Whether they can come up with solutions or not, I don't know. I don't think there's a legislative solution here. I don't think the Legislature can solve this problem; neither did I think the Legislature could solve the problems the task force faced and it was heavily weighted in irrigators. So we had to proceed that way and it resulted in LB962, a 172 pages. Senator Fischer has a bill to modify LB962. It's a work in progress; it's never going to end. I don't know what her bill does, but I commend her for working on it. So water challenges are tough. They're just about as bad as education policy when it comes to controversy. I would share with you any of my experiences that I had on the Water Policy Task Force; we had a good facilitator. I think that's why it worked. I think LB962 is good legislation. I don't say everybody has to like it, but there comes a point in time when the waters of the state belong to the state of Nebraska and they have to step in. It's very difficult for local people to regulate irrigators. And so I think it was time that the state decided that some basins were fully or overappropriated. And I don't think in most cases the NRDs were capable of doing that. God bless them, we need them. We want their local control; we want to keep this as local as possible. I have a lot respect for the NRDs. But there comes a time when the state has to be involved and I don't think the Legislature has the ability or can solve this problem. So whether the structure they have right now will work and can get the solutions for this problem in the Republican River, fine. If the task force is better, fine. I'll stop. If you have any questions, I'd be glad to answer them. [LB1057]

SENATOR LANGEMEIER: Are there any questions for Senator Schrock? Senator Fischer came back, no questions. [LB1057]

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ED SCHROCK: Friday afternoon, everybody wants to go home, including me. [LB1057]

SENATOR LANGEMEIER: Very well. Thank you very much. [LB1057]

ED SCHROCK: You served on the task force, didn't you? [LB1057]

SENATOR SCHILZ: I did. [LB1057]

SENATOR LANGEMEIER: Yep, Senator Schilz did. [LB1057]

ED SCHROCK: Thank you. [LB1057]

SENATOR LANGEMEIER: Thank you very much. [LB1057]

ED SCHROCK: I hope I was helpful. [LB1057]

SENATOR LANGEMEIER: We appreciate it very much. Any other testimony in a neutral capacity? Seeing none. Senator Carlson, you're recognized to close. [LB1057]

SENATOR CARLSON: Senator Langemeier and members of the committee, I want to thank you for your patience, for your endurance and I really want to thank everyone that took the effort to come and testify today, even if it was opposition; but this means a lot. And as I simply sum things up here, I really think the difference in what the task force can do is, first of all, there is a facilitator, there are set procedures with purposes and goals. There's a set timetable and I think that that can be very helpful in coming up with some suggestions to deal with the problems that exist in the Republican Basin. All of this didn't have a thing to do with IMPs, but I think the outcome of some of the discussion and ideas can be very helpful in future IMPs that are put together. And certainly the intent of the task force is to have two representatives from each of the four NRDs, not in any way to have eight members from one NRD. I am very open to many of the suggestions that have been put forth today and would work with the committee to put together a final bill. I'm open to everything that was suggested other than not having it. And with that, thank you. [LB1057]

SENATOR LANGEMEIER: Very good. Are there any questions for Senator Carlson? Seeing none. Very good. That concludes the hearing on LB1057 and we appreciate everybody's testimony, as Senator Carlson has stated. That's part of the process. We'll now open the hearing on LB1076. Senator Schilz, you're recognized to open when you're ready. [LB1057]

SENATOR SCHILZ: Thank you, Senator Langemeier, members of the committee; all...I guess there's three here...four, something. [LB1076]

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SENATOR LANGEMEIER: They're listening. [LB1076]

SENATOR SCHILZ: Anyway, that's great. Good afternoon. LB1076...well, let me just...let me just first start and just mention, we talk about controversial issues and we talk about what we do. This is one of the only issues that I know of that we can talk for three and a half hours about how to start talking about...anyway. Anyway, and I appreciate it all and I, you know, as you look at the testimony that Senator Schrock had when he was here, he's exactly right. When LB962 was put into place, it was...everybody knew on that task force that it was a work in progress. Still a work in progress, and I think that what you see as you go along and you look at the legislation introduced, a lot of this legislation that's being introduced is looking at those...at LB962 and saying, okay, did we do this properly or do we need to tweak it and that's...and that's where we come in and LB1076 goes along those same line. It would require the Department of Natural Resources to reevaluate river basins and redetermine whether they're fully or overappropriated. The law would eliminate the exemption from a mandatory annual evaluation requirement for a river basin, subbasin or reach and in the process of developing an integrated management plan it would also eliminate the exemption for overappropriated river basins, subbasins or reaches from being evaluated by the department and the requirement for a river basin, subbasin or reach to be subject to an interstate Cooperative Agreement with three or more states in order to be considered overappropriated. And as I looked at this bill and decided whether to carry it or not, one of my overriding thoughts on this was that, you know, at some point we need to start having as much consistency as we can across the state with the understanding that when we did set up LB962, that it was meant to be flexible. And it was meant so that we wouldn't have to come back to the Legislature every single time we wanted to make a change. And that's some of the goals that I want to go on. That's why IMPs are in place; that's why we can go and ask the director to take some of these actions and do some of these things. So I have some...there are some folks here that want to testify in favor and I'm sure there's probably some that want to testify in opposition, so with that I will close my statements and I will try to answer any questions, but some other folks will come along that I'm sure can answer them just as well, if not better. Thank you. [LB1076]

SENATOR LANGEMEIER: Very good. You have heard the opening on LB1076. Are there any questions for Senator Schilz? Seeing none. [LB1076]

SENATOR SCHILZ: Thank you. [LB1076]

SENATOR LANGEMEIER: Late in the day, they're letting you off the hook. We'll take testimony in support or proponents of LB1076. Welcome back. [LB1076]

BRAD EDGERTON: Good afternoon. Senator Langemeier and members of the Natural

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Resources Committee, my name is Brad Edgerton, I'm the manager for Frenchman-Cambridge Irrigation District which is located in the Republican River Basin. I serve on the board of directors for the Nebraska Water Resource Association and represent the Republican River Basin; also serve on the Nebraska State Irrigation Association board. On behalf of the NWRA and the NSIA I'm here to offer testimony in support of LB1076. The current state statutes regarding fully appropriated versus overappropriated do nothing but confuse the issues not only for the Department of Natural Resources, but also for the citizens of the state. The NWRA and the NSIA believe a good understanding of the scientific data is paramount to making sound water management decisions in Nebraska. The department should look at each basin based on scientific data and no river basin, subbasin or reach should be exempt from evaluation or reevaluation if appropriate. NWRA, NSIA supports LB1076 and would like to work with Senator Schilz and members of the Natural Resources Committee on language that clearly defines what fully and overappropriated is and clearly authorizes the director of the Department of Natural Resources to make those decision for those river basins of the state. Thank you and I can answer any questions if you'd like. [LB1076]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB1076]

SENATOR CARLSON: Thank you, Senator Langemeier. Brad, let's just look at how do you see this as helping the Republican Basin? [LB1076]

BRAD EDGERTON: Well, I think we can make better decisions in the Republican River Basin if we fully understand where the problem lies and I guess, you know, I don't want to speak for NWRA and NSIA, but I can speak with my experience in the Republican River Basin, you know. The basin was declared fully appropriated by statutes. We were taken, basically, guesses at how much cutback were required. In a fully appropriated basin you shouldn't have to cut back. It should be that the water supply meets the needs of the water users. And we know for a fact that that's not the case. So I think a good understanding of the science will identify the problems where they're located, and then we can address those issues for those particular areas. [LB1076]

SENATOR CARLSON: And you mentioned twice identify the problem. So how does this really do that? [LB1076]

BRAD EDGERTON: The Department of Natural Resources has been involved in developing integrated management plans. And what they've done was ask each NRD to, basically, back up the train, if you will, to a certain level so we're in compliance with the Republican River Compact. And the fully appropriated designation basically asks the NRDs to back up the train for each NRD an equal distance. And when I say back up the train, it means reduce your depletions to the stream from groundwater pumping. So

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each NRD is backing up to a certain level, you know, they're backing up an equal amount. And what I believe needs to happen is that, you know, there might be a train on the west end of the basin that needs to be backed up further than the train on the east end of the basin. And with the diversion dams in between, that affects the amount of water supply that we received. [LB1076]

SENATOR CARLSON: In the challenge of being in compliance, what entities in the Republican Basin have a responsibility in compliance; what are all the entities that have a responsibility? [LB1076]

BRAD EDGERTON: Of course the natural resource districts are in charge of regulating groundwater and the state of Nebraska Department of Natural Resources is responsible for regulating surface water. Those are the two. Ultimately, the state is responsible for compliance. [LB1076]

SENATOR CARLSON: So is there any responsibility with the irrigation districts in the basin? [LB1076]

BRAD EDGERTON: No, I mean we have no regulatory authority. We're basically a water user like all other water users in the basin. [LB1076]

SENATOR CARLSON: So it's the DNR and the NRDs. [LB1076]

BRAD EDGERTON: Correct. [LB1076]

SENATOR CARLSON: Thank you. [LB1076]

SENATOR LANGEMEIER: Very good. Senator Haar. [LB1076]

SENATOR HAAR: Yes. I'm going to need more education on this and I may have to do this outside the hearing, but right now, what does the DNR have to do with backing up the trains? [LB1076]

BRAD EDGERTON: Well, backing up the trains gets us at that level we need to be at to be in compliance with the Republican River Compact. And I use that example...I've heard that example on the Platte River, but basically, we've overdeveloped, in my opinion, and we need to get back to a level that is sustainable. There's that word again. [LB1076]

SENATOR HAAR: Right. And does the DNR tell you what to do in that respect? [LB1076]

BRAD EDGERTON: Yes they do. They have granted water rights to water users in the

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basin; they've granted water rights to the federal government for storage in the reservoirs. And for the storage use permit out of those reservoirs, the irrigation districts hold the natural flow permits to divert water from the stream. So they...in this water right, they granted us a certain amount of water that we can divert each year and so that water right establishes our right to that water. [LB1076]

SENATOR HAAR: Right. And who would you like to determine who backs up the trains to what extent? [LB1076]

BRAD EDGERTON: What I'm asking is the department reevaluate the basin so we know what that is. Apply the science, let's look at it, let's see what's going on out there and then we can make sound decisions on, you know, what areas need to cut back more than other areas. [LB1076]

SENATOR HAAR: So you're not really saying that DNR ought to get out of this, I mean, because they're in charge of surface water. [LB1076]

BRAD EDGERTON: No. They're in charge of this, yeah. [LB1076]

SENATOR HAAR: But they need to reevaluate. [LB1076]

BRAD EDGERTON: And the reality is, they never have evaluated the basin. It was declared fully appropriated by statutes because of the process already in place. [LB1076]

SENATOR HAAR: Gotcha. [LB1076]

BRAD EDGERTON: So they don't know what the science is. And, you know, they came out there and asked the NRDs to back up or cut back 5 percent from their baseline; that didn't get us there. They come back again and added another 15 percent, said you need to cut back another 15 percent. That didn't get us there. Now they're out there now with...with, what's referred to as option 3, which is, basically, curtail surface water and groundwater use in water short years that are determined that we would not be in compliance. So they're actually asking us to cut back additional amounts, and, you know, if they would have had it fully appropriated or overappropriated to start with, I think the people in the basin and everybody would have been on the same page on what was going to happen. [LB1076]

SENATOR HAAR: Well this year, you know, somebody could have a bill that required an appropriation of \$5; it probably wouldn't get through. Where would the money for this come from? [LB1076]

BRAD EDGERTON: The department already has this authority to evaluate river basins

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in other areas, but the way the statutes are, they...and I can speak to this because the Frenchman-Cambridge Irrigation District filed a petition with the department asking them to reevaluate the Republican River Basin. [LB1076]

SENATOR HAAR: Um-hum. [LB1076]

BRAD EDGERTON: And they issued an order saying that they don't have the authority to do that. They're basically saying that because... [LB1076]

SENATOR HAAR: It's in the law. Okay. [LB1076]

BRAD EDGERTON: Yeah. They're basically saying since the Republican River doesn't have a three-state Cooperative Agreement, that they cannot make that evaluation. [LB1076]

SENATOR HAAR: Okay. Thank you, that helps me very much understand what's going on here. [LB1076]

SENATOR LANGEMEIER: Very good. Any other questions? Seeing none, thank you very much. [LB1076]

BRAD EDGERTON: Thank you. [LB1076]

SENATOR LANGEMEIER: Further testimony in support of LB1076? Seeing none, I'll move to any testimony in opposition to LB1076. Welcome back. [LB1076]

JASPER FANNING: Thank you, Chairman Langemeier and committee members. I'll try and keep my testimony quite short this time as it is Friday afternoon. But my name is Jasper Fanning, J-a-s-p-e-r F-a-n-n-i-n-g, and I'm general manager of the Upper Republican Natural Resources District, again representing the Association of Nebraska's Resources Districts. LB962, you know, to kind of step back in time and frame this up a little bit, when that was being formed within the task force, there were some overriding elements that the task force was dealing with. The Cooperative Agreement was a known thing. The state needed legislation to allow the state to comply with the Cooperative Agreement. So essentially all those areas, districts, natural resource districts, that needed to comply with the Cooperative Agreement were pushed through statute into overappropriated to deal with the Cooperative Agreement, not because there was some hydrologic assessment of whether or not there were more uses than supplies or whatever. Likewise, the Republican River Basin, knowing that it had to deal with Republican River Compact, we were already fully engaged in the LB108 process which was essentially integrated management. For that reason, we were pushed through statute straight into a fully appropriated status within statute. The entire rest of the state was then put under the, you know, watchful eye of the evaluations that

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are done annually to determine whether or not those river basins reach fully appropriated status. Now there's a criteria that the department has developed to determine when a river basin reaches fully appropriated. They're actually in the process, I think, of taking another look at that methodology because it's a very rough methodology and I'm not sure that once you become fully appropriated, all uses even need to cease. But make no mistake about it, that in the Republican River Basin the overriding allocator of water, if you will, is the compact. The compact is a federal binding agreement that says Nebraska has to limit its uses to Nebraska's share of the supply under the compact. Now, fully appropriated, essentially, says that your uses equal your supplies. In this instance, not all of our supply is available for consumption within Nebraska. Now there's no, you know, conception that every water user gets all of the water that they want within the Republican River Basin whether they're a groundwater irrigator or a surface water irrigator. Everyone is living with less water than what they want. I'm not sure that the state can afford to have any other river basin declared overappropriated. And I'll leave that quite general. I think we need to think about some of the consequences that would come from another river basin being declared overappropriated. Overappropriated was used in DNR's records on surface water permits back in the 1880s. Said the river is overappropriated, right on their application when the department returned it to them. What is overappropriated? Again, it's something that's not really defined; but it can often be taken to mean many different things and maybe even used against us at some point in time. With that I'll conclude my testimony. [LB1076]

SENATOR LANGEMEIER: Very good. Are there any questions for Doctor Fanning?
Senator Carlson. [LB1076]

SENATOR CARLSON: Thank you, Senator Langemeier. So, Jasper, you would agree with Brad that they, the Republican Basin was never really evaluated for fully appropriated? [LB1076]

JASPER FANNING: It was not evaluated under the same set of criteria that other river basins were later evaluated under. We were shoved into fully appropriated status even prior to that. I think more importantly though, while we may not have been evaluated, what if we were overappropriated? We'd have to back up to 1997 levels. Well, we could all increase our water usage by quite a little bit and bring in some more irrigated acres that we retired. The overappropriated things that are being done for the Cooperative Agreement on the Platte don't make sense in the Republican. We've actually, even though we're only fully appropriated, we're doing more in terms of backing up than what the Cooperative Agreement requirements in the overappropriated statutes require initially. Now in the end, I think we get to the same place regardless. [LB1076]

SENATOR CARLSON: And so likewise on the Platte, that was shoved into overappropriation without really an evaluation because of the Cooperative Agreement?

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[LB1076]

JASPER FANNING: The Cooperative Agreement was the driving factor for creating a set of statutes that allowed the state to comply with the Cooperative Agreement, yes. [LB1076]

SENATOR CARLSON: Okay. Thank you. [LB1076]

SENATOR LANGEMEIER: Very good. Senator Fischer. [LB1076]

SENATOR FISCHER: Thank you, Chairman Langemeier. You made the comment that a fully appropriated basin doesn't necessarily...that designation does not necessarily mean that there can't be development in the basin; did I hear you correctly? [LB1076]

JASPER FANNING: That's right. [LB1076]

SENATOR FISCHER: I would agree with you. Would the same apply to an overappropriated designation in a basin? Is there any leeway there for any other development? [LB1076]

JASPER FANNING: There is, provided again that we're managing things. And by that, I mean if offsets need to be provided that they are. And, you know, first of all, you have to have an analysis of whether or not a new use requires an offset, but depending on what that use is if it's consumptive or not. [LB1076]

SENATOR FISCHER: So why are you opposed to this bill again? [LB1076]

JASPER FANNING: I believe that the state cannot afford to have another... [LB1076]

SENATOR FISCHER: Strictly because of the cost of the bill... [LB1076]

JASPER FANNING: No, not to do with the cost of the bill. [LB1076]

SENATOR FISCHER: ...that you don't believe there needs to be a reevaluation every year? [LB1076]

JASPER FANNING: No, not to do with the cost of the bill. [LB1076]

SENATOR FISCHER: But, I'm sorry then, continue on why you were opposed to the bill in a short answer. Obviously, I didn't follow you in your other comments previously. [LB1076]

JASPER FANNING: There were reasons when LB962 was passed that we chose

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certain terminology for some river basins and some for others within statute that may have had to have dealt with agreements that we were in as a state. [LB1076]

SENATOR FISCHER: And how...I don't mean to belabor this, Doctor Fanning, but I truly am not following you on why you are opposed to this bill specifically. [LB1076]

JASPER FANNING: There were reasons that this language was not used for other river basins when LB962 was drafted to limit claims that might be made against the state of Nebraska based on some terminology that may be used in one river basin versus another. [LB1076]

SENATOR FISCHER: Okay. Thank you. We'll have to talk later, I think. [LB1076]

SENATOR LANGEMEIER: Are there any other...Senator Haar. [LB1076]

SENATOR HAAR: Okay. I too am confused and mine is maybe because I'm so new at this. It was my understanding that these designations of appropriated and overappropriated and so on are based on certain scientific data, certain scientific definitions, but I guess what I hear you saying that it would create legal chaos if...(laugh) if we just looked at those scientific standards. [LB1076]

JASPER FANNING: I think that we use scientific standards in every part of the state other than those that needed to be subject to the Cooperative Agreement and those that needed to be subject to the Republican River Compact... [LB1076]

SENATOR HAAR: Okay. [LB1076]

JASPER FANNING: ...with the state of Kansas. [LB1076]

SENATOR HAAR: Yeah. At some point I'd like to be in on the discussion too because I'm kind of confused about this yet. [LB1076]

JASPER FANNING: Absolutely. [LB1076]

SENATOR HAAR: Okay. I appreciate that. [LB1076]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much. [LB1076]

JASPER FANNING: Thank you. [LB1076]

SENATOR LANGEMEIER: Further testimony in opposition to LB1076? [LB1076]

DAN SMITH: Senator Langemeier, members of the committee, my name is Dan Smith,

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D-a-n S-m-i-t-h; I'm the manager of the Middle Republican Natural Resources District. I'm testifying in opposition to this bill also. In the way that I read it, this says that the department "shall" declare what works out to be the Republican River Basin overappropriated because there was a moratorium in place on surface uses and because through the old LB108 process, we'd put a moratorium on groundwater usage. It says it "shall" determine it to be overappropriated. There's no science, there's no technology involved. It shall be declared overappropriated. And if I may, there was no definition of overappropriated in LB962. There was no need for there to be. It was going to apply to the Platte River west of Elm Creek. The Republican River Basin came into LB962 through the transition sections of that legislation. There were about six or eight steps were identified that identified the steps that we had already taken through the old LB108 process and said we skipped that designation process. So we became fully appropriated based on what we had done in the past, not on a scientific rule. And there wasn't one developed until after LB962 was enacted. There was a committee that met with DNR to develop this scientific rule for fully appropriated. There is none for overappropriated. This designation, I think, the primary reason I think I'm opposed to this is that overappropriated designation, as far as I'm concerned, would open up the door to Kansas. Why would they have to do anything else other than to say Nebraska, you've already admitted you're overappropriated. I would bet they could find that \$17 million they spent by mistake. I think it would also make it very easy for them to justify their damages. I think we're fully appropriated in the Republican River Basin. If we weren't, we couldn't have a year of compliance and we've had several. We're going to have years when we overuse. That's important sometimes, but if it works out in the five year average, it doesn't matter if we overuse in a given year. I would encourage you not to move this bill forward. Thank you. Questions if you wish. [LB1076]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none...oh... [LB1076]

DAN SMITH: Thank you again. [LB1076]

SENATOR LANGEMEIER: ...did you have one? [LB1076]

SENATOR FISCHER: No. [LB1076]

SENATOR LANGEMEIER: Thank you very much. Further testimony in opposition of LB1076. Welcome back. [LB1076]

DON ADAMS: Good afternoon Senator Langemeier and members of the committee. My name is Don Adams, A-d-a-m-s, executive director of Nebraskans First, groundwater irrigators coalition. I'll make this very short. I agree with the two...Doctor Fanning and Dan Smith. The situation in the Republican River Basin, and I believe this is targeted at that based on the canary comments that Brad made in the newspaper and brought my

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attention to it. That situation is volatile, fragile, and it's truly existential to the producers, banks, schools, hospitals, and main streets in that basin and the situation is at a level now far and above and way beyond any DNR LB962 reevaluation and/or formal redesignation. If such were to occur, chaos and serious economic harm would surely follow. Thank you. [LB1076]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Adams? Seeing none. Thank you very much for your testimony. [LB1076]

DON ADAMS: Thank you. [LB1076]

SENATOR LANGEMEIER: Any other testimony in opposition? Seeing none. Any testimony in a neutral capacity? Seeing none. Senator Schilz, you're recognized to close. [LB1076]

SENATOR SCHILZ: Thank you, Senator Langemeier. This will be pretty short. I was absolutely amazed when I got the note from the Fiscal Office that said it would cost nothing. So, there you go, Senator Haar. I don't know how that happens, but every once in a while, I don't know where they get these things, must pull it out of a hat. You know, as we look at these issues, I think...I think that what was shown is...it's not simple and it's not easy to do these things. What my concern is, as we move forward and as we look at things, will the Republican Basin have the tools that are available to other districts that have been named overappropriated to be able to get some of those...some of those programs off the ground and get them back to fully appro...to where we have sustainability, let's say, because I don't know what else to use there. And that's the question I have. Is this bill the proper way to do it? Is this time the proper time? I don't know; that's why we're here discussing it. So and with that I would welcome any questions if there are any. Thank you very much. [LB1076]

SENATOR LANGEMEIER: Are there any questions for Senator Schilz? Seeing none, very good. [LB1076]

SENATOR SCHILZ: Thank you. [LB1076]

SENATOR LANGEMEIER: You've heard the closing on LB1076. That concludes our hearings for the day and we appreciate everybody's participation and attendance. (See also Exhibit 11.) [LB1076]